

## The Elderlaw Forum: Happy 65th birthday - it's involuntary medicare time!

by Professor\_Michael\_Myers

You're turning 65. You're healthy, productive and love your job. You're insured under your company's health plan, and have been for 18 years.

You plan to remain on the job until age 70, 75, perhaps longer. You wouldn't mind dying in the saddle, sort of like Jack Palance's Curley in the movie City Slickers. You can imagine a co-worker discovering your lifeless body, face compressed on the keyboard of your computer, a frozen smile of accomplishment resulting from having completed the month-end budget spreadsheet.

Life is good. Your stay-at-home retired husband is a meticulous housekeeper. When you arrive home in the evening he has a chef-quality dinner waiting, except on Friday evenings, when you dine out.

He is 67 and on Medicare. His Part B premium deducted from Social Security is \$99.20 a month. His Medigap premium is \$135; and he pays an additional \$41 for Part D prescription drug coverage. His out-of-pocket monthly cost for Medicare is \$275.

Your employer picks up your monthly premium for a comprehensive Blue Cross Blue Shield health plan that includes drug coverage. It will cost you more than \$200 a month to transfer to Medicare.

Last week your office manager handed you an application for Medicare. She said it must be completed by the end of the month. You ask yourself: "Is this legal? Can they make me give up the company health insurance because I am 65?"

"Can they?" asked the caller to my senior legal helpline, cautioning that while she did not wish to incur

the expense of Medicare, at the same time she did not want to jeopardize her job by recklessly challenging a company policy.

The Age Discrimination in Employment Act of 1967 prohibits discrimination within conditions of employment, including fringe benefits. The statute, however, only applies to private employers with 20 or more employees. Her company is private and only has 12 employees. She is not protected by the federal law. Also, she lives in one of the few states that have no age discrimination in employment statute.

• Fill out the application, I advised, and climb on board the program that was intended to benefit the elderly. But make sure you bring along your checkbook. •

(Pro bono legal information, advice and assistance is provided to persons 55 and older by the USD Senior Legal Helpline, 1-800-747-1895; mmyers@usd.edu. Opinions solely those of Professor Myers and not of the University of South Dakota).

*The Elderlaw Forum: Happy 65th birthday - it's involuntary medicare time! by Professor Michael Myers*