

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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GENESEE COUNTY COMMUNITY MENTAL  
HEALTH,

UNPUBLISHED  
June 28, 2011

Plaintiff-Appellant,

v

No. 297490  
Genesee Circuit Court  
LC No. 09-091290-CL

VICKI A. SPRAGUE, JUNE G. SULLENGER,  
KIM LEWANOWICZ, MARIE T. MILKOVICH,  
PATRICIA MIT COLLINS, and ROBERT A.  
DISTEFANO,

Defendants-Appellees.

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Before: METER, P.J., and CAVANAGH and SERVITTO, JJ.

PER CURIAM.

Plaintiff appeals as of right an order denying its motion for summary disposition and granting summary disposition in favor of defendants. We affirm.<sup>1</sup>

On May 12, 2009, plaintiff filed its complaint for declaratory judgment against defendants. Defendants were former employees who had begun working for plaintiff prior to February 9, 1989, and elected deferred retirement. At the time of their terminations, each had at least eight years, but less than 15 years, of credited service. According to collective bargaining agreements and plaintiff's personnel policy manual in effect at the time defendants terminated their employment, employees with eight years of credited service would be provided with hospital/medical insurance upon retirement. However, subsequent to defendants' terminations, those retirement provisions had changed to require fifteen years of credited service before becoming eligible for hospital/medical coverage. According to plaintiff, these new retirement provisions governed defendants' retirement rights—not the prior provisions that were in effect at the time defendants elected deferred retirement and terminated their employment. Plaintiff averred that “entitlement to medical/health insurance is determined by the Collective Bargaining

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<sup>1</sup> We recognize that defendants Patricia Mit Collins and Robert A. Distefano defaulted in the trial court. Nevertheless, our decision applies to them as appellees in this case. See *Yenglin v Mazur*, 121 Mich App 218, 225-226; 328 NW2d 624 (1982); *Ackron Contracting Co v Oakland County*, 108 Mich App 767, 774; 310 NW2d 874 (1981).

Agreement in effect when the request for benefits is made, and that any rights under the prior Collective Bargaining Agreements or Personnel Policy Manual with respect thereto were not vested, and are subject to modification without the consent of any former employee.”

Subsequently, plaintiff filed a motion for summary disposition under MCR 2.116(C)(10). Plaintiff argued that all defendants were deferred retirees and were subject to new retirement provisions pertaining to hospital/medical insurance that became effective after defendants left plaintiff’s employment. In particular, at the time defendants left plaintiff’s employment as deferred retirees, the retirement provisions only required eight years of credited service to be eligible for hospital/medical insurance benefits. However, prior to the time defendants qualified for retirement benefits, the retirement provisions were changed so as to require fifteen years of credited service to be eligible for hospital/medical insurance benefits. Thus, plaintiff argued that there was no genuine issue of material fact that defendants were not entitled to such benefits because they did not “retire” with fifteen years of credited service. Defendants opposed plaintiff’s motion, arguing that the retirement provisions in effect when they elected deferred retirement created a vested right to hospital/medical insurance because they met the contractual requirement by having eight years of credited service.

After oral arguments were held on the motion, an order denying plaintiff’s motion for summary disposition and granting defendants’ oral motion for summary disposition was entered. In relevant part, the court held that defendants’ “respective health/medical benefits were vested at the time [they] terminated or separated their employment with Plaintiff . . . .” This appeal followed.

Plaintiff argues that the collective bargaining agreements (CBAs) and Personnel Policy Manual in effect when defendants terminated their employment, properly interpreted, did not provide that medical benefits were vested after eight years of credited service if they elected deferred retirement. We disagree.

We review a trial court’s ruling on a motion for summary disposition de novo. *Coblentz v Novi*, 475 Mich 558, 567; 719 NW2d 73 (2006). We must review the record in the same manner as the trial court to determine whether the movant was entitled to judgment as a matter of law. *Morales v Auto-Owners Ins Co*, 458 Mich 288, 294; 582 NW2d 776 (1998).

Similarly, contract interpretation is a question of law, which we review de novo on appeal. *Sweebe v Sweebe*, 474 Mich 151, 154; 712 NW2d 708 (2006). A contract should be read as a whole with meaning given to all of the terms in the contract. *Century Surety Co v Charron*, 230 Mich App 79, 82; 583 NW2d 486 (1998). Courts

enforce contracts according to their terms, as a corollary to the parties liberty to enter into a contract. We examine contractual language and give the words their plain and ordinary meanings. An unambiguous contractual provision reflects the parties intent as a matter of law, and “[i]f the language of the contract is unambiguous, we construe and enforce the contract as written.” Courts may not create ambiguity when contract language is clear. Rather, this Court must honor the parties’ contract, and not rewrite it. [*Reicher v SET Enterprises, Inc*, 283 Mich App 657, 664-665; 770 NW2d 902 (2009) (citations omitted).]

The plain language of the CBAs and the Personnel Policy Manual in effect when defendants terminated their employment provided, in relevant part: (1) any employee hired prior to February 9, 1989, with eight years of credited service could elect deferred retirement, (2) a member could retire at age 60 with a minimum of eight years of credited service, (3) “[a]fter eight (8) years of credited service a member’s participation is considered to be vested[,]” and (4) “employees who retire with at least eight (8) years credited service will be provided with hospital/medical insurance.” Thus, by clear and unambiguous language, the documents reflect the intent for a member—hired before February 9, 1989, and who had eight years of credited service—to be fully vested for retirement purposes at the time they elected deferred retirement and to be provided with hospital/medical insurance upon retirement at age 60. That is, these defendants were vested in their accrued benefit at the time they elected deferred retirement and terminated their employment. The documents do not contain any language indicating that a deferred retiree’s eligibility to receive hospital and medical coverage was contingent on the terms of the CBA or personnel policy manual in effect when the member actually retires. And the documents do not reserve to plaintiff any right to modify or terminate those benefits. Accordingly, the trial court properly granted summary disposition in favor of defendants who were entitled to judgment as a matter of law. See MCR 2.116(I)(2).

Affirmed.

/s/ Patrick M. Meter  
/s/ Mark J. Cavanagh  
/s/ Deborah A. Servitto