
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: CA-071 - April 14, 2004

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 benefits under the terms of the Coal Industry Retiree Benefit Act of 1992 (Coal Act) Employer Benefit Plan maintained pursuant to section 9711 of the Internal Revenue Code.

Background Facts

The Complainant was employed in a classified position by the Respondent until August 6, 1989, when he ceased work due to an injury. In April 1990, the Complainant was notified that he was awarded Social Security Disability Insurance benefits effective August 5, 1989. In October 1990, the Complainant was notified that he was awarded disability pension benefits under the 1974 Pension Plan effective September 1, 1989.

According to the Complainant, in 2002 he spoke with a representative of the Respondent's insurance carrier who informed him that he was required to enroll in Part B Medicare in order to continue to receive health benefits coverage under the Respondent's Employer Benefit Plan. The Complainant claims that at that time he asked for but never received a copy of the Employer Benefit Plan provision that stipulated this action. Since then, the Complainant states that he has received a copy of the Employer Benefit Plan. On July 25, 2003, the Respondent notified the Complainant by certified letter that his coverage as a Pensioner under the Employer Benefit Plan was terminated effective July 25, 2003, at 11:59 p.m. because he had failed to enroll in Medicare Part B. The letter also states that overpayments of premiums and prescription and vision claims are the Complainant's responsibility and that upon receipt of verification that he has enrolled in Part B, his coverage will be reinstated as of the next qualification period. Two days after receiving the Respondent's July 25, 2003 letter, the Complainant states that his coverage was cancelled. The next application period for Part B Medicare is in January, February and March with an enrollment date of July 1st.

According to the Respondent, a copy of the Summary Plan Description that contained the provision requiring enrollment in Part B Medicare was sent to the Complainant by letter dated September 19, 1992. Furthermore, the Respondent notified the Complainant by letter dated March 3, 1998, that he was required to enroll in Medicare Part B.

Dispute

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

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant during the period he was eligible for but not enrolled in Medicare Part B because he was never notified of any requirement to enroll in Medicare Part B, nor was he given a copy of the Employer Benefit Plan which contains this provision until recently.

Position of the Respondent: The Respondent is not required to provide health benefits coverage for the Complainant during the period he was eligible for but not enrolled in Medicare Part B because the Complainant's benefits were properly terminated based on the provisions of Article III A. (10) (d) of the Employer Benefit Plan. Furthermore, the Complainant was sent a copy of the Plan and notified that he was required to enroll in Medicare Part B in order to continue to receive coverage under the Respondent's Employer Benefit Plan.

Pertinent Provisions

Article III. A. (10) (d) of the Coal Act 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 benefits provided under the Plan only to the extent such benefits are not provided 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 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) of the Coal Act 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. Article III. A. (11) (a) 3. of the Coal Act Employer Benefit Plan excludes from coverage benefits provided under Federal Medicare for which a Beneficiary is eligible or upon proper application would be eligible.

The Complainant has been receiving Social Security Disability Insurance benefit payments since April 1990. A recipient of Social Security Disability payments is eligible to enroll in Medicare Parts A and B upon receiving his 25th SSDI benefit payment, and notification of Medicare eligibility is automatically given to a Beneficiary when the eligibility date approaches. (See ROD 88-650.) No evidence was submitted to indicate that the Social Security Administration erred in this case by failing to notify the Complainant that he was eligible for Medicare.

The Complainant claims that the Respondent failed to notify him that he was obligated to enroll in Part B. Medicare. However, the Respondent submitted documentation indicating that in 1992 the Complainant was sent a copy of the Respondent's Summary Plan Description, which contained the provision requiring the Complainant to enroll in Medicare Part B. In addition, in March 1998, the Respondent sent the Complainant a letter requesting that he enroll in Part B. Medicare. Article III A. (10) (d) of the Coal Act Employer Benefit Plan provides that the Employer shall give written notification of a Beneficiary's obligation to enroll in Medicare. However, the Trustees note that the Plan clearly states that failure to provide such notification does not remove the Beneficiary's obligation to enroll.

In RODs 84-491, 84-679 and 88-650, the Trustees specifically addressed coverage for pensioners who were awarded SSDI and pension benefits but who failed to enroll in Medicare Part B. In each case, the Pensioner claimed he did not enroll in Medicare Part B because he was unaware of the requirement. In each case, the Trustees concluded that the Employer was not responsible for providing health benefits until the Pensioner enrolled in Medicare Part B.

Opinion of the Trustees

The Respondent is not required to provide health benefits for the Complainant under the Employer Benefit Plan during the period when the Complainant was eligible for, but not enrolled in, Medicare Part B.