

May 17, 2004

The Honorable John Breaux
U.S. Senate Special Committee on Aging
G 31 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Breaux:

The ERISA Industry Committee (ERIC) is very concerned about legislative efforts to overturn the April 22 Equal Employment Opportunity Commission (EEOC) exemption from the Age Discrimination in Employment Act (ADEA) that permits employers to coordinate post-employment health care coverage with Medicare. The EEOC proposed final rule has calmed the waters giving more confidence and certainty to America's employers. Efforts to derail the EEOC's responsible decision would result in an increased number of employers retreating from health arrangements.

As you are aware, employers voluntarily provide health care coverage to employees, retirees and often to their families. Many ERIC members provide retiree benefits to attract and keep good employees, and to reward them for years of dedicated service. Without, the EEOC rule becoming final, well meaning employers will be subject to lawsuits under the ADEA.

Some say the purpose of the EEOC rule is to permit employers to cut retiree health coverage. In fact, employer retiree health coverage was voluntary before the *Erie County* decision, and it remained voluntary after *Erie County*. Employers facing double-digit health inflation have been effectively forced to reduce or terminate retiree health coverage in order to comply with the *Erie County* decision. The EEOC rule creates no new right to reduce or terminate coverage that did not already exist, but it does provide urgently needed relief from the only economically viable option employers have to comply with the *Erie County* decision – to reduce or terminate coverage for retirees who are not Medicare-eligible.

We appreciate your support on this issue, as do the many retirees whose employer-provided health coverage will be strengthened by the EEOC rule. If we can provide you with any additional information, please call me directly.

Sincerely,

Mark Ugoretz
President