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Supreme Court Finds State Reporting Law Is Preempted by ERISA

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On March 1, 2016, the Supreme Court decided in a 6-2 vote that a Vermont reporting law did not apply to ERISA-covered plans, which includes most benefit plans.

The Issue

Vermont established an "all payer claims database" which requires insurers, third party administrators ("TPAs") of self-funded plans, providers, and government agencies to report data on health care costs, prices, quality, and use of services to the state to examine health care utilization, expenditures, and performance. Seventeen states, including New York and Connecticut, also have or are developing all payer claims databases (although reporting is on a voluntary basis in some states).

Liberty Mutual has a self-funded plan for its employees with about 80,000 members across the U.S. Liberty Mutual directed its TPA to refuse to submit its data to Vermont. Vermont issued a subpoena ordering the TPA to transmit the files. The penalty for the TPA's noncompliance was $2,000 per day and suspension to operate in Vermont for up to 6 months.

Having in its contract with the TPA a hold harmless clause for judgments related to Liberty Mutual's failure to comply with any laws, Liberty Mutual filed suit in district court, seeking a declaration of preemption.

Preemption Arguments

- **Interference with plan administration.** ERISA Sec. 514 states that ERISA preempts any and all state laws that relate to employee benefit plans. Under ERISA, state laws should not interfere with the uniformity of plan administration. Employers are frustrated by multi-jurisdictional mandates that impose conflicting administrative obligations, subjecting them to administrative costs and wide-ranging liability.

- **Fiduciary responsibility and privacy.** Liberty Mutual argued that it was concerned about protecting the privacy of individuals' medical records per its fiduciary duties under ERISA.

Arguments against Preemption

- **Different objectives.** Vermont argued that its reporting scheme had objectives that differed from those of ERISA, which focus on (1) the financial solvency of plans and (2) fiduciary duties to protect participants (so that ERISA did not preempt the Vermont law).

What Happened?

The Court found that Vermont's all payer claims database does not apply to plans subject to ERISA. In the majority opinion, the Court identified reporting as a principal and essential feature of ERISA and plan administration. Vermont's requirement that ERISA plans report detailed information about the administration of benefits amounts to a direct regulation by the state of a fundamental ERISA function. As such, the Court ruled in favor of Liberty Mutual as such state laws are inconsistent with the central design of ERISA – to provide a single uniform national scheme without interference from the laws of the states. Justice Breyer suggested that the DOL could develop a similar reporting requirement to satisfy the states' needs. The privacy argument was not addressed.

Can Employers Disregard all State Laws Related to Benefits?

Not advisable. As employers subject to ERISA are well aware, there are many burdensome state laws that have been found to apply to their plans or have not been challenged in court.

Additionally, ERISA does not preempt state insurance laws that apply to carriers of ERISA-covered insured plans.

Employers wanting to disregard similar state laws related to benefits should consult counsel.