

Employment Tip of the Month – April 2025

Article By:

Lauren Stadler

Q: May an employer make changes to an employee's retirement benefits, including retirement benefits for employees with disabilities?

A: Generally, yes, but not for "protected benefits," and not if those changes impact retirees with disabilities differently than those without disabilities.

Retirement benefit plans are governed by the Employee Retirement Income Security Act (ERISA), a federal statute that protects participants and beneficiaries in employee benefit plans and sets minimum standards for retirement and health plans in the private sector. If an employer voluntarily establishes benefit plans for its employees, ERISA requires that those plans provide specific plan information (e.g., minimum standards for participation, vesting, benefit accrual and funding).

Generally speaking, ERISA allows employers to amend or terminate the terms of retirement benefits plans so long as those amendments comply with ERISA's "anti-cutback rules," which prohibit reductions or eliminations of "protected benefits."

"Protected benefits" include:

- Accrued benefits
- Early retirement benefits
- Retirement-type subsidies
- Any optional forms of benefit.

In addition, before making any amendments, ERISA requires that employers provide notice to affected participants specifying the nature and timing of any changes.

That being said, employers should take care that any amendments to retirement benefits do not disparately impact retirees with disabilities, as that may violate the Americans with Disabilities Act (ADA). The ADA makes it unlawful to discriminate (intentionally or inadvertently) against qualified individuals with disabilities and applies to all employers – including state and local government employers – with 15 or more employees. A "qualified individual" is an employee who "can perform the essential functions" of their job with or without reasonable accommodation.

The ADA proscribes discrimination in all employment practices, including employer-provided benefits.

Therefore, employers should always evaluate whether any proposed changes to retirement benefits have the potential to impact retirees with disabilities differently than those without disabilities. This is especially true given the U.S Supreme Court's recent decision to hear a case regarding an employee's disability discrimination lawsuit against her former employer for the termination of disability retirement benefits.

In *[Stanley v. City of Sanford, Florida](#)*, a city firefighter (Karyn Stanley) worked for nearly 15 years until being diagnosed with Parkinson's Disease, which rendered her unable to perform her essential job functions. Because of her disability, the employee retired early at the age of 47. At the time Stanley joined the fire department, the City provided free health insurance until age 65 for employees who served for 25 years as well as those retiring early due to disability.

However, while she was still employed, the City amended its retirement benefits, limiting coverage for health insurance retirement benefits to 48 months *only* for disabled retirees. Employees who had served the full 25 years were still provided coverage until the age of 65. Stanley filed a lawsuit alleging disparate treatment on the basis of disability. The federal district and the Eleventh Circuit Court of Appeals rejected Stanley's claim, opining that the ADA prohibited discrimination against current (not former) employees. However, other federal circuit courts disagree and have upheld similar claims from former employees, prompting the Supreme Court to agree to hear the case.

The Supreme Court will likely issue a ruling in this case before the end of its current term in late June 2025. Specifically, the Supreme Court will decide whether a former employee who was qualified to perform her job and earned certain retirement benefits while still qualified loses her right to sue under the ADA solely because she no longer holds her job.

The *Stanley* case exemplifies the exceptionally broad reach of the ADA, which may very well extend its protections to former employees who are no longer "qualified individuals" due to their disabilities.

As always, but particularly if the Supreme Court rules in favor of the firefighter in the *Stanley* case, employers should take care to document all nondiscriminatory reasons for amending or eliminating employee benefits. In addition, employers should evaluate existing policies and proposed changes to ensure that any changes do not disparately impact retirees with disabilities.

© 2025 Wilson Elser

National Law Review, Volume XV, Number 99

Source URL: <https://natlawreview.com/article/employment-tip-month-april-2025>