



Highlights of [GAO-07-1101](#), a report to congressional requesters

EMPLOYER-SPONSORED BENEFITS

Many Factors Affect the Treatment of Pension and Health Benefits in Chapter 11 Bankruptcy

Why GAO Did This Study

In recent years, considerable debate has centered on companies using the chapter 11 bankruptcy reorganization process to reduce or eliminate employer-sponsored benefits in an effort to become more competitive. Congress recently enacted several laws, in part, to help address this issue. Most notably, Congress passed the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) and the Pension Protection Act of 2006 (PPA). BAPCPA contained provisions related to chapter 11 business bankruptcies and sought to address the treatment of benefits during the bankruptcy process. In addition, the PPA amended several Employee Retirement Income Security Act of 1974 (ERISA) provisions related to defined benefit (DB) plans in bankruptcy.

This report addresses (1) how, if at all, recent legislative changes affected the treatment of pension and health benefits during chapter 11 bankruptcies, and (2) what is known about the extent to which businesses have modified employee or retiree pension and health benefits. GAO reviewed filings of 115 public companies that filed for bankruptcy between October 17, 2004 and October 17, 2006, and conducted interviews with various experts on the treatment of benefits in the bankruptcy process. Relevant federal agencies agreed with the findings contained in this report.

www.gao.gov/cgi-bin/getrpt?GAO-07-1101.

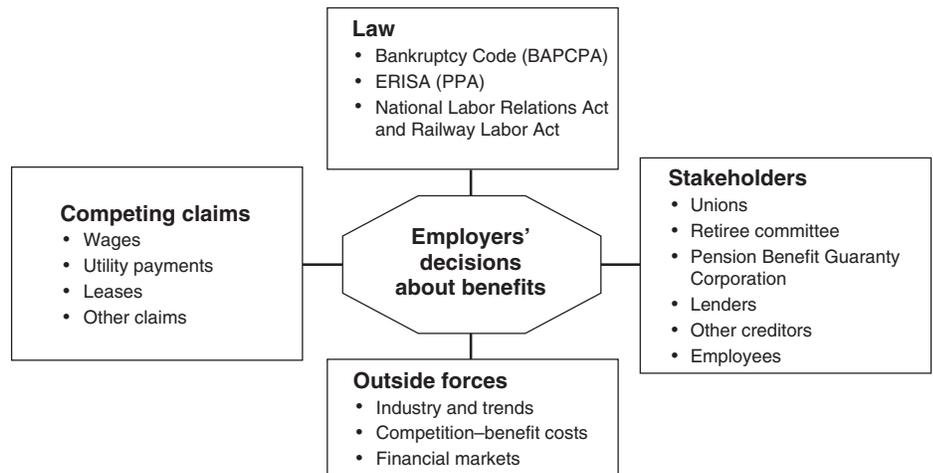
To view the full product, including the scope and methodology, click on the link above. For more information, contact Barbara Bobbjerg at (202) 512-7215 or bovbjergb@gao.gov.

What GAO Found

The effects of recent legislation, including BAPCPA and PPA, on employers' decisions to modify benefits are difficult to distinguish from the effects of other factors that lead to changes in benefits both within and outside of the bankruptcy process. Most bankruptcy professionals agreed that while BAPCPA included some changes that will affect the treatment of employer-sponsored benefits—such as the look-back period for the reinstatement of retiree health benefits—it will not substantially affect employers' decisions to modify benefits. Some bankruptcy professionals suggested that PPA may affect employers' decisions to maintain their defined benefit (DB) plans. Bankrupt employers consider many other factors when trying to reorganize successfully, including competing claims, their stakeholders and creditors, and outside forces such as the financial market and industry competition.

More information is known about the extent to which selected employers made benefit changes resulting in court decisions—i.e., changes to DB plans, retiree health benefits, and benefits covered by a collective bargaining agreement (CBA)—than changes not resulting in them—i.e., changes to defined contribution (DC) plans and active employee health benefits not covered by a CBA. Most of the 115 employers we reviewed did not offer benefits that specifically needed court approval to change. We found only 20 of these employers had DB plans, 18 had retiree health benefits, and 28 had employees covered by a CBA. Nine employers terminated at least one of their DB plans, and 3 have terminations pending; 5 sought to modify their retiree health benefits; and 8 sought to modify or reject CBAs. While most employers received approval to continue employee benefits in their initial motions, it is unknown how many employers that offered health benefits to active employees or DC plans continued to fund them because employers do not always need to seek court approval to change these benefits.

Factors That May Affect Employers' Decisions Regarding Benefits



Source: GAO analysis.