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## Auto Workers: Rescue Them or Not?

By THE EDITORS

(Photo: Spencer Platt/Getty Images) Retired members of the United Auto Workers at a monthly benefits meeting in Detroit.

In its struggle to stay afloat, [General Motors has been pushing the United Auto Workers for concessions](#) on financing its retiree health care plan — a burden that adds up to \$50 billion. But any resolution may depend on the Obama administration, as it figures out how to keep G.M. from falling apart. The U.A.W. hopes that the president and the Democratic Congress will protect the auto workers' benefits, either through a bailout or with some kind of protections in the event of a bankruptcy. But the [union is in a bull's-eye](#), with critics pointing out that most Americans don't have retiree health benefits, let alone at a level as generous as the U.A.W.'s.

Should the auto workers' benefits be protected? Can they be protected?

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[Jerry Tucker](#), former U.A.W. board member

[Gary Chaison](#), professor of industrial relations

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Cut Back, but Don't Cut Off Benefits

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Some 610,000 American families currently rely on G.M. alone for health insurance (including 391,000 hourly retirees and surviving spouses, and 63,000 active hourly workers and their families). The Ford and Chrysler totals increase this number of workers, retirees and family members to well past one million.

The public cost of supporting these individuals with health care on, let's say, Medicaid would be enormous. Yet the level and cost of their current health benefits far exceeds not only the level of health benefits received by average Americans, but also the average for union workers. The crushing burden of these medical costs have played a major role in reducing the competitiveness of the Detroit automakers and placing them in an insolvent position.

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The U.A.W. has claimed that these medical benefits were won through tough negotiations in lieu of higher wages and bonuses. However, that was then, on the private dime, and not potentially on the public dollar. (Of course, it can be said that government workers also receive excellent health benefits on this same public

dollar without any fear, as yet, of loss in retirement.)

But current U.A.W. wages are 63 percent higher than the average manufacturing wage in the United States and much higher than that for government laborers. The prices of the current automotive products are severely discounted and sales are at historically low levels. The average U.S. manufacturing worker paid 22 percent of their medical premium in 2008, or about \$2,700 — a level far above the cost to General Motors, Ford and Chrysler auto workers and retirees.

There is no justification for supporting these benefits with public funds at their current level. Yet these workers and retirees cannot be cut off from all coverage in such an economy and, for so many, after 30 or more years of literally back-breaking work in heavy manufacturing. Some reasonable level of coverage for U.A.W. workers close to the average for manufacturing workers should be provided, or we will as a nation indeed face a day when we cannot find the people we need to do the hard work to actually make things.

They Paid for Those Rights

***Jerry Tucker*** was a member of the United Auto Workers union for over 40 years, a member of International Union Executive Board in the late 1980's, and a leader of the New Directions reform movement in that union. He is a co-founder of the *Center for Labor Renewal*.

The debate about saving the U.S. auto industry is both highly contentious and, in one area, intentionally dishonest. The claims that auto worker wages are \$70 per hour is patently false. Assembly line workers are paid around \$26 per hour. Add in the negotiated fringe benefits specific to the worker, and the wage package is close to \$50.

What also is under attack, particularly by Southern senators with foreign-owned auto manufacturers in their states, are the “legacy costs” on the corporate balance sheet today. Legacy costs are essentially that which is promised and payable to retired auto workers in the form of pensions and health insurance for the rest of their lives.

The now-retired union members contributed a significant amount of their available earnings to help pay for these benefits when they were working.

It is important to remember that these benefits are not gifts from benevolent employers. They are the product of collective bargaining and represented something of value to the negotiators at the time. Employer-based pensions and health care protection helped to stabilize the work force.

The now-retired union members contributed a significant amount of their available earnings to help pay for these benefits. Over the years workers voted to forgo portions of direct wage increases based on actual productivity gains and often traded part of their cost-of-living increases for the future benefits.

Also missing in this debate is that retirees had the promise of fully paid health insurance altered in 2005, when the companies demanded and the union agreed to have retirees pay a portion of their health insurance premiums and have deduct it from monthly pension checks.

A persistent subtext in this debate for some seems to be “to save the companies, the retirees have to lose their health care protection.” That’s an outrageous proposition. Because of the early-retirement features in the contracts and the companies’ recent tendency to push workers into retirement through buyouts, a large percentage of the retirees are not yet eligible for Medicare. Hundreds of thousands of retired auto workers and their dependents would wind up with no health care protection if the companies were relieved of this responsibility or do not fulfill the commitments they made to the union-run health care trust funds in 2010.

The irony of all this is that the U.A.W. didn’t originally want the companies to be the health care providers. The union over the early years wanted the auto companies to join with the U.A.W. in its call for a universal health care system, along the lines of the Canadian system.

The U.S. auto executives have refused even though in Canada the companies gain an approximate \$1,400 per vehicle cost advantage over American production because of the national health system. The answer all along for the Big Three and our retirees is national health care legislation like Canada’s that can be found in HR 676, the [Medicare for All Act](#).

If what some politicians and pundits are advocating happens and approximately one million retired auto worker families are without health care protection, it will just add another layer to the already existing millions of uninsured in this country. U.A.W. retirees have already paid for their benefits, but the real solution is public policy providing health care for all in America.

One Idea: A Worker Bailout

**Gary Chaison** is professor of industrial relations at Clark University.

The United Automobile Workers is finding that promises made in the past cannot necessarily be kept in the future, or even the present, and that it may have to choose between the jobs of present members and the benefits promised to retirees.

In 2007 the U.A.W. agreed to plans that would essentially shift the responsibility of paying for retirees’ health care benefits from the companies to committees of trustees (some though not all from the union). This was a major concession from the union; the companies could escape from the burden of providing an expensive employee benefit and have their balance sheets look healthy by off-loading a major liability (and thus improving their bond rating). The companies would pay 70 cents on the dollar, and much of that would be in company stock. But the present negotiations are over how much stock should back the plans since the auto stock prices are so low and so volatile.

The U.A.W. is caught between a rock and a hard place.

The U.A.W. is caught between a rock and a hard place. If it can’t reach a settlement on the plan — called the Voluntary Employee Beneficiary Association, or VEBA — the companies may not get their bailouts from Congress and could soon be heading into bankruptcy, which will mean that the funding arrangement would be decided by a bankruptcy judge, the auto stock would be nearly worthless, and thousands of auto workers (and perhaps millions of workers in related industries)

will be laid off, worsening an already awful recession.

Also, the U.A.W. and unions in general will be seen by the public as self-centered interest groups who are willing to worsen a recession and drive huge companies under simply to continue a benefit for retirees — a benefit that few retirees enjoy.

But if the union agrees to a shaky formula for the VEBAs, based heavily on stock of dubious value, it could be jeopardizing a benefit that is so important to elderly retirees and their families. Moreover, the retirees can claim ownership to this benefit legitimately; when they were working they had their union accept lower wages in bargaining in return for retiree health care benefits. As far as they are concerned, their health care benefits are already paid for and to weaken or eliminate them would be theft of something precious.

One possibility: the auto bailout funds to be voted by Congress can be used to pay for the employers' contributions to the plan. This will free the Detroit automakers from a heavy financial obligation, and enable them to devote funds to making attractive sellable cars, as they say they want to. It would also show Congress' and the administration's concern for older workers and for the high cost of health care. And finally, it would free the U.A.W. from having to make a difficult decision that, either way, could harm its members and severely tarnish the reputation of the labor movement.

An Impossible Promise to Keep

**James Sherk** is the Bradley fellow in labor policy at the Center for Data Analysis at the *Heritage Foundation*.

It doesn't take much to sympathize with the plight of the retirees who will lose their health benefits when General Motors files for bankruptcy. They worked hard for years and believed the promises their union and employer made to them. But those promises were impossible to keep — a fact that both the U.A.W. and G.M. knew when they made them. General Motors signed contracts promising gold-plated benefits — in the future, after workers retired — even as their market share sank and it became clear they could not follow through. The union insisted on benefits that made the Big Three uncompetitive instead of negotiating unpopular concessions that could have kept G.M. afloat.

Both sides promised workers the sun, the moon and the stars when they retired — \$10 a month and maximum out of pocket costs of \$250 a year for medical, hospital, surgical and prescription drug coverage. Durable medical equipment (i.e. hearing aids), dental benefits, even Lasik eye surgery.

That is far much more generous than what most senior citizens get. Medicare requires significant co-pays and deductibles. The average 65-year old pays about \$6,600 in annual out-of-pocket health care expenses. Of course, U.A.W. members do not have to wait until they become senior citizens to collect these benefits. They retire with full pension and health benefits after just 30 years on the job. The average G.M. worker retires at 56. U.A.W. workers and retirees have some of the best health coverage in America. Who else in the private sector gets these gold-plated benefits, or collects them in their 50's?

But G.M. cannot pay up. It made unsustainable promises, and soon it will file for bankruptcy. Because the company spent so much on retiree benefits it did not invest in R&D to develop more fuel efficient cars as the Japanese automakers did. They didn't have the money. The only cars Detroit still made a profit on were S.U.V.s, and it should have been clear their days would be numbered if and when gas prices climbed. Which happened last year.

All Americans should not be on the hook to pay for the mistakes made by G.M., the U.A.W. and the autoworkers.

Now the money to continue to pay gold-plated health benefits to retirees does not exist. Detroit needs at least a \$50 billion bailout to cover retiree health costs. They don't have it. The federal government does not have it. Fifty billion dollars is more than Congress spends each year on food stamps and child nutrition combined. The imminent retirement of the baby boomers will stretch Medicare beyond the breaking point.

There are no heroes or villains in this story. Everyone made mistakes. But all Americans should not be on the hook to pay for the mistakes made by G.M., the U.A.W. and the autoworkers. It makes no sense to tax American families to fulfill promises that were impossible to keep when they were made. Certainly not when the government lacks the money to fulfill much less generous promises made to the soon to be retiring baby boomers.

Legal Rights vs. Reality

**Lynn M. LoPucki** is a professor of law at the University of California at Los Angeles.

The retiree health benefits are part of the collective bargaining agreements between the auto companies and the unions. Those agreements are legally binding contracts, so the retirees are legally entitled to their health benefits. Constitutionally, the government can't take the workers' rights from them without paying just compensation. End of story (before legal magic).

If the auto companies file bankruptcy, bankruptcy law would apply. Section 1113 of the bankruptcy code permits an auto company to propose "those necessary modifications in the employees benefits and protections that are necessary to permit the reorganization of the debtor." The parties are required to bargain over the modifications. If they don't reach agreement, the bankruptcy court must allow the company to reject the collective bargaining agreement if the union "has refused to accept [the modifications] without good cause" and "the balance of the equities clearly favors rejection." Translated from the legalese, that section says the court could do pretty much whatever it wanted. If the court permitted rejection, the workers would probably be paid pennies on the dollar for their health care benefits – or nothing at all.

Workers are supposed to be the last creditors thrown off the ship, but the bankruptcy process is stacked against them.

A strong argument can be made that the double "necessary" in the passage quoted above is there to assure the workers priority over the claims of ordinary creditors, including the bondholders, the suppliers, and the dealers. Cutting the health

benefits isn't "necessary" if cutting the other debt would enable the company to survive. To put it another way, the workers are supposed to be the last creditors thrown off the corporate ship, and they are to be thrown off only if "necessary" to keep the ship afloat.

Although the law is ambiguous, the bankruptcy process is stacked against the workers. Bankruptcy law allows G.M. or Chrysler to choose its bankruptcy court. (Those Detroit companies will probably choose the management-friendly New York court, but the management-friendly Wilmington, Del., court is another popular destination.) The bankruptcy courts compete for big, glamorous cases like these, and one of the ways they do it is by favoring management in their decisions.

The auto companies still need financing for their bankruptcies. The government can provide such a bailout on any terms the government chooses — including modification of the collective bargaining agreements. What all that suggests is that the retirees' legal rights may not matter much. End of story.

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