

## **Recent EEOC Ruling a “Double-edged” Sword for Retirees and Pre-retirees.**

A recent Equal Employment Opportunity Commission (EEOC) regulation allows employers to establish two classes of retirees, with more comprehensive benefits for those under 65 and more limited benefits - or none at all - for those older. In setting this ruling the commission observed that employers are not (and have not been) required by federal law to provide health benefits to either active or retired workers. The new policy essentially provides an explicit exemption from age-discrimination for employers who scale back benefits for retirees 65 and over.

Under the new rule, employers may, if they choose, provide retiree health benefits “only to those retirees who are not yet eligible for Medicare.” Likewise, the rule says, retiree health benefits can be “altered, reduced or eliminated” when a retiree becomes eligible for Medicare. Further, employers will be able to reduce or eliminate health benefits provided to the spouse or dependents of a retired worker 65 or over, regardless of whether benefits for the retiree are changed.

Advocates of this ruling contend that it allows companies to now provide some health benefits for retirees below the age of 65 who have no access to Medicare benefits without the onus of providing this same coverage to retirees 65 and older who have Medicare coverage. Advocates further suggest that the ruling may, in fact, allow employers to continue to provide some level of coverage to over-65 retirees rather than opt to provide no coverage to any age retiree. Opponents to the ruling contend that employers may now more easily reduce or eliminate benefits for retirees at 65 years or older if they choose.

The ruling does not seem to alter the situation of most Textron Systems’ retirees. For those without health coverage from Textron in retirement (circa 12/31/1990 and beyond), the ruling has no probable effect. For those with “grand-fathered” retirement health coverage from Textron, Textron has always held the right to alter or eliminate this benefit, as it is not protected under federal laws as are the guarantee for pensions. For those approaching retirement, it could be beneficial in that it allows Textron to propose providing for “bridge” health coverage until an early retiree reached the age of 65 where Medicare would become available without fear of age discrimination suits. There is no indication, however, that this ruling will impact Textron’s approach to any of its health care coverage, although TSRA will continue to monitor for any signs of a change in Textron’s long held policy.

This recent EEOC policy continues to illustrate how the issues of retirement have become more complex. For your information, a link to the full text of a New York Times Article is provided below and is also available on our website.

<http://www.nytimes.com/2007/12/27/washington/27retire.html?th&emc=th>