
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-644 - June 25, 1993

Board of Trustees: Michael H. Holland, Chairman; Thomas F. Connors, Trustee;
Marty D. Hudson, Trustee; Robert T. Wallace, Trustee.

Pursuant to the terms of the collective bargaining agreement, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage under the terms of the Employer Benefit Plan for a Pensioner who failed to enroll in Medicare Part B.

Background Facts

The Complainant is a Pensioner under the UMWA 1974 Pension Plan. He did not enroll in Medicare Part B when he became eligible upon attaining the age of 65, although he enrolled later with an eligibility date of July 1, 1992. The Pensioner states that he was not offered a Part B card by Medicare when he reached the age of 65 nor advised or informed by the Employer that he did not have medical coverage for doctors' services at that time.

The Pensioner incurred bills for physician's services rendered prior to the effective date of his Medicare Part B coverage. The Employer has refused to pay these bills on the basis that the Pensioner must enroll in both Parts A and B of Medicare, if eligible, in order to maintain coverage under the Plan.

Dispute

Is the Employer required to provide health benefits coverage for the Pensioner during the period that the Pensioner was eligible for, but not enrolled in, Medicare Part B?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide health benefits coverage to the Pensioner during the period that he was eligible for, but not enrolled in, Medicare Part B because the Pensioner was not offered a Part B card by Medicare and not informed by the Employer that he did not have medical coverage for doctors' services.

Position of the Employer: The Employer is not required to provide benefits under the Employer Benefit Plan for the period when the Pensioner was eligible for, but failed to enroll in Medicare Part B, because the Plan clearly provides that pensioners must be enrolled in both Parts A and B of Medicare in order to maintain coverage under the Plan.

Pertinent Provisions

Article III. A. (10) (d) of the Employer Benefit Plan provides:

(d) Medicare

1. For Pensioners, and surviving spouses, the benefits provided under the Plan will not be paid to a Beneficiary otherwise eligible if such Beneficiary is eligible for Hospital Insurance coverage (Part A) of Medicare where a premium is not required and/or Medical Insurance coverage (Part B) of Medicare unless such Beneficiary is enrolled for each part of Medicare for which such Beneficiary is eligible. Any such Beneficiary who is enrolled in a Medicare program shall receive the benefits provided under the Plan only to the extent such benefits are not provided for under Medicare.

2. For Employees age 65 or older the benefits provided under the Plan will be paid to a beneficiary unless the company is furnished written notice of electing coverage under Medicare rather than coverage under the Plan. Alternatively, the participant may elect to enroll for Medicare as secondary payer.

The Plan Administrator shall give written notification of the obligation to enroll with respect to 1. above and of the options to enroll with respect to 2. above. For active Employees such notice shall be given prior to their 65th birthdays, but subsequent to their 64th birthdays. Said notice shall explain the limited annual enrollment period and the effect of failing to enroll if retirement should occur prior to the next enrollment period. Failure to provide such notification shall not remove any obligation to enroll.

Article III. A. (11) (a) 3. of the Employer Benefit Plan states:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

3. Services furnished by any governmental agency, including benefits provided under Medicaid, Federal Medicare and Federal and State Black Lung Legislation for which a Beneficiary is eligible or upon proper application would be eligible.

Discussion

Article III. A. (11) (a) 3. of the Employer Benefit Plan excludes from coverage benefits provided under Federal Medicare for which a Beneficiary is eligible or upon proper application would be eligible.

Article III. A. (10) (d) 1. of the Employer Benefit Plan states that the benefits provided under the Plan will not be paid to a Beneficiary unless such Beneficiary is enrolled in each part of Medicare for which he is eligible. The Complainant, a Pensioner, failed to enroll in Medicare Part B when he first became eligible upon attaining the age of 65 years, although he enrolled during a subsequent enrollment period with an effective date of July 1, 1992. At issue are bills for physician services rendered during the period between the date the Pensioner became eligible for Medicare and his actual Part B enrollment date.

Article III. A. (10) (d) of the Plan further provides that the Plan Administrator shall give written notification of a Beneficiary's obligation to enroll in each part of Medicare for which he is eligible. The Pensioner asserts that he was unaware of the availability of Medicare Part B and the requirement that he enroll in Part B. The Employer states that a copy of the Summary Plan Description, which includes the relevant information, was provided to the Complainant. In any case, the Trustees note that while the Plan contains a requirement that the Employer notify in writing a Medicare-eligible Beneficiary of the obligation to enroll in Medicare, the Plan clearly states that failure to provide such notification does not remove the Beneficiary's obligation to enroll.

The issue of Pensioners who fail to enroll in Medicare Part B has been previously addressed. In RODs 84-516 and 84-679 (herein enclosed), the Pensioners' stated reasons for failing to enroll in Part B were that they were not notified by the Employers of the Medicare enrollment requirement. In both cases, the Trustees concluded that the Employers were not required to provide health benefits for the Complainants during the period when the Complainants were eligible for, but not enrolled in, Medicare Part B as required under the Employer Benefit Plan.

The Pensioner in this case became eligible for Medicare Part B and failed to enroll upon initial eligibility. Article III. A. (10) (d) of the Employer Benefit Plan clearly states that an Employer is not required to provide health benefits for a Pensioner unless the Pensioner is enrolled in each part of Medicare for which he is eligible.

Opinion of the Trustees

The Employer is not required to provide health benefits for the Pensioner during the period the Pensioner was eligible for, but did not enroll in, Medicare Part B, consistent with the terms of the Employer Benefit Plan.