

UNITED WE MATTER HISTORY – FITCH'S FIGHT

Ken Fitch retired from the State of Maryland after 22 years of service due to a disability. Ken received a letter from the State of Maryland Department of Budget and Management in June of 2018 stating that the Maryland General Assembly had eliminated his prescription drug program (and the prescription drug program for 90,000 other State Retirees) in 2011. The elimination would force all Maryland State retirees who were Medicare eligible (disabled or 65 or older) onto Medicare Part D. State Retirees who were Medicare Eligible had to choose a plan under Medicare Part D beginning October 15, 2018. If a plan was not chosen by then, State retirees who vested in the program before 2011 would not have any prescription drug coverage in 2019. Ken reviewed the Medicare Part D plans. He currently had out of pocket expenses in the amount of \$900 dollars. If forced onto Medicare Part D, his out of pocket expenses would increase to \$12,000 a year. Retired and on fixed income, Ken Fitch would be unable to afford this change.

Outraged Ken began his fight with writing a letter to 188 lawmakers and the Maryland Governor entitled **WE MATTER**. Other letters soon followed entitled **SHAME ON YOU, THE RIGHT TO STAND, YOUR 16% RAISE**, and **YES OR NO. THE RIGHT TO STAND** is the only letter not written by Ken Fitch and circulated to lawmakers. Each letter was followed up with a phone call, and if a response was received, an email. It was through this effort that he created a Facebook page entitled **WE MATTER RX Drug Coverage Group** to get other retirees involved in the fight.

Ken took the time to find out the name of every lawmaker who voted against maintaining the RX drug coverage program, that were still in office and running for re-election. He attached that list to his **SHAME ON YOU** letter asking for Maryland Senators and Delegates who had voted to eliminate this coverage to do the right thing.

Ken used that list of lawmakers to specifically target his follow up communications. His approach was effective. Lawmakers began reaching out to Ken Fitch returning his phone calls and setting up meetings. It was the communication with Delegate Cluster that led to the organization of the **WE MATTER Rally**. Delegate Joe Cluster sent Ken Fitch an email about a subcommittee meeting of legislators on September 13, 2018. And wonders of wonders the discussion of that subcommittee was on the transition of state retirees to Medicare Part D. This was perfect. Ken saw this as an excellent chance to rally State Retirees to show lawmakers in Annapolis that **WE MATTER**. As news of the rally spread the estimates for the rally became bigger and bigger. More and more state retirees indicted their willingness to attend. Finally, state retirees had the opportunity to voice their shock about the elimination of their RX benefit. Finally, state retirees would have a chance to tell their lawmakers' how they really felt about their betrayal. It was then that Ken found out that one year after lawmakers had discontinued state retirees RX drug coverage, they had voted themselves a 16% raise. In an election year, this information should have been damning for any lawmaker who voted against drug coverage and for their increased paycheck. It wasn't. Ken wrote the **YOUR 16% RAISE** letter producing some startling facts regarding the State's promises over the last ten years.

While this was going on, Ken Fitch and **WE MATTER** members began attending town meetings, meetings at senior centers and campaign events where lawmakers were speaking to bring the RX issue to the forefront to force a Special Session where the issue could be addressed. One of these meetings led to the **RIGHT TO STAND** letter. This letter wrote about an event that Ken Fitch attended that showed that the lawmakers who voted for the elimination of retirees RX coverage didn't have a clue what they voted for. This was confirmed when Ken started setting up meetings between lawmakers and the Facebook **WE MATTER** members.

Every lawmaker that Ken spoke with stated they wanted to help but were unwilling to make a commitment to asking for a special session. This is when Ken wrote the **YES or NO** letter demanding that lawmakers commit to a stance before the election. The responses to this request can be found in the topics section of the **WE MATTER** page. Then it happened. While Ken was driving his grandson to an event, he received a call from the Governor's office. The Governor's Chief of Staff wanted to schedule a teleconference with Ken to discuss the state retirees RX drug coverage. Excited, Ken scheduled an appointment to the wide-eyed amazement of his eleven-year-old grandson. Ken's next call was to an attorney, Deborah Holloway Hill to make sure she would be present. During the teleconference, (which included the Governor's Director of Communications) no commitment was made to reinstatement. Instead the Governor's office stated that they backed transition. Ken stated to them that it appeared to Medicare Eligible retirees that they were specifically targeted to cull out the pension roles. This statement was met by silence. Ken told them that they were not leaving him much choice - he would have to sue the state to keep the benefits of all state retirees. It was not a good meeting.

During that time Ken had the attorney investigate this issue arguing that the affects would be devastating for thousands of state retirees. He argued that the lawmakers including the Governor would not reinstate RX benefits and that legal action was the only way to go. So, prior to Ken's conversation with the Governor's Chief of Staff, Deborah Hill and co-counsel, Breon L. Johnson, had committed to filing a complaint and seeking injunctive relief using their own money to file on behalf of State retirees.

Ken Fitch, Phylis Reinard, Deborah Heim and Mary Frye agreed to be plaintiffs in the action. A complaint was filed in the Circuit Court for Baltimore City with a Motion for Injunctive Relief. The Defendants were the State of Maryland, Governor Larry Hogan and David Brinkley, Secretary of Department of Management and Budget (DBM). The defendants were represented by the Maryland Attorney General's Office ("AG"). The AG then removed the case from State Court to Federal Court on September 11, 2018. A Preliminary Injunction hearing was scheduled for October 10, 2018 by the US District Court for the District of Maryland.

Fighting this battle had taken a toll on Ken's health. During this time Ken was in the hospital for five weeks. His kidneys shut down, but his will to continue fighting did not. After many prayers and well wishes from members of **WE MATTER**, Ken regained the function of his kidneys. So, by week three, he was weak but back in action. I went to Ken and told him that his absence had been noted on the Facebook page. He instructed me to update the Facebook page, instructed Kristen, his daughter, to bring his laptop to the hospital so he could get up to speed. He could barely walk, but his mind and heart were focused

on the plight of State Retirees. His sister Kathy updated him about the hearings during the court break session, and he was interviewed by Channel 4 from his hospital bed on the progress of the case. Ken Fitch was determined to keep fighting regardless of his physical condition.

On October 10, 2018, the US District Court for the District of Maryland (Judge Messitte) granted the Preliminary Injunction. This meant that state retirees did not have to sign up for Medicare Part D and they would be able to keep the state insurance until the case was over. It was a great victory! It validated Ken's commitment and dedication to the cause. He kept saying that the law would not allow the State to steal the benefits that State retirees earned. He was right. One of the many reasons the injunction was granted was because the Court stated this case had a likelihood of success at trial and could not understand the State's intention to dump thousands of State retirees off the prescription drug program as a means to save money. Retirees worked for low wages, furlough days and no raises with the promise of these benefits when they retired. Although Ken was still in the hospital, he posted to the Facebook **WE MATTER** group that day declaring the great news!

Although notice was sent by DBM to all Medicare eligible retirees that they did not have to sign up for Medicare Part D, it was too late for many. The speed of the filing, the ruling made five days before the switch, left a lot of State retirees out of the loop. Ken fielded calls from these retirees who were unable to switch back to the Maryland prescription drug program because they signed up for Medicare Part D. Tears and feelings of the State's betrayal was prevalent.

On a parallel track Ken is working with lawmakers to sponsor a bill to reinstate the RX drug coverage in the January 2019 session. This requires members to state how this law impacts their lives. To spread the word on the lawsuit and the Bill, Ken has had meetings on the Eastern Shore, Western Maryland, Southern Maryland and North Baltimore County. Please note that even if we reinstate through the legislature, if we are not successful in the lawsuit, the General Assembly can take away your benefits again. So, help was needed on both efforts.

Unfortunately, the promises of reinstatement did not yield fruit in the General Assembly in 2019. Although many lawmakers proposed legislation that would have either reinstated the entire benefit or grandfather the current retirees none were considered. The bill that passed still eliminated the Prescription Drug Coverage Program, and to give insult to injury, required that state retirees pay for it first and then get reimbursed. With state retirees facing thousands of dollars of costs per month, there is no certainty that a reimbursement program will ever be created. The efforts of the Facebook **WE MATTER RXdrug Coverage Group** continues the fight to restore the prescription drug benefit that was eliminated by the 2011 Budget and Reconciliation Act.

The schizophrenic nature of the Maryland General Assembly led to the creation of the volunteer organization called **United We Matter**. **United We Matter** will fight to preserve the pension and pension benefits of Maryland State retirees and has incorporated Ken Fitch's continuous efforts to reinstate the prescription drug coverage. "I don't want to be caught by surprise next time," he said. "Maryland State

Retirees will have the tools to fight any other attack on their pension or pension benefits with this venture.”

Throughout this fight Ken has remained positive and has structured United We Matter to reinforce that. In this case, over 48,000 state retirees did not have to pay the astronomical drug prices on January 1, 2019 or January 1, 2020. They can keep the benefit they earned for another couple of years because of the efforts of one man. It is unbelievable what determination focus and positivity in the face of adversity can accomplish. He showed the state that you cannot treat people like this, you cannot treat retirees like this, you cannot treat seniors like this, because contrary to actions of the State of Maryland - **WE MATTER** and **United** we will make a difference.

United We Matter