



## Kaiser Daily Health Policy Report

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Coverage & Access

### EEOC Defends Rule To Limit, Eliminate Some Retirement Benefits

The [Equal Employment Opportunity Commission](#) before the 3rd U.S. Circuit Court of Appeals on Tuesday argued that businesses should be allowed to limit or terminate health care benefits for retirees ages 65 and older because they qualify for Medicare, *Dow Jones* reports (Brickley, *Dow Jones*, 2/27). U.S. District Judge Anita Brody in September 2005 reversed her previous ruling and said EEOC has the right to enact a rule allowing employers to reduce or eliminate health benefits for retirees once they become eligible for Medicare, while retaining health benefits for younger retirees. The EEOC rule was scheduled to take effect in April 2005, but it was blocked by Brody's original decision. [AARP](#) in February 2005 filed a lawsuit to block the rule, saying EEOC had exceeded its authority. AARP cited a 2000 decision by the 3rd U.S. Circuit Court of Appeals that different benefits packages for younger and older retirees would violate U.S. antidiscrimination laws. Brody in March 2005 blocked the rule, and EEOC asked the [Department of Justice](#) to appeal the decision (*Kaiser Daily Health Policy Report*, 9/29/05). AARP said current law allows employers to offer less costly Medicare benefits rather than full coverage to their retirees. AARP attorney Christopher Mackaronis said, "Employers get a free pass on Medicare." Laurie McCann of the [AARP Foundation](#) said, "Employers are not being asked to provide benefits that Medicare already provides," adding, "What's next? Will they reinstate mandatory retirement? If they win this, they essentially get carte blanche." DOJ attorney Anthony Yang, who argued for EEOC, said that the retirement benefit age cutoff does not contradict antidiscrimination law. The court will issue a written decision on the case (*Dow Jones*, 2/27).