

3rd Circuit Decision Greenlights Changes To Retiree Health Plans

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Employers and retirees may have finally gotten the green light to design retiree health plans and early retirement incentive programs to take advantage of the retirees' eligibility for Medicare benefits. On June 4, 2007, the U.S. Court of Appeals for the 3rd Circuit issued a long awaited ruling holding that EEOC's 2003 proposed regulations allowing employers to design their retiree health plans to coordinate with Medicare, were valid.

The 3rd Circuit is the only Court of Appeals to rule on the issue, and if the decision stands, employers have a new tool allowing them to redesign retiree health plans to make them less costly. *AARP v. EEOC*

Although the 3rd Circuit's ruling clears the way for issuance of final regulations by EEOC, the agency has not done so yet. There is always a possibility that the agency will again revise the rule, although there is no indication that this will be the case.

Also, other Federal courts or the Supreme Court could reach a different conclusion, although the 3rd Circuit's unanimous ruling was concise and well-reasoned. And, the ruling goes only to retiree health benefits. Other retiree benefits are still subject to prohibitions against reduction or termination unless the employer can demonstrate equal cost or equal benefit after the reduction.

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