

Joiner v. Dreisenga & Associates

(United States District Court, Western District of Michigan, No. 1:04-CV-437 (W.D. Mich. 2005))

Special deals sometimes happen when employees retire from a company. An employer discovered that its failure to follow COBRA regulations can have expensive results.

In this case, the District Court for Western Michigan ruled that an employer satisfied its COBRA notice duties by providing a retiree oral notice of his health benefit continuation rights. That was the good news for the employer. The bad news was that the employer must now go to trial and prove when that coverage was supposed to end because there was a dispute on that point.

When Thomas Joiner retired from Dreisenga & Associates, he accepted a consultant arrangement whereby his former employer would continue his health coverage. He never received a written COBRA election notice. A discussion between Joiner and the president of Dreisenga was held to be sufficient because it allowed him to "make an informed decision." Thus, the employer was not penalized for failing to provide an election notice.

However, it was unclear as to how long this coverage would continue. Joiner continued to enjoy coverage for more than five years after he retired and beyond the age of 65. Dreisenga finally terminated coverage when Joiner completed a form that stated he had prostate cancer. At that time, Dreisenga said coverage was supposed to have ended at age 65; Joiner said it was supposed to be indefinite, as long as he paid his premiums.

In the final analysis, the Court granted Dreisenga's motion for summary judgment on the issue of proper notification, and denied its motion on the issue of when the coverage was supposed to terminate and whether it had been terminated because of a preexisting condition (i.e., the prostate cancer).

A proper COBRA election notice would have listed the events under which coverage is terminated. One reason is entitlement to Medicare, which typically occurs when one turns 65 and enrolls in Medicare. While the record was unclear as to whether Joiner actually did enroll in Medicare when he turned 65 (most people do), if he had done so and if Dreisenga had provided a written election notice, Dreisenga would have been well within its right to terminate coverage earlier.