



601 Pennsylvania Avenue, N.W.  
Suite 900, South Building  
Washington, D.C. 20004-2601  
Tel: 202-220-3172  
Fax: 202-639-8238  
Toll-Free: 1-866-360-7197  
Email: [nrlnmessage@msn.com](mailto:nrlnmessage@msn.com)  
Website: <http://www.NRLN.org>

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**NRLN is a coalition of 25 associations  
advocating the rights of 2.1 million  
American retirees from...**

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August 13, 2009

The Honorable George Miller, Chairman  
Committee on Education and Labor  
U.S. House of Representatives  
2181 Rayburn House Office Building  
Washington, DC 20515-6100

Dear Chairman Miller:

The National Retiree Legislative Network, representing the interests of more than 2 million retirees in all 50 states, was pleased to see that Sections 164 and 165 were both included in the Manager's Amendments to H.R. 3200, *America's Affordable Health Choices Act of 2009*. It is encouraging that most of the language in these two sections reflects a recognition that employers should have an incentive to provide retirement health care benefits, and that the promised health care benefits of current retirees should have ERISA protection. We urge you to make it priority to retain both of these sections in the new combined TriCommittees' bill that will be voted on by the full House next month.

However, the NRLN strongly believes both Sections require some fine tuning in order to provide the desired protection for retirement health care benefits. It is good that Section 164 would establish a "reinsurance program" to provide reimbursement to employers for much of the cost of catastrophic claims to retirees age 55 or older. The shortcoming is that Medicare-eligible individuals are excluded. The NRLN can only support the "reinsurance program" incentive if Section 164 is amended to include Medicare-eligible retirees.

A large number of employers have eliminated health care benefits when retirees turned age 65 and became eligible for Medicare and others will do so in the future unless prevented by legislation. This trend, which is devastating to older retirees on fixed incomes, has been greatly exacerbated by the detrimental EEOC rule that eliminated the potential for age discrimination lawsuits when employers eliminate health care benefits for Medicare-eligible retirees.

It is commendable that Section 165 would amend the Employee Retirement Income Security Act of 1974 (ERISA) to expressly bar employer-sponsored health care plans from reducing medical, surgical, hospital and prescription drug benefits for retirees and beneficiaries after an individual retires. In essence, it would provide ERISA protection to retirement health care benefits similar to the protection granted under ERISA to pension plans. We have spoken to your staff, who assured us that this is intended to protect current benefits for all retirees, for which you and your colleagues are to be commended.

Unfortunately, language was included in Section 165 stating, "unless such reduction is also made with respect to active participants." The NRLN opposes this exception. This appears to give employers a way to reduce retirees' health care benefits by also reducing the benefits of active employees or by reducing existing retiree benefits to a lower level that matched benefits of active employees. Whether or not an exemption is added to Section 165 for collectively-bargained plans, we believe that this language may needlessly raise the fear that employers could reduce (or at least threaten to reduce) health benefits for active workers in order to cut them for retirees, or vice-versa.

(More)

In addition to removing this exception, the NRLN is asking the TriCommittees' leaders to make the Section 165 ERISA protection effective December 31, 2008. Many retirees experienced significant losses in their health care benefits on January 1, 2009.

When the House takes up H.R. 3200 again in September, the NRLN urges you to do the right thing for retirees by making the requested changes in Section 164 and 165 and work to keep the Sections in the bill. We see a great skepticism among our retiree members about the Democratic health reform effort in Congress. Incorporating these provisions in the final legislation would gain the NRLN's active support – and go a long way toward showing senior citizens that health reform is truly comprehensive and will benefit them as well.

If the NRLN can provide any additional information on the importance of the needed changes, please contact Marta Bascom, the NRLN's Executive Director. She can be reached on 703-863-9611.

Sincerely,

A handwritten signature in black ink that reads "Bill Kadereit". The signature is written in a cursive, slightly slanted style.

Bill Kadereit, President

National Retiree Legislative Network