Aging Lifestyles: Retiree health benefits under siege

by Joe_Volz

It looks like a Christmastime ruling by the U.S. Equal Employment Opportunity Commission, allowing employers to curb health benefits for retirees over 65 without facing an age discrimination problem, could hit a lot of seniors right in the pocketbook.

At least that's the way the country's largest advocacy group for seniors, AARP, looks at it.

The EEOC lets employers provide less health benefits to retirees receiving Medicare.

There had been questions raised by AARP and other senior groups about whether employers would be discriminating against 65-year-olds on Medicare if they refused to pay them supplemental health insurance but did continue to pick up the tab for retirees too young for Medicare.

AARP, which has fought EEOC unsuccessfully in court so far, maintains that the new EEOC ruling allows companies to use age as a reason for reducing or eliminating health coverage to retirees. That violates the Age Discrimination in Employment Act, says AARP. But EEOC and a federal appeals court in Philadelphia disagree.

Many employers currently provide more generous health benefits to retirees under age 65 who are not yet eligible for Medicare, which pays for a major portion of medical expenses and prescription drugs for those who sign up for Part D. Yet, more than 10 million retirees rely on their companies to provide health coverage or to supplement their Medicare coverage.

But there is no federal law requiring employers to provide health coverage. With health costs and the number of people 65 and older rising rapidly, increasing numbers of companies and organizations are altering their health benefits or eliminating them entirely. If more employers drop any extra health coverage for retirees on Medicare, the medical bills for those retirees could rise markedly.

Medicare doesn't cover everything. And when it comes to prescription drug plans, many private programs, paid by employers, can be better than the Medicare drugs plans. Medicare also charges a monthly premium and has a blackout period where drug spending reaches a certain level, and Medicare pays nothing for awhile.

But the EEOC chairwoman, Naomi Earp, who has worked as an adviser to private employers in the past, doesn't see a problem. She says, "Implementation of this rule is welcome news for America's retirees, whether young or old. Millions of retirees rely on their former employer to provide health benefits, and this rule will help employers continue to voluntarily provide these critically important benefits."

The U.S. Government Accountability Office found that about one-third of large employers and less than 10 percent of small employers offered their retiree's health benefits in 2000, compared with about 70 percent of employers in the 1980s. The new EEOC policy comes after litigation resulting from a 2000 ruling by the U.S. Third Circuit Court of Appeals in the case of Erie County (Pa.) Retirees Association v. County of Erie. The ruling said that if an employer provides Medicare retirees with health benefits, the law required that health coverage for other retirees had to be as good.

But following the Erie decision, labor unions and employers told the EEOC that "complying with the decision would force companies to reduce or eliminate the retiree health benefits they currently provided." EEOC vice chair Leslie E. Silverman said, "The Erie County decision would have made most existing retiree health plans unlawful. EEOC's new rule will ensure that employers can continue to offer their retirees much needed health benefits."

The appellate court, hearing an AARP appeal of the earlier ruling, wrote, "We recognize with some dismay that the proposed exemption may allow employers to reduce health benefits to retirees over the age of 65 while maintaining greater benefits for younger retirees." The court said, however, that the EEOC had shown that the exemption "was a reasonable, necessary and proper exercise" of its authority.

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