

Publications

Erie County Retiree Health ADEA Litigation Settles — Be Careful What the EEOC Once Asked For

PUBLISHED

04/30/2002

SERVICES

On March 20, 2002, United States District Judge Sean McLaughlin approved a class-action settlement in *Erie County Retirees Ass'n v. County of Erie, Pa.*, No. 98-CV-272 (W.D. Pa.). The settlement disposes of claims that the County unlawfully discriminated based on age when it generally offered only one form of health coverage — an HMO product — to its Medicare-eligible retirees, rather than the alternative forms of coverage — HMO plus an allegedly richer point-of-service option — made available to its pre-Medicare retirees.

Under the settlement, a group of 114 Medicare-eligible retirees reportedly will split roughly \$205,000. That translates to about \$1,800 per retiree.

More significantly, however, the County redesigned its retiree health plan in an effort to equalize the Medicare-based benefit and premium differences that prompted the lawsuit. The County removed the point-of-service coverage option for pre-Medicare retirees. Now, all retirees, whether pre- or post-Medicare, generally must look to an HMO only. And, pre-Medicare retirees now must pay about \$50 per month for their coverage, apparently to match what the County's Medicare-eligible retirees pay in Medicare Part B premiums.

In short, rather than an “upgrade” in the benefit structure for post-Medicare retirees, the court's finding of prima facie age discrimination resulted in a “downgrade” in the benefit structure for pre-Medicare retirees.

The EEOC originally had endorsed the plaintiff-retirees' argument that Medicare-based differences in retiree health benefits make out a prima facie case of unlawful age discrimination. As reported in this space last year, however, the EEOC is reconsidering the policy implications of that position.