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Cut Loose

Companies Trick Retirees out of Health Benefits

by Anne-Marie Cusac

Fran Asbeck worked for IBM for thirty-two years. He retired at age fifty-six in 1994, secure in the knowledge that IBM would cover health care for himself and his wife. "The thing is, we were promised all this would be free," he says. "They said we had all the deferred money coming on down the line--a fat pension with yearly COLAs [Cost-of-Living Allowances], free lifetime health care. Those were the verbal promises made."

Two years ago, says Asbeck, IBM went back on its promises. "They just sent a letter saying, 'You've got to start paying for it' " or get less coverage, he recalls.

Asbeck, a former computer programmer who lives in Boyds, Maryland, relied on the excellent health care insurance that IBM offered. But now it's not as attractive. "Since I retired, in order to keep it at zero cost, I have had to take lower and lower levels of health insurance," he says. So Asbeck moved out of what to him was an ideal plan into IBM's preferred provider organization. He no longer gets to choose his doctors freely.

Earlier this year, Asbeck discovered that accepting a lower level of health coverage for himself and his wife wasn't going to work anymore. Worried about the risks of emergency hospitalization, he decided to start paying \$80 each month.

It sounds relatively cheap as far as health insurance goes. But Asbeck says he can't afford the cost, in part because his pension has not kept up with the cost of living. That's why he's had to get another job.

"I'm just going to have to work until I'm in the box and hear the dirt hit the lid," he says.

Many IBM employees share Asbeck's plight.

The retirees were told "in department meetings, by their managers, in handbooks, that they would have free health insurance for life," says Lee Conrad, an IBM retiree who is now an organizer with Alliance@IBM, which is connected to the Communications Workers of America and based in Endicott, New York. "Now they've got to pay. This has been a real culture shock for people."

IBM defends its practice. "Back in the early '90s, the company set a limit and a cap" on the amount it would pay for retiree health care and informed the retirees that it wouldn't pay more than that, says Jana Weatherbee, a spokesperson for IBM. "That limit has been reached."

Weatherbee says she "can't speak to any verbal promises." However, she does say that the company repeatedly informed retirees in writing that, "once you reach this limit, you will start helping in the contribution for that coverage."

And the IBM insurance brochure does include this statement: "The company reserves the right, at its discretion, to amend, change, or terminate any of its benefits plans, programs, or policies, as the company requires. Nothing contained in this Enrollment Guide shall be construed as creating an expressed or implied obligation on the part of the company to maintain such benefits plans, programs, practices, or policies."

"They're covered legally," says Asbeck. But he feels betrayed. And he and other IBM retirees say they're suffering while IBM's Chairman and CEO Louis V. Gerstner Jr. is raking it in. Gerstner made \$2 million in salary in 1999 and \$5.25 million in bonuses, according to the company's 1999 proxy statement. The bonuses are based partly on cash flow and stock market gains. Companies can boost both by cutting retiree health benefits.

"Lou Gerstner has only been at IBM for seven years," says Conrad. "He's affecting the lives of retirees who put thirty, forty years in. They're the ones who built the company and created the wealth that Lou Gerstner is now pillaging. When you have people who are ill, on fixed income, the increased costs are going to create serious problems. That's unconscionable. How can you do this to people? IBM has their own personal piggy bank right now. And it's not their money. It's the employees' and the retirees' money."

Asbeck puts it another way: "He's getting fat on our blood."

It's not just IBM. Many other companies renege on health insurance promises made to retirees.

According to a December 2000 study by William M. Mercer, Inc., a human resources and benefits firm, only 31 percent of companies with 500 or more employees now provide health care coverage to retirees under the age of sixty-five (the age that people qualify for Medicare). This is down from 35 percent in 1999 and 46 percent in 1993. The number of larger companies covering insurance for seniors ages sixty-five and older also fell, from 28 percent to 24 percent. This was the seventh year in a row that retiree insurance coverage declined.

Telephone company retirees make up probably the largest single group that has seen cuts in coverage or faced increases in monthly insurance costs, says C. William Jones, president of the Association of BellTel Retirees. The former Bell system retirees number more than one million, he says. The BellTel retirees' insurance costs have risen up to 500 percent.

"Many of the large corporations are involved," says Paul Edwards, chairman of the Coalition for Retirement Security, a grassroots organization that works on pension and retiree health insurance issues and is based in Springfield, Massachusetts. "It has become an acceptable practice. These aren't just isolated events. Just name your top corporations: IBM, GE's had some benefit reductions. We're talking millions of employees."

Michael Gordon is a D.C.-based lawyer who is working with the BellTel Retirees. In the last decade, says Gordon, five million retirees or their spouses nationwide have lost or had substantially reduced health benefits. "This is a national problem," he says. "It affects just about every retiree who has had some type of health coverage under their employers."

"We think it's a great concern," says Gerry Smolka, senior policy adviser for the Public Policy Institute of the American Association of Retired Persons. "People plan based on what they know. Health benefits are one of the things that give you financial security in retirement. It can completely erode your savings if you're not adequately covered."

Some retirees are more vulnerable than others. After age sixty-five, Medicare pays about 80 percent of medical bills, usually excluding pharmaceuticals. It can be extremely difficult for older retirees, who sometimes live on a pension that inflation has sharply reduced, to pay the remaining 20 percent.

But people who retire early, often as the result of pressure from their employers, can be in even more serious trouble. Those who are not yet eligible for Medicare may have to rely solely on their promised benefits. When their companies snip the strings, these retirees come down hard.

Some early retirees "have lost their benefits and can't get replacement insurance because they have a pre-existing condition now that is so severe no one will insure them, or because the costs are so high that they'll just eat up their pension," says Gordon. "If you're not Medicare-eligible, you're in a black hole if you've got a medical condition that requires expensive treatment and the employer pulls out the rug."

Companies have an incentive to take back retiree health benefits: They can get richer that way.

On October 25, 2000, *The Wall Street Journal* published an article entitled "Companies Transform Retiree-Medical Plans into Source of Profits." The reporter, Ellen E. Schultz, revealed that a little-known accounting rule, called the Financial Accounting Standard (FAS) 106, forced companies in the early 1990s to report the lifetime benefits they owed to future retirees as a liability. Few companies want large liabilities on their balance sheets. So, by decreasing the amounts they owe on health insurance, they appear better off. Some companies overestimated their retiree health benefits at first. By downscaling their estimates and by cutting coverage, they improved their balance sheets.

"The kicker is that at numerous companies . . . the paper gains not only erased the

retiree benefit

expenses, but exceeded them," wrote Schultz. "And that is how benefit plans came to boost the bottom line."

"Companies that have boosted their bottom lines by this method," wrote Schultz, include R. R. Donnelly and Sons, Sears, Sunbeam, Tektronix, and Walt Disney.

One of the most egregious cases involves BWX Technologies, Inc., based in Lynchburg, Virginia. The company is a subsidiary of McDermott International, which describes itself as "a leading worldwide Energy Services Company."

In the mid-1990s, say employees, the company's naval nuclear fuel division began to push people into early retirement. "They said, 'If you retire early, you can keep your insurance,'" recalls William McKenna, a retiree from the company. But if you don't retire early, they said you'll have no insurance when you do. "About 400 people jumped on that bandwagon."

Richard Mull, a former chief electrician, says that management told him, "The most your health insurance will be for the rest of your life will be \$16" per month. From 1996 through 1998, he says, "they really pressed this point. They got rid of a lot of older employees that way."

Mull left in 1997, at age sixty-two, having worked for BWX Technologies for thirty years. "I was anxious to get out of the plant," he says, mentioning a supervisor who he says died of a brain tumor thirty days after diagnosis. "They wanted to know if he'd been exposed to radiation or asbestos. Uranium 235, enriched uranium, we worked with every day. You had all these poisons around you."

When he heard about his supervisor's death, Mull decided to leave. "I said, 'I'm getting out of this place.'"

Mull got out. Then his insurance costs started to soar. In April 1998, the company segregated the retirees out from the insurance policies of the active workers. In a document entitled "Employee Information 1376" (released only to active employees, but leaked to the retirees), the company warned, "Beginning April 1, 1998, retirees enrolled in the Health Care and Life Insurance Plans will be responsible for most of the cost of those coverages."

In that document, the company explains the new charges: "The current cost of providing Health Care and Life Insurance Plans for retirees is very high and continues to increase. Changing the structure of the plans lowers the cost to the company, which helps improve the company's cash flow and its profitability."

In August 1998, Mull says he received a letter that stated the retirees would be charged between \$250 and \$750 per month, according to age and state of health. At that point, he says, because his health was good, his insurance costs rose to only \$285 per month. By October, he says, the company had gotten rid of coverage for prescriptions and doubled the deductible for hospital visits. "They dropped about 50 percent of your coverage," says Mull.

From then on, every six months, the retirees were reassessed. "I eventually went up to \$795 a month for me and my wife," says Mull. "No general, no doctor's visits, just for 70 percent hospitalization after we paid a \$1,500 deductible." By April 1999, Mull says the company informed him that, at the rate he was paying, his insurance would not cover prior illnesses.

"Now, you work at a chemical or a nuclear plant for thirty years, you've got priors," he says. "I myself have mild asbestosis." Three months ago, Mull learned that he also has basal skin cancers. "The doctor said there could be a link, or there might not," he says. "I got a lot of high density radiation burns from welding."

Last July came another note from BWX Technologies' parent corporation. The premium had risen to \$1,113 per month for Mull and his wife. Further, the letter said, coverage was guaranteed only if at least 85 percent of the retirees agreed to participate in the plan. "If this level of participation is not attained, it is highly likely that no alternative plan can be identified, and the company will no longer be able to provide you access to any medical coverage plan," says the document.

"People dropped their health coverage. They withdrew money from their 401(k)s, they went and got home equity loans," says McKenna, who worked for the company as a darkroom technician developing X-ray film, as a welder, and as an accountability technician. Then, after local press attention from reporter Chris Flores of the Lynchburg, Virginia, *News and Advance*, "all of a sudden, [the company] found a nice policy" for just over \$600, says McKenna. Even so, he says, "After twenty, thirty years of work, it's taking your whole retirement check to pay for your health insurance."

McKenna has pulmonary illness. He says he was exposed to many hazardous chemicals and asbestos, as well as raw, unprocessed uranium. "I can no longer breathe on my own without daily doses of Prednisone and asthma medications and aerosol breathing treatments every four to six hours," he wrote to former Energy Secretary Bill Richardson on April 13, 2000, in response to Richardson's proposal to compensate sick nuclear workers.

In separate interviews, Mull and McKenna mention a recent asbestos screening organized by the retirees. "Sixty percent tested positive for lung scarring," says McKenna. "194 took the test. 150 were retirees. Our lawyer made sure the doctor read these real strict." Those that tested positive, says McKenna, "were real bad. You should have heard all the stories that retirees told about all the stuff they were exposed to."

McKenna claims that he is also in the beginning stages of asbestosis. "I went and had my test back in July. I was positive," he says. "The lady that did the lung screening said, 'They exposed you to asbestos, and now they're going to dump you in the street and take away your insurance.' "

Both Mull and McKenna now get their insurance from other sources: Mull from the Veteran's Administration, McKenna from his wife's employer.

"These are loyal, twenty-five- to thirty-year employees," says Gary Kendall,

general counsel to the Virginia AFL-CIO. "The amount of insurance in some cases is equal to, or maybe even more than, their monthly pensions. Nobody can afford to carry it. Had they known that, they never would have retired."

Ron Hite, director of government and public relations for BWX Technologies, blames increasing medical costs for the surge in charges these retirees now face. "The costs are going up at just an exponential rate," he says. He also blames accounting rule FAS 106. "Companies really have no incentive to provide health care coverage," he says. But "our company tried very vigorously to keep retirees with some type of affordable insurance."

Hite says that BWX Technologies continues to contribute "a reasonable level of support" to the retirees' health care costs, but he refuses to say how much. "That's information that's proprietary," he says.

Hite also says that he cannot discuss alleged medical conditions for individual employees. "What I can tell you is we are one of the most highly regulated industries in the country," he says. "Throughout our history, we have complied with all federal and state laws."

McKenna can't get over the company's duplicity. "The bottom line is, 'We don't care about the retirees no more. We need cash flow,' " he says.

Corporations are not the only ones renegeing. Unions are doing it, too. Robert Devlin was vice president of the Transportation Communications International Union for sixteen years before he retired. He is a fifty-six-year member of the union. Now he's involved with the Retired Employees Protective Association, based in River Edge, New Jersey.

"We are all retired officers or employees of a railroad union that has cut our benefits," says Devlin. "For thirty-three years, we've had health insurance, just as the railroad employees had, including cost-free insurance into retirement--not only for the rest of our lives, but to our surviving spouse. A new group of officers came in, and they decided that these old retirees are getting treated too well."

The union decided to charge retirees \$100 per month, or else they would have to forfeit their insurance.

Devlin feels double-crossed. "If the railroads had done this to their employees, they would have had a strike on their hands," he says.

The union did not respond to several requests for comment.

Many retirees are outraged to learn that companies are acting legally when they do away with health benefits.

"It's a particularly nasty problem because courts have held that employers are free to end or reduce retiree health coverage almost regardless of the circumstances--whether they need to or not," says Gordon. "Even if there was an understanding when the retirees retired that these are lifetime benefits, courts have held that

retirees are helpless to protect them. Every federal court in the country has had this issue litigated. It's the same problem over and over again."

The crux of the problem is that, even when companies make promises to retirees, they shield themselves with written statements claiming the right to modify or terminate the benefits at any time.

Gordon calls *GM vs. Sprague* "the most shocking case of all." About 50,000 GM employees were offered an early retirement package in the mid-1990s. The company assured them they would get the same benefits they had as employees as retirees. This, the retirees later claimed, was part of what induced them to take early retirement. Then GM backed out. The retirees went to court and eventually lost. The U.S. Supreme Court denied the case a review. "These guys are out of luck--some 50,000 of them," says Gordon.

The appellate court took a generous view of GM's side of the story. "GM's failure, if it may properly be called such, amounted to this: The company did not tell the early retirees at every possible opportunity that which it had told them many times before--namely, that the terms of the plans were subject to change," said Judge David A. Nelson in his 1998 ruling for the United States Court of Appeals for the Sixth Circuit. "There is, in our view, a world of difference between the employer's deliberate misleading of employees . . . and GM's failure to begin every communication to plan participants with a caveat."

But the dissent to this decision, from Chief Judge Boyce F. Martin Jr., is scathing in its evaluation of GM's behavior. "This is a classic case of corporate shortsightedness," Martin wrote. "When General Motors was flush with cash and health care costs were low, it was easy to promise employees and retirees lifetime health care. Later, when General Motors was trying to sweeten the pot for early retirees, health care was another incentive to get employees off General Motors's groaning payroll. Of course, many of the executives who promised lifetime health care to early and general retirees are probably long since gone themselves. Rather than pay off those perhaps ill-considered promises, it is easier for the current regime to say those promises never were made. . . . Seemingly, any reservation of rights, no matter how weakly worded or unconnected to the grant of rights, will inure a company from having to live up to its obligations in the future."

Representative John Tierney, Democrat of Massachusetts, believes retirees won't be adequately protected unless the law is changed. That's why he introduced the Emergency Retiree Health Benefits Protection Act of 2001.

"Obviously, if you don't have to show an obligation to pay out retiree health benefits, there's more cash on hand" and the company is more financially attractive, Tierney says. "Many of these companies are extraordinarily healthy financially. It has not been a hardship thing." Tierney lists several companies: "General Electric, you don't get much stronger than that. The telephone companies are surviving and doing well, for the most part. General Motors is a strong company. Sears Roebuck."

The bill, which Tierney submitted along with three other Democrats (Robert E.

Andrews of New Jersey, Dale E. Kildee of Michigan, and Carolyn McCarthy of New York), would require employers to restore any post-retirement reductions or cancellations of health benefits, unless to do so would cause financial hardship. And it sets up an emergency loan guarantee of \$5 billion for those employers who need financial help to give their retirees benefits.

Retirees of many corporations--including the former Bell Telephone companies, General Electric, U.S. West, SNET, Prudential, Johns Manville, the New York Transit Police, Greyhound, and Grumman Aircraft--have signed on to the legislation. Other supporters are the Institute of Electrical and Electronics Engineers and the Pension Rights Center.

But in a Republican Administration, the bill's chance of passage appears bleak, despite President Bush's pledge that health care for seniors is a top priority.

Mike Kucklinca, executive vice president of the BellTel Retirees, was a loyal employee: "I went into the company because I thought I would have job and benefit security both during my tenure and into retirement," he says. His father, a power company employee, drilled that ethic into his head, he says.

"Who would disbelieve a company that you've worked for for thirty and more years? It was like Mother Bell would take care of us. Well, she didn't. I never thought I'd be spending all this time and energy organizing to get what I and the other retirees feel we worked for all our lives. I'm going to fight until I leave this world."

Anne-Marie Cusac is Managing Editor of The Progressive.

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