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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: CA-022 – March 23, 1999

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson and  
Elliot A. Segal.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage under the terms of the Coal Act Employer Benefit Plan.

Background Facts

The Pensioner, born June 1, 1928, was working full time when he turned 65 in 1993, and did not enroll in the Medicare Program. He retired on September 20, 1994. At this time he had seven months to enroll in Medicare without penalty. The Employer reminded him, in a letter dated November 2, 1994, of the need to enroll in Parts A and B of Medicare; he did not do so.

In March 1995, the Pensioner was advised by the Employer's insurance carrier that copies of the Medicare Explanation of Benefits must be submitted before Plan benefits could be provided for services he had received since his retirement. The Employer again advised him, in letters dated May 3 and 20, 1995, of the need to enroll in Medicare. The Employer also advised the Pensioner that its insurance carrier had been directed to estimate the amount of Medicare benefits that would have been provided had he been a Medicare beneficiary and to provide Plan benefits accordingly. The Pensioner has since enrolled in Medicare Part B.

The Pensioner accrued medical bills during the period in which he was not enrolled in Medicare. The insurance carrier considered all billed charges to be allowable, assumed that Medicare would have paid 80%, and paid the 20% balance.

Dispute

Is the Employer required to provide full benefits for the charges for services the Pensioner received when he was eligible for, but not enrolled in, Medicare?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the services because they were medically necessary.

Position of the Employer: The Employer is not required to provide full benefits for services incurred during the period because the Pensioner did not enroll in Medicare when eligible.

Pertinent Provisions

Article III A. (10) (d) of the Coal Act Employer Benefit Plan states:

(10) General Provisions

(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.

The Plan Administrator shall give written notification of the obligation to enroll. Failure to provide such notification shall not remove any obligation to enroll.

Article III A. (11) (a) 3. of the Coal Act 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. (10) (d) and (11) (a) 3. of the Coal Act Employer Benefit Plan exclude benefits for services that are or could have been covered under Medicare. The Employer also is required to advise the Employee and/or Pensioner of his responsibility to apply for Medicare benefits, but

failure to provide such notification shall not remove any obligation to enroll.

In this case, the Employer advised the Pensioner of the need to apply for Medicare and encouraged him to enroll in timely fashion. Further, the Employer directed its insurance carrier to process the claims as if Medicare coverage had been available and make payments on the balance, and this handling exceeded the requirements of the Plan.

Therefore, and consistent with the requirements of the Coal Act Employer Benefit Plan, the Employer is not required to provide further benefits for the period in which the Pensioner was eligible for, but did not enroll in, Medicare.

Opinion of the Trustees

Consistent with the provisions of the Coal Act Employer Benefit Plan, the Employer is not required to provide further benefits for the period in which the Pensioner was eligible for, but did not enroll in, Medicare.