NRLN Focus

NRLN NATIONAL RETIREE LEGISLATIVE NETWORK

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The NRLN Clarion Call… Congress Should Ensure a Better Medicare

By Bill Kadereit, NRLN President

It's well understood that health care costs are out of control in America. Older and disabled Americans are hit hardest because we use three times more health care services than working people. The NRLN is advocating that Congress should ensure health care is affordable to us through a reasonable Medicare out-of-pocket cap.

To be clear, original Medicare works well for many of our members who can afford the Medigap supplemental coverage that picks up most of Medicare's out-of-pocket costs. They can buy great health care protection and they don't have to decide between paying for their housing and food or a hospital procedure.

However, millions of people with Medicare cannot afford private supplemental coverage. Higher health care costs are driving premium, deductible, co-pay and coinsurance costs up. According to the 2020 Medicare Trustees' Report, the Center for Medicare and Medicaid Services (CMS) projects Medicare payments will more than double from $797 billion in 2019 to $1.6 trillion by 2029. That's an increase of $649 per enrollee per month - $7,778 annually!

This imminent tsunami will be especially tragic for those in original Medicare who are not protected by a reasonable out-of-pocket cap. Today, over half of all people with Medicare live on annual incomes under $30,000. At this level and even at much higher incomes, sticker shock is already very real today. In 7 – 8 years, it will be catastrophic.

Millions more people with Medicare cannot buy supplemental coverage even if they can afford it. They have no guaranteed issue right to buy it in most cases, after their initial enrollment period in Medicare. Consider the example of 65-year-olds who enroll in a Medicare Advantage (MA) plan, but later switch to original Medicare without an out-of-pocket cap. If they contract cancer 2 years later and return to original Medicare then try to purchase Medigap coverage, insurers will often deny them.

Original Medicare enrollees who do not have supplemental coverage are at substantial financial and health risk. A chronic illness or single catastrophic health event can lead to bankruptcy. With the Affordable Care Act (ACA), Congress ensured that everyone with private health insurance had an out-of-pocket limit for their health care. However, people with Medicare are not covered by the ACA.

Medicare Advantage plans, which offer Medicare benefits through private health insurers, are required to provide out-of-pocket financial protection to their enrollees. (That said, the limit is exorbitant at as much as $7,550 in 2021.) Congress should ensure that everyone with Medicare has a reasonable limit on financial liability for their care.

A low out-of-pocket cap in Medicare would save lives and help millions of lower and middle-income people with Medicare who are skipping needed care.

A reasonable out-of-pocket cap would ensure that those over age-65 have meaningful access to three alternative choices. They could enroll in original Medicare with an out-of-pocket cap or Medigap or in a Medicare Advantage plan knowing their costs would be limited. People with complex conditions, people under 65 with disabilities, people who live in rural communities and people who move throughout the year, among others, often need optional choices. Adding an out-of-pocket cap to original Medicare would satisfy these needs.

Giving people a meaningful choice of original Medicare has programmatic benefits as well as health benefits. Since its inception, Medicare Advantage has cost the Medicare Trust Fund significantly more per person than original Medicare. Medicare Advantage also drives up Part B premiums. Original Medicare is far more cost-effective.

MedPAC and Medicare Trustees' reports data revealed that private Medicare Advantage plans have captured over 44% of the Medicare market. In 2021, over $41 billion in federal rebates will be doled out to Medicare

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Advantage plan insurers. That's $140 per month per enrollee. Some of that $140 a month should be applied to cap out-of-pocket costs for everyone in Medicare.

The last published U.S. Census projected that by 2060, when our grandchildren and greatgrandchildren will need affordable health care coverage in retirement, there will be 100 million Americans over age 65 - nearly 25 percent of the U.S. population.

Now is the time for Congress to set forward-looking health care policies. That includes adding an out-of-pocket cap to original Medicare so that it can continue as a better choice than the more costly Medicare Advantage private plans and can offer a competitive alternative to Medigap private plans.

Association and Chapter Presidents Say NRLN Is Valuable

By Jay Kuhnie, President, National Chrysler Retirement Organization

Members of the National Chrysler Retirement Organization (NCRO) have experienced years of uncertainty within their former employer. This uncertainty began with the DaimlerChrysler merger and split, Cerberus acquisition, Chrysler's Chapter 11 bankruptcy, Fiat's acquisition of Chrysler (FCA) and now Stellantis, created by the FCA and PSA Group merger. Through much of this period, the NCRO and its affiliation with the NRLN has been a positive experience for our members.

Fortunately, through all of this change, Chrysler retirees did not lose their funded pension. However, a number of NCRO retirees and others from companies like Delphi and GM have experienced "de-risking" with their pension plans being annuitized via transfers to insurance companies such as Athene and Prudential to continue the monthly payments.

The NCRO has worked with NRLN leaders on a number of legislative issues specific to pension related issues as well as many health care and prescription related issues important to retirees. For example, these NRLN white papers and proposals on pension related issues are used in our advocacy efforts with members of Congress:

Mergers, Acquisitions and Spin-offs – Congress needs to update Employee Retirement Income Security Act (ERISA) provisions to ensure that mergers, acquisitions and spin-offs do not increase the risk of a defined benefit pension plan being terminated and taken over by the Pension Benefit Guaranty Corporation (PBGC).

Defined Benefit Pension Plan Mergers – Our proposal to Congress is to make changes to ERISA to protect pension plan participants when a well-funded plan is merged with a very underfunded plan. That is when retirees in the previously well-funded plan have their pension benefits placed at risk.

Protecting Retirees in Corporate Bankruptcy – Too often, retirees find that their pensions are among the first things lost when their former employer files for bankruptcy. Even when the PBGC takes over a bankrupt company's pension plan, pension benefits are permanently reduced by 30% or more for a substantial number of pension plan participants. NCRO/NRLN are

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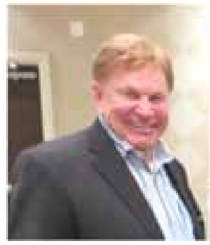

By Vern Larson, President, Avaya Retirees Chapter

Avaya, a corporate telecommunications company, was create on October 2, 2000, as a spin-off from Lucent Technologies genesis of AT&T. The NRLN Avaya Retirees Chapter was formed in April 2016 because retirees were concerned that their pension plan was underfunded by 30 percent.

I attended the NRLN's September 2016 fly-In to Washington, DC where I had the opportunity to dialogue with PBGC officials about our retirees' concerns over Avaya viability and being very worried about the severe underfunding of our pension plan.

I also met that fall with Nebraska's two Senators. In addition to talking with them about the NRLN's legislative proposals, I mentioned our retirees' concerns that Avaya could file for Chapter 11 bankruptcy and there were a large number of Avaya workers and retirees in Omaha where I live.

On January 19, 2017, Avaya filed for Chapter 11 bankruptcy. The bankruptcy court judge accepted Avaya's petition to terminate its pension plan for management employees and retirees. (The pension plan for non-management employees and retirees was not terminated.)

Over the months and years following the pension plan termination the PBGC officials I met during my first NRLN fly-in were very valuable sources for information for Chapter members on how the PBGC would administer the take over our pension plan. I exchanged countless emails and had numerous phone calls with my PBGC contacts. This relationship provided a constant follow of information from the PBGC and me to Chapter members. Because that NRLN provides and maintains unique website and email services for its Chapters, I was able to advise Avaya retirees immediately about what they needed to know about the future of their retirement income.

I can't imagine how much more terrible it would have been to go through the Avaya bankruptcy without the help the NRLN provided.

The NRLN's assistance did not end with the conclusion of the bankruptcy process and the pension benefits awarded from the PBGC.

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advocating amendments to corporate bankruptcy law to better protect retirees.

Protecting Retirees in Pension Recoupment – An NRLN proposal, strongly supported by NCRO, is included in two current bills, S. 1770, Retirement Security and Savings Act, and H.R. 2954, Securing a Strong Retirement Act of 2021. A section in the bill would clarify that a pension plan does not have a fiduciary duty to recoup overpayments, but if it chooses to do so, it must be done within three years of the initial overpayment. (Now there is no limit to back years.) The company may not recoup more than 10% of the amount of the overpayment per year, and it may not recoup against a beneficiary of a participant.

When the NRLN has a fly-in to Washington, DC, several NCRO leaders and I joined leaders from the NRLN and other retiree associations and chapters. Armed with NRLN's packets of white papers' executive summaries and talking points, we lobby our Senators and Representatives.

Over the years, NCRO has developed a working relationship with Michigan's and Ohio's Congressional delegation and their staffs. In addition, I often join Bill Kadereit, NRLN President, and Alyson Parker, NRLN Executive Director, in meetings with staff members of House and Senate committees who are often the ones who write the legislative language for bills.

I believe that the NCRO's affiliation with the NRLN is making a positive difference in the retirement years for Chrysler and all other American retirees.

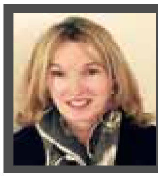
(Continued from page 2) ***Avaya Retirees Chapter***

Many Avaya retirees are under age 65 and therefore not yet eligible for Medicare. Since 2002, the federal Health Coverage Tax Credit (HCTC) program has helped retirees who lost their health care coverage — in addition to their pensions and other benefits — when their employers went bankrupt. HCTC provides a refundable tax credit of 72.5% for qualified health insurance premiums for eligible individuals between the ages of 55 and 64 and their families. Many Avaya retirees benefit from HCTC.

However, there is a catch. HCTC can only exist for Avaya retirees if members of Congress vote to continue it for another year. Every year since the Avaya bankruptcy, the NRLN has issued an Action Alert to urge Representatives and Senators to reintroduce and vote for a bill to continue HCTC for 365 more days. I believe that the letters from all NRLN members across the U.S. not just Avaya retirees, sent to members of Congress each year has had a lot to do with the program's continuation through 2021.

The NRLN is advocating that the HCTC be made permanent so those who qualify do not have to worry about receiving the health insurance premium refundable tax credit that helps them and their family members.

I believe the best decision a group of Avaya retirees ever made was to form an NRLN Chapter.



A View from Washington, DC

NRLN Engaged with Legislation to Help Retirees

By Alyson Parker, NRLN Executive Director

Congress takes its summer break in August and members will be in their states and districts until after Labor Day. We know that Congress and the Administration have been working hard to agree to an Infrastructure Bill, which is a priority for Democrats and Republicans. What else do we expect in the fall?

One area that both Democrats and Republicans would like to act on this year is retirement security. As we know, in 2019, the Secure Act passed, which changed the nation's retirement system. Now, both parties would like to make further changes to increase retirement security. Chairman Richard Neal (MA-01) and Ranking Member Kevin Brady (TX-08), in a rare showing of bipartisanship, introduced the **Securing a Strong Retirement Act of 2021, H.R. 2954**. This bill addresses many issues to encourage saving for retirement, but significantly it contains language that is important to our members. These provisions are addressed below. HR 2954 has strong bipartisan support and is expected to be voted on by the House this year.

The NRLN has worked continuously over the past four years to address the recoupment issue. We met with the Employee Benefits Security Administration (EBSA) and Department of Treasury staffs and made countless visits to the Hill to address recoupment, which arises when a company's pension manger inadvertently overpays a benefit payment to the retiree and requires repayment. We have argued for years that the retiree should be held harmless since the overpayment happened through no fault of their own. Current policy, however, mandates that the plan sponsor recover the overpayments from the retiree. HR 2954 clarifies that a plan sponsor doesn't have to recover the overpayments and bars recoupment if the mistake is not discovered before three years after the initial overpayment.

Another issue that we have worked on for years is the relevancy of the Annual Funding Notice. For many retirees, this document ends up in the trash can unread because it is so convoluted. The NRLN has advocated

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A View from Washington, DC

on the Hill and to the Department of Labor to simplify the document and move the relevant information to the front page in simple form. HR 2954 contains language that requires the Secretaries of the Treasury and Labor to work with the PBGC and consult with representatives of participants and employers and report to Congress on ways to simplify and consolidate so retires better understand the finding status of their plan. The NRLN had already proposed specific legislative language for consideration and will be active in helping to develop the Congressional report.

The Senate is also interested in making further changes to the nation's retirement system. In May, Senators Rob Portman (OH) and Ben Cardin (MD), introduced the **Retirement Security and Savings Act, S. 1770**. This bill also addresses recoupment and the AFN along with other similar provisions contained in HR 2954. This bill, however, also includes language that would amend Section 420 surplus transfer rules to protect welfare benefits such as health or life insurance. The NRLN has advocated that where a plan is comfortably funded – over 110% - the company can use the surplus funding to pay for the continuation of these unprotected benefits that retirees relied on when they retired. S. 1770 contains language permitting these transfers as long as the annual plan surplus transfers do not exceed the combined annual life insurance and health insurance benefits or 1.75% of plan assets, whichever is lower.

Another area that is important to our members and may be addressed this year is the cost of prescription drugs. On July 13, Democrats unveiled their budget proposal where they plan to allow Medicare to negotiate the cost of prescription drugs. Earlier this year, the House introduced HR 3, which would also allow the Secretary of Health and Human Services (HHS) to **work** directly with drug makers in the **Medicare** program for lower prices for up to 250 prescription drugs each year.

Earlier in July, Senator Ron Wyden (OR), Chairman of the Senate Finance Committee, released a document setting forth ways of reducing prescription drug prices. He also calls for Medicare to negotiate drug prices and for the lower prices to apply to people that have private insurance. Additionally, he would like to cap out of pocket costs for Medicare beneficiaries and limit drug price increases to the rate of inflation.

We will continue to work these issues on the Hill and with the agencies. I hope when we ask you to support our efforts by responding to an Action Alert. With all of us working together, we hope to get these over the goal line!

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