

**THE STATE OF NEW HAMPSHIRE**

**MERRIMACK, SS.**

**SUPERIOR**

**COURT**

**BEFORE THE COURT-APPOINTED REFEREE  
IN RE THE LIQUIDATION OF THE HOME INSURANCE COMPANY  
DISPUTED CLAIMS DOCKET**

**In Re Liquidator Number: 2005-HICIL-9**  
**Proof of Claim Number: EMPL17943**  
**Claimant Name: John J. Demko**

**REFEREE'S RULING**

This Class V disputed claim comes before the Referee for a determination of its value, if any. The claimant, John J. Demko argues that he is entitled to a determination in the amount of \$216, 148, an amount he calculates is the economic value lost to him because his health insurance coverage was terminated in September 2003, and his retirement plan was "frozen" at the end of 1995.

Health insurance coverage is classified as a welfare benefit plan under ERISA, and as such is free from the vesting requirements of ERISA. 29 U.S.C. 1051 (1). Therefore, unless contractually obligated to provide vested health benefits, The Home Insurance Company's health insurance coverage was susceptible to modification or termination for any reason at any time. *Curtis-Wright Corporation v. Schoonejongen*, 514 U.S. 73, 78, (1994) Though the security of the Claimant and others similarly situated has been compromised by this reality, it is clear from the record that plan participants were on notice that The Home Insurance Company reserved the right to amend or end the health insurance benefit. Reluctantly, the Referee concludes that Mr. Demko's claim of \$85, 710 relating to the termination of his health coverage is without merit, as Home was entitled to terminate such coverage.

The pension benefit portion of Mr. Demko's claim raises several issues: whether Home was entitled to "freeze" its pension plan at the end of 1995; whether he and other disabled workers were unfairly treated when that happened; and, whether he is entitled to be compensated for value lost to him because the plan was frozen.


While pension plans are subject to more stringent requirements under ERISA, employers are entitled to properly freeze pension plans and in doing so eliminate future accrual. When The Home Insurance Company froze its pension plan in 1995, it was frozen for all employees, active or inactive. While the freezing of the pension plan has resulted in a diminution of monthly benefits, his claim to entitlement of \$216,148, the differential he

calculates he would have received if the plan had been maintained in a going forward fashion, also has no merit.

Therefore the Referee concludes that the Liquidator's determination of the value of this claim is correct.

So ruled:

Dated: Feb. 24 2006

  
Paula T. Rogers  
Referee