



# THE ERISA INDUSTRY COMMITTEE

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Advocating the Benefit and Compensation Interests of America's Major Employers

April 28, 2005

The Honorable Sam Johnson, Chairman  
The Honorable Robert E. Andrews, Ranking Member  
U.S. House of Representatives  
Committee on Education and the Workforce  
Subcommittee on Employer-Employee Relations  
2181 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressmen Johnson and Andrews:

The ERISA Industry Committee (ERIC) is very concerned about legislative efforts to overturn the April 22, 2004 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. In many cases these benefits provide an important "bridge" benefit to retirees who are not yet eligible for Medicare. In other instances, the benefit is coordinated with Medicare.

Some contend that the purpose of the EEOC rule is to permit employers to curtail retiree health coverage for Medicare-eligible retirees. 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 for both pre- and current Medicare-eligible retirees in order to comply with the *Erie County* decision. **The EEOC rule creates no new right to reduce or terminate coverage, 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