



March 9, 2006

The Honorable Michael B. Enzi
Chairman
Committee on Health, Education,
Labor and Pensions
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Enzi and Grassley:

I am writing on behalf of the American Benefits Council to express our support for Section 307 of the House of Representatives pension protection bill, H.R. 2830, which includes a narrow and technical clarification of the Employee Retirement Income Security Act of 1974 (ERISA) regarding the long-standing obligation of responsible third parties to reimburse employee benefit plans for expenses the plan has covered for an injured plan participant. The American Benefits Council represents employers and other organizations that either sponsor or administer health and retirement benefits covering more than 100 million Americans.

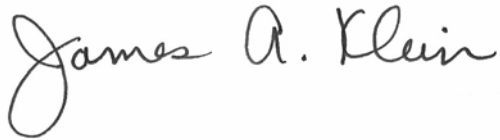
Employee benefit plans commonly include provisions that allow the plan to be reimbursed by responsible third parties for the medical expenses paid by the plan if a plan participant recovers damages for injuries caused by another person. This long-standing practice of reimbursement assures that individuals covered by a plan will not be subjected to extended disputes between insurers over payments and therefore helps assure that timely payments are made when medical care is needed, even when the needed services may have been the result of someone else's negligence. Moreover, third party reimbursement reduces health plan expenses, resulting in savings that directly benefit employees who pay a share of their insurance premiums. Reimbursement for these expenses also allocates liability to the responsible party – the person who caused the injury. Finally, it assures that plan participants recover for their injury from the insurer of the party who caused their injury, but do not recover twice, once from their health plan and a second time from damages awarded by the court.

Unfortunately, several federal appeals courts have recently handed down conflicting interpretations of what should be a clearly settled matter of law. We believe it is clear that ERISA allows employers and health plans to enforce provisions in their benefit plans which call for the recovery of medical expense payments from damages awarded to plan participants for injuries caused by another person's negligence. This view is consistent with the decisions of the majority of federal appeals courts which have considered this question over the last several years. While it is possible that the U.S. Supreme Court could largely resolve these conflicting court decisions later this year,

Section 307 of the House bill is still needed because it will ensure that employers are able to uniformly administer their benefit plans -- a principal aim of ERISA -- and clarify this common plan practice.

The clarification of ERISA by Section 307 of the House pension bill is good public policy. It holds appropriate parties liable for medical expenses they have caused to others, assures timely payment of medical expenses for those who have been injured, and helps mitigate increases in health costs for employers and employees. We urge you to include this important provision in the conference agreement on the pension reform legislation you are about to consider.

Sincerely,

A handwritten signature in cursive script that reads "James A. Klein". The signature is written in black ink and is positioned below the word "Sincerely,".

James A. Klein
President

cc: The Honorable Edward Kennedy, Ranking Democratic Member, Senate HELP
Committee
The Honorable Max Baucus, Ranking Democratic Member, Senate Finance
Committee