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WEB's ***Benefits Insider*** is a member exclusive publication providing the latest developments from the Nation's Capital on matters of interest to benefits professionals. The content of this newsletter is being provided as a result of a partnership with the American Benefits Council, a premier benefits advocacy organization, which provides its core content, and is edited by Corinne M. Tyler, Employee Benefits attorney and Partner in the Cleveland Office of Baker & Hostetler LLP; ctyler@bakerlaw.com.

Articles in this Edition

RECENT LEGISLATIVE ACTIVITY

House Passes PPA Technical Corrections

The House of Representatives recently passed the Pension Protection Technical Corrections Act (H.R. 3361), a bill to make minor and technical corrections to the Pension Protection Act of 2006 (PPA). The Senate passed a similar bill, the Pension Protection Technical Corrections Act (S. 1974), in December 2007, and both bills will now be sent to a conference committee to resolve the differences between them.

The version of H.R. 3361 passed by the House has been modified since its original introduction in August 2007. Key elements of H.R. 3361 include:

- **No Defined Benefit Plan Asset Smoothing Provision:** As expected, the new House bill does not contain the defined benefit plan asset smoothing provision that is in S. 1974.
- **Roth Rollover Correction Included:** The new House bill does contain the correction for the glitch that would have imposed the Roth IRA conversion AGI limits in 2008 and 2009 on the rollover of Roth 401(k) and 403(b) amounts to Roth IRAs.
- **Non-Spousal Rollovers Mandatory as of 2009 Plan Year:** The effective date of the provision clarifying that the non-spousal rollover provision of PPA is mandatory is "plan years beginning after 12/31/08."
- **Problematic Blackout Period Provision Dropped:** The provision of the Senate-passed bill applying the PPA blackout period notice and fiduciary relief provisions to blackout periods of fewer than three business days is not in the new House bill. This provision had been criticized as it would have required 30-day advance notices for blackout periods of fewer than three days and there did not seem to be much concern about fiduciary liability for these short blackout periods.

Before passage, there had been efforts to include a provision clarifying Congress' intent to preserve 24-month asset smoothing led by bill sponsor Rep. Charles Rangel (D-NY) and legislation supporter Rep. Earl Pomeroy (D-ND) with support from numerous members of both parties on the Ways and Means Committee and Education and Labor Committee. This was evidenced by the floor debate regarding the bill. Rep. Pomeroy delivered a particularly eloquent speech in support of this important provision. Reconciliation between the House and Senate bills will likely occur in April.

The preservation of asset smoothing is favored by some since unpredictability is a key reason for pension plan freezes and terminations.

House Passes Mental Health Parity Bill, Including Genetic Non-Discrimination Language

The U.S. House of Representatives recently passed The Paul Wellstone Mental Health and Addiction Equity Act (H.R. 1424), the much acclaimed far-reaching mental health parity bill sponsored by Representative Patrick Kennedy (D-RI) and Jim Ramstad (R-MN), by a vote of 268-148. During debate, the House attached to H.R. 1424 the Genetic Information Nondiscrimination Act (H.R. 493), which had previously been approved by the House.

Employer and insurer organizations met extensively with House members and staff leading up to the vote and sent a letter to House leadership urging the rejection of H.R. 1424 and support of the bipartisan Senate mental health parity bill, S. 558. H.R. 1424 includes a broad mandate requiring employers and health plans to cover all mental health conditions and substance abuse disorders set forth in the comprehensive diagnostic and statistical manual (DSM-IV) if a plan

covers any mental health benefits at all; expands the ability of states to establish new remedies applicable only to mental health coverage for plan participants in fully-insured health plans; and fails to fully protect medical management practices which are needed to ensure that plans only cover services determined to be medically necessary and appropriate.

Through the attachment of H.R. 493, the mental health parity measure becomes a new vehicle to send the genetic nondiscrimination bill to the Senate. H.R. 493 prohibits employer-sponsored group health plans and health insurers providing group and individual health insurance from restricting enrollment or adjusting premiums based on genetic information or requiring or requesting genetic testing. H.R. 493 also prohibits employers from using genetic information to discriminate against an individual in hiring or other employment opportunities. Since the earlier passage of H.R. 493, legislative clarification has been sought, requesting that ERISA and the Public Health Services Act provide the exclusive remedies for the enforcement of Title I provisions which apply to employer sponsors of group health plans and health insurers – not the broader remedies under the Civil Rights Act, which apply to an employment discrimination under Title II of the H.R. 493.

H.R. 1424, with its genetic non-discrimination language, will now be subject to a conference committee, which will attempt to reconcile its differences with the Senate-passed Mental Health Parity Act (S. 558). S. 558 allows employers the flexibility to design their benefit plans; makes clear that medical management of these important benefits may not be prohibited; and maintains the current authority between state and federal regulation. S. 558, sponsored by Senators Edward Kennedy (D-MA), Pete Domenici (R-NM) and Mike Enzi (R-WY), was crafted through compromise with mental health advocates, insurers and business groups. The Bush Administration has issued a statement of administration policy strongly opposing House passage of H.R. 1424 "or any legislation that expands benefits and remedies beyond what is included in the Senate-passed S. 558."

RECENT REGULATORY ACTIVITY

Defense Department Proposes New Rules for TRICARE Program and Employee-Sponsored Group Health Plans

In late March, the U.S. Department of Defense issued proposed regulations for the coordination of TRICARE – the regionally managed health care program for active duty and retired members of the uniformed services and their families – with employer-sponsored group health plans. The regulatory proposal implements Section 707 of the John Warner National Defense Authorization Act for FY 2007 (NDAA). Section 707, which became effective January 1, 2008, prohibits employers from offering financial or other incentives to not enroll TRICARE-eligible employees (essentially military retirees and their families) or to not enroll or disenroll in an employer-sponsored group health plan. Employers are similarly prohibited from offering incentives to Medicare-eligible employees. According to the proposed regulation, the prohibition on incentives not to enroll in employer-sponsored group health plans is "to prevent employers from shifting their responsibility onto the Federal taxpayers."

Section 707 prohibits TRICARE supplemental coverage as an option for health coverage under an employer-sponsored group health plan to TRICARE eligible-beneficiaries. Certain common employee benefits programs, however, are not improper incentives. The proposed regulation clarifies that an employer incentive not to enroll in the employer's group health plan does not violate the new law if the incentive is available and can be used by all employees and not limited to an employee who are also TRICARE beneficiaries. For example, non-TRICARE exclusive employer-provided health care incentives offered under a cafeteria plan would not be a violation. The Department of Defense is accepting comments on the proposed regulation until May 27, 2008.

IRS Offers Direct Roth Rollover Reporting Clarifications

The Internal Revenue Service (IRS) officials have announced that two Form 1099-Rs will be necessary to report Roth conversion rollovers (direct rollovers from 401(k), 403(b) and 457 plans to Roth IRAs) which include voluntary tax withholding. There is also an appropriate method for reporting direct rollovers when the plan does not have information on whether the receiving IRA is a traditional or Roth IRA. IRS representatives were unsure how quickly they could issue formal or informal guidance on the issues.

The two 1099-R forms are necessary in order to report the amount rolled over (with a code G in Box 7) separately from the amount withheld. The amount withheld would be reported with the appropriate code in Box 7 to show whether the participant is under age 59½, etc. The instructions for Form 1099-R indicate that code G cannot be used in combination with most other codes, prompting the need for the second filing. In the withholding filing, only the amount of the withholding would be reported (in box 1 to show the distribution, box 2a to show it is taxable, and box 4 to show the withholding).

An example would be a participant with a $10,000 pre-tax balance who elects a Roth conversion rollover with 10 percent voluntary withholding. In such a situation, the first 1099-R would reflect $9,000 as the distribution (in both boxes 1 and 2a because it is taxable) and code G (for a rollover) in box 7. The second 1099-R would reflect $1,000 in boxes 1 and 2a and 4 (to show withholding) and the appropriate code reflecting the participant's age, etc. in box 7.

For plans which may not have information indicating whether the receiving IRA is a traditional pre-tax IRA versus the Roth IRA, the IRS indicated the plan can enter the total amount of the distribution in both boxes 1 and 2a, but check the box in 2b indicating the taxable amount has not been determined.

FASB Issues Proposal Expanding Disclosure of Plan Assets

The Financial Accounting Standards Board (FASB) recently issued a proposed FASB Staff Position (FSP FAS 132(R)-a) that would expand the list of asset categories that must be disclosed separately by defined benefit plan (and other post-retirement plan) sponsors. Under the proposal, the fair value of the following categories must be disclosed, with additional categories added as appropriate:

1. cash and cash equivalents;
2. equity securities;
3. debt securities issued by national, state, and local governments;
4. corporate debt securities;
5. asset-backed securities;
6. structured debt;
7. derivatives (segregated by type of contract, for example, interest rate contracts, foreign exchange contracts, equity contracts, commodity contracts, credit contracts, and other contracts);
8. hedge funds;
9. private equity funds;
10. venture capital funds; and

11. real estate.

The FASB proposal would also require plan sponsors to disclose the nature and amount of a concentration of risk arising within or across categories of plan assets and the valuation techniques and inputs used to develop the fair value measurements of the assets. (The proposal further lists the levels under which these fair value measurements must be sorted.)

These rules would apply to any employer that is subject to the disclosure requirements of FASB Statement 132(R). The disclosures about plan assets required by this proposed FASB Staff Position would be applied on a prospective basis for fiscal years ending after December 15, 2008.

FASB will accept written comments on the proposal until May 2.

PBGC Issues Final Regulations on PPA Variable-Rate Premium Changes

The Pension Benefit Guaranty Corporation (PBGC) issued final regulations on variable-rate premiums for 2008, as set forth by the PPA. The PPA amended Sections 4006 and 4007 of ERISA to require these changes and to eliminate the full-funding limit exemption from the variable-rate premium. The regulations are applicable to plan years beginning on or after January 1, 2008.

The PBGC had issued proposed regulations to change the variable-rate premium (VRP) on May 30, 2007. The final regulations are similar to the proposed regulations, though changes include two new definitional cross-references, a clarification of the relationship between the funding interest rate transition rule and the premium funding target, an extension of the small-plan deadline for making certain elections, a clarification of how participants are counted for purposes of determining plan size, illustrations of the provision on vesting, and a clarification of the provision dealing with plans to which special funding rules apply.

Generally, the regulations require plans to use a date in the premium payment year (rather than a date in the prior plan year) as the valuation date for VRP calculations, and would give small plans more time to file. Larger plans would be allowed to make estimated filings followed by adjusted final filings without penalty. The due date for payment of premiums would depend on the size of the plan.

- For small plans with fewer than 100 participants, both the flat-rate premium and the VRP would be due by the end of the 16th month following the first day of the premium payment year (April 30 for calendar year plans).
- For mid-sized plans with 100 or more participants but fewer than 500 participants, the flat-rate premium and VRP would be due by the 15th day of the 10th month following the first day of the premium plan year (October 15 for calendar year plans) but the VRP could be based on estimates with a penalty-free “true-up” period to correct an erroneous estimate. The penalty would be waived for the period from the original due date to the small-plan due date or, if earlier, the date the final VRP is filed. Interest is not suspended.
- The due date for large plans of 500 or more participants would be the same as for mid-sized plans (including the estimated filing and true-up period) for the VRP. (Large plans would continue to file the flat-rate premium by the last day of the second month of the premium payment year (February 28/29 for calendar year plans)). However, there is a change in the ‘‘safe harbor’’ rules to accommodate the unlikely event that a plan might be in the small-plan category for one year but in the large-plan category for the next year.

IRS Issues Proposed Regulations on 204(h) Notices

The IRS has also released proposed regulations and a hearing announcement on required notices under Internal Revenue Code (Code) Section 4980F (Section 204(h) of ERISA) addressing advance notice requirements for amendments required under the PPA. This portion of the Code and ERISA set forth the requirements for providing notice – often referred to as a "section 204(h) notice" – to certain affected persons when a plan significantly reduces future benefit accruals.

The proposed regulations generally allow plans to be retroactively amended for new requirements by the last day of the first plan year beginning on or after January 1, 2009, as long as they give the required 45 days notice (15 days for multiemployer plans) prior to the effective date of a retroactive amendment. (Many retroactive amendments are expected as a result of the PPA's remedial amendment period that ends on the last day of the plan year that begins in 2009.)

There is a special rule for certain hybrid plan amendments during 2008 – 30 days notice before the effective date. In addition, plans will be treated as having complied with the 204(h) notice requirements if they meet the separate notice requirements with respect to the following:

- notice of retroactive amendment reducing accrued benefits described in Code Section 412(d)(2);
- benefit limitation notice with respect to benefit restrictions under Code Section 436;
- notice required for a reorganized multiemployer plan;
- notice of the effects of the insolvency status of a multiemployer plan; or
- notice of amendment reducing benefits under a multiemployer plan as permitted under the PPA.

These regulations are generally proposed to be applicable to amendments requiring section 204(h) notices that are effective on or after January 1, 2008. However, for any amendment requiring section 204(h) notices that is adopted after the effective date of the amendment, the clarification of the effective date of the amendment in these proposed regulations is applicable to those amendments on or after July 1, 2008.

The IRS released an Employee Plans News Flash on November 6, 2007, announcing that the proposed regulations would clarify that advance notice to participants of 45 days (or 15 days in the case of a multiemployer plan) is generally required when a plan is amended to significantly reduce the rate of future benefit accruals. As also announced at that time, changes to assumptions under Code Section 417(e)(3) (for lump sum and similar distributions) adopted by a plan as required by the PPA will not prompt a section 204(h) notice.

Written comments are due to the IRS by June 19 and the IRS will hold a hearing on this topic on July 10.

PBGC Proposes Regulations on Allocating Unfunded Vested Benefits to Withdrawing Employers

The PBGC also released proposed regulations on March 20 to implement multiemployer provisions of the PPA. These rules would "provide for changes in the allocation of unfunded vested benefits to withdrawing employers from a multiemployer pension plan, and that require adjustments in determining an employer's withdrawal liability when a multiemployer plan is in critical status." The proposed regulations would also modify the statutory methods for

determining an employer's allocable share of unfunded vested benefits and address the notice, collection and redetermination of withdrawal liability.

Written comments to the PBGC are due by May 19, 2008.

IRS Releases Multiemployer Plan Funding Proposed Regulations

The IRS also recently released proposed regulations that reflect changes made by the PPA to the funding of multiemployer defined benefit plans. They provide guidance for plan sponsors in determining when a plan is in "endangered" or "critical" status, but do not address all related concerns such as the adoption of a "funding improvement" plan or a "rehabilitation" plan. Additional regulations on these matters are expected later in 2008.

The current proposed regulations will be effective for plan years beginning after 2007. The proposed regulations set a deadline of June 16, 2008, for submitting comments or requests to testify at an upcoming public hearing on the matter.

IRS Announces Process for Determination Letters for Pre-Approved Plans

The IRS recently released Announcement 2008-23 detailing the schedule under which pre-approved defined contribution retirement plans may receive opinion and advisory letters and submit applications for individual determination letters. Plans defined as "pre-approved" under the announcement include master and prototype plans and volume submitter plans that were previously filed to comply with EGTRRA. The IRS stated it would begin to issue related opinion and advisory letters on March 31, 2008. This allows these plans to remain within the six-year remedial amendment cycle previously designated by the IRS. Pre-approved plans will be required to adopt EGTRRA-related plan changes by April 30, 2010.

Applications for individual determination letters will be accepted beginning May 1, 2008.

Because there are some changes to the determination letter submission process, the Announcement advised employers to review Revenue Procedure 2008-6 for assistance with their filing. The IRS also has provided a "frequently asked questions" web site page for more information.

IRS Issues PPA Guidance on Mortality Tables, Roth Rollovers, Lump Sums

The IRS released two important notices providing more guidance on the PPA:

1. Notice 2008-29 refers back to IRS Revenue Ruling 96-07 to provide alternative mortality tables for use in valuing benefits to be paid from defined benefit plans on account of disability. This notice indicates that these tables are to be used until further guidance is issued.

2. Notice 2008-30 provides the anticipated guidance on several of the distribution-related provisions of the PPA, specifically those regarding "Roth conversion rollovers" (rollovers from eligible retirement plans to Roth IRAs) and minimum lump sums.

Roth conversion rollovers (direct rollovers from 401(k), 403(b) and 457 plans to Roth IRAs) are similar to a conversion of a traditional IRA to a Roth IRA. Notice 2008-30 confirms that:

- Plans must offer participants the right to elect a direct rollover to a Roth IRA – this is not a plan design choice – though it is currently optional to offer direct Roth rollovers to non-spouse beneficiaries, but see section discussing the PPA technical corrections and rules to take effect for plan years beginning January 1, 2009.

- Withholding is not required for a direct rollover from a plan to a Roth IRA, notwithstanding that the rollover gives rise to taxable income in the same general

manner as a Roth IRA conversion. Plan administrators are, however, permitted to enter into voluntary withholding agreements with participants.

- Plan administrators are not responsible for determining whether a participant is eligible for a rollover to a Roth IRA, e.g., for ascertaining whether a participant's adjusted gross income is below $100,000 for distributions before 2010.

Notice 2008-30 addresses certain issues related to the calculation of minimum lump sums under Code section 417(e), including issues that arise in connection with the transition from the pre-PPA interest rate (generally based on 30-year Treasury rates) and mortality table and applicable to the post-PPA interest rate (derived from the Treasury-published yield curve, subject to a phase-in) and mortality table. In particular, this notice addresses issues (including some relief from anti-cutback rule repercussions) that arise when a plan chooses for some period of time to provide participants with the greater of the amount calculated using the pre-PPA interest rate and the post-PPA interest rate.

In addition, Notice 2008-30 favorably addresses the "most valuable benefit" issue regarding qualified joint and survivor annuities for married participants. Generally, such an annuity is required to be the plan's "most valuable benefit" (or at least as valuable as any other form of payment), but current regulations provide an exception when the plan is required to use certain actuarial assumptions to calculate a lump sum; although the lump sum is arguably more valuable, it is permitted under the regulations because the plan is required to use those assumptions. However, if the plan calculates lump sums using both the new required assumptions and the old assumptions for some period of time (and pays the "greater" lump sum), the lump sum could be more valuable because the plan was not limited to the required assumptions. The guidance provides relief under this scenario and indicates it will be reflected in future revisions to the regulations.

Lastly, Notice 2008-30 also addresses other distribution-related provisions such as the required qualified optional survivor annuity, or "QOSA," for plans that are subject to the qualified joint and survivor annuity rules and the timing of plan amendments to reflect that gap period earnings for corrective distributions of excess deferrals must be taken into account for tax years beginning on or after January 1, 2007.

EBSA Proposes Safe Harbor for Small Plan Assets, Requests Employer Opinion on Applicability to Larger Plans

In late February, the U.S. Department of Labor (DOL) Employee Benefits Security Administration (EBSA) published proposed regulations establishing a safe harbor period of seven business days during which plan contributions would not be considered "plan assets." The safe harbor is intended to provide a minimum period that small plan sponsors (with fewer than 100 participants) have to separate participant contributions from their general assets. Participant contributions "will be treated as having been made to the plan in accordance with the general rule (i.e., on the earliest date on which such contributions can reasonably be segregated from the employer's general assets) when contributions are deposited with the plan no later than the 7th business day following the day on which such amount is received by the employer (in the case of amounts that a participant or beneficiary pays to an employer) or the 7th business day following the day on which such amount would otherwise have been payable to the participant in cash." Smaller employers, according to EBSA, appear to typically need more time to complete these transactions than larger employers.

Under current rules established in 1996, participant contributions to pension plans must "become plan assets" as soon as they can reasonably be separated from the employer's general assets but in no event later than the 15th business day of the month following the month

in which they are either received by the employer to be deposited into the plan or would otherwise have been paid in cash to the participant as regular compensation. EBSA noted in the newly proposed regulations that "many employers, as well as their advisers, continue to be uncertain as to how soon they must forward these contributions to the plan in order to avoid the requirements associated with holding plan assets. At the same time, the Department devotes significant enforcement resources to cases involving delinquent employee contributions and the vast majority of applications under the Department's Voluntary Fiduciary Correction Program involve these cases. The new proposed regulations, EBSA states, would afford "certainty to employers receiving participant contributions regarding the status of such funds. At the same time, the safe harbor would protect participants by encouraging employers to deposit participant contributions with plans within the safe harbor period."

EBSA is particularly interested in creating another safe harbor in the final regulations for employers who sponsor plans for 100 or more participants. The agency is requesting information from larger employers detailing the time periods within which they deposit participant contributions into these plans, the perceived need for an expanded safe harbor, and whether the safe harbor should also be extended to loan repayments made to retirement plans of any size. The deadline for written comments is April 29, 2008.

RECENT JUDICIAL ACTIVITY

DOL Files Amicus Brief in Challenge to San Francisco's Employer "Pay or Play" Mandate
The DOL has submitted an amicus brief with the U.S. Court of Appeals for the 9th Circuit, supporting the Golden Gate Restaurant Association in a legal challenge to an employer health spending requirement mandated by the San Francisco Health Care Security Ordinance. The DOL brief concludes that "if this Court were to uphold the city ordinance, it would expose plan sponsors to the potentially contradictory regimes of numerous states, cities, and other localities, and it would require plan sponsors to design and administer ERISA-covered plans in accordance with the dictates of local officials. Such a result would directly contravene ERISA's express preemption of laws that 'relate to any employee benefit plan,' and wholly undermine Congress' evident intent to permit the uniform nationwide administration of employee benefit plans."

The ordinance, which became effective January 9, 2008, requires medium and large businesses to make minimum health care expenditures on behalf of covered workers. A private employer with 20-99 employees and a nonprofit organization with 50 or more employees would make expenditures of $1.17 per hour on behalf of each covered employee. A private employer with 100 or more employees would make health care expenditures of $1.76 per hour. The ordinance set out a non-exclusive list of "qualifying" health care expenditures, such as contributions to HSAs, direct reimbursement to employees for health care expenses, payments to third parties for providing health care services, costs incurred for the direct delivery of health care services, or quarterly payments to the city "to be used on behalf of covered employees." First quarter payments for 2008 are due April 30, 2008. The ordinance also requires employers to maintain records and proof of health care expenditures, to allow city officials "reasonable access" to such records and annually report "such other information" that the city requires.

The employer spending requirement was challenged in federal district court by the Golden Gate Restaurant Association, which argued that the requirement was preempted by ERISA. In late December the U.S. District Court for the Northern District of California ruled in favor of the Restaurant Association, holding that the ordinance had an impermissible connection with ERISA plans. The city of San Francisco, however, was granted an emergency stay of the lower court decision on January 9, 2008, by a unanimous three-judge panel of the U. S. Court of Appeals

for the 9th Circuit. The appeals court decision permits the city to enforce the employer spending requirement, pending the city's appeal on the merits. In a 30-page decision granting the emergency stay, the 9th Circuit panel indicated it believed that there was a strong likelihood that the city would prevail in its appeal on the merits. Oral argument in the appeal on the merits is scheduled for April 17, 2008.

If the city of San Francisco ultimately prevails in the 9th Circuit, the ruling would conflict with RILA v. Fielder, a 2007 decision of the U.S. Fourth Circuit Court, holding that Maryland's "Fair Share Act" health program was preempted under ERISA. This 'split' in federal circuit decisions could lead to a possible appeal to the U.S. Supreme Court. Maintaining ERISA's federal framework is a priority concern for employers who sponsor multi-state health benefit plans.

U.S. Supreme Court Declines to Rehear EEOC-AARP Retiree Health Case

The U.S. Supreme Court announced in late March that it would not reconsider the U.S. Third Circuit Court of Appeals decision in *AARP v. Equal Employment Opportunity Commission (EEOC)*, officially ending the protracted legal debate over a key retiree health ruling. The Third Circuit had unanimously held that the EEOC reasonably exercised its exemption authority under the Age Discrimination in Employment Act (ADEA) when the agency proposed regulations permitting the coordination of retiree health care benefits with Medicare eligibility.

The Third Circuit ruling maintains the legitimacy of the long-held practice of providing a greater level of employer-sponsored health coverage to retirees who are not yet eligible for Medicare than is provided under an employer's plan to retirees who are eligible for Medicare. Support for this differential enjoys strong backing from the business and organized labor communities and the EEOC, but has been challenged for several years by the AARP.

The EEOC proposed the regulation in 2003 to exempt from the ADEA the practice of altering, reducing or eliminating employer-sponsored retiree health benefits when retirees become eligible for Medicare or a state-sponsored retiree health benefits program. The regulation was proposed in response to Erie County Retirees Association v. County of Erie, in which the Third Circuit held that, since Medicare eligibility is age dependent, the ADEA did not permit reduction or termination of retiree health benefits upon reaching Medicare eligibility unless the employer met the "equal benefit or equal cost" test. Publication of the final regulation was blocked in 2005 when the AARP successfully challenged the EEOC's authority to issue the exemption.

The media received a statement applauding the U.S. Supreme Court's decision and reiterating the importance of preserving valued retiree health benefits. Employers and other organizations previously filed an amicus brief in support of the EEOC in AARP v. EEOC and is a long-standing advocate for publication of the EEOC's final regulation.

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