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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 84-516 - January 5, 1988

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee;  
William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits under the Employer Benefit Plan for a Pensioner who failed to enroll in Medicare.

Background Facts

The Complainant is receiving a normal retirement pension, effective October 1, 1984. He attained age 65 on May 29, 1986 and enrolled in Medicare Part A, effective May 1, 1986. The Complainant did not enroll in Part B at that time because he was not aware that enrollment was required. The Complainant subsequently enrolled in Part B and coverage became effective November 1, 1986. The Complainant states that neither the Respondent nor the insurance carrier specifically notified him that he must obtain Medicare Part B and that he did not receive a copy of the Employer Benefit Plan.

On July 6, 1986, the Complainant was involved in an automobile accident and incurred medical expenses as the result of injuries sustained in the accident. The Respondent denied that portion of the payment for which Medicare would have been responsible had the Pensioner enrolled in Part B, and paid only the 20% coinsurance. The Respondent states that it is not responsible for payment of the outstanding medical charges for such services because the Complainant was eligible for, but was not enrolled in Medicare Part B at the time the charges were incurred.

The Respondent contends that it provided adequate notification of the Complainant's responsibility to enroll in Medicare Part B by providing a copy of the Summary Plan Description and the Benefit Plan to all Pensioners, including the Complainant, on January 15, 1986.

Dispute

Is the Respondent responsible for the provision of health benefits coverage for the Complainant during the period from May 1, 1986 through November 1, 1986, when he was eligible for, but not enrolled in Medicare Part B?

Positions of the Parties

Position of the Complainant: The Respondent is responsible for the provision of health benefits coverage for the Complainant during the period May 1, 1986 through November 1, 1986, when he was not enrolled in Medicare Part B, because he was not informed that enrollment in Medicare Part B was required.

Position of the Respondent: The Respondent is not responsible for the provision of health benefits for the Complainant during the period from May 1, 1986 through November 1, 1986, when he was eligible for, but not enrolled in Medicare Part B. The Complainant received adequate notification of his obligation to enroll at the time he received a copy of the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (10)(d) of the 1984 Employer Benefit Plan states:

(d) Medicare

1. For Employees age 70 and over, 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 to 70 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) of the Employer Benefit Plan stipulates 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 was eligible to enroll in Medicare, Parts A and B, upon attaining age 65 in May 1986. The Complainant states that he did not enroll in Medicare Part B until November 1, 1986, because he did not know that such enrollment was required.

Article III. A. (10)(d) of the Plan 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 Plan Administrator stated that a copy of its Benefit Plan with this information was distributed to all Pensioners and constitutes written notice of the Complainant's obligation to enroll in Medicare Part B. 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, the Plan clearly stipulates that failure to provide such notification does not remove the Beneficiary's obligation to enroll. Since the Complainant was eligible for Medicare Part B on May 1, 1986 and failed to enroll until November 1, 1986, the Respondent is not responsible for the provision of health benefits for the Complainant between May 1, 1986 and November 1, 1986.

Opinion of the Trustees

The Respondent is not responsible for providing health benefits for the Complainant during the period from May 1, 1986 until November 1, 1986, as the Complainant failed to enroll in each part of Medicare for which he was eligible, as required under the Employer Benefit Plan.