ERISA Preempts Vermont Health Plan Reporting Law, Supreme Court Holds (Self-Funded Plans Take Note)

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Many employers would agree that reporting is a core function of employee benefit plan administration. On top of the numerous reporting requirements for group health plans imposed by the Internal Revenue Service and other federal agencies, states laws, including Vermont’s, add a layer of state reporting obligations for plans, including self-funded group health plans. In welcome news for employers and plan sponsors, this added state law burden has been lessened by the U.S. Supreme Court’s finding that certain state laws are preempted by federal law.


The Court decided in Gobeille that state reporting mandates, like the one in Vermont, are preempted by the Employee Retirement Income Security Act of 1974 (ERISA). The Court explained that ERISA’s goal of establishing a uniform plan administration system, particularly as to core functions like reporting, would be frustrated by multi-jurisdictional mandates that impose conflicting administrative obligations, resulting in wasteful administrative costs and subjecting plans to wide-ranging liability.

Background

Vermont’s law was intended to create a resource — a database known as an “all-payer claims database” — for insurers, employers, providers, and the state, to examine health care utilization, expenditures, and performance. To create the database, the law required covered entities (which included self-funded group health plans and any third party administrators) to provide such information as health care costs, prices, quality, utilization, and health insurance claims and enrollment data. Reporting intervals could be as often as monthly, and the failure to comply could expose covered entities to penalties as high as $2,000 per day and disqualification of administrators from performing services in the state.

Liberty Mutual sponsors a self-funded group health plan that provides health benefits to more 80,000 individuals across the United States. Concerned about the burden Vermont’s law placed on its self-funded group health plan, as well as its fiduciary obligations to maintain the confidentiality of sensitive plan information that could be made available to entities with access to the database, Liberty Mutual challenged Vermont’s law, arguing it was preempted by ERISA.

It argued, in short, that except for state laws regulating insurance, ERISA’s preemption doctrine holds that laws relating to employee benefit plans covered by ERISA are preempted.

Preempted by ERISA

The reach of the ERISA preemption doctrine has been the subject of frequent litigation, finding its way to the high court several times. Some commentators see the Court leaning toward a more narrow view of ERISA preemption. However, Gobeille makes clear that when core plan administrative functions, such as reporting, are at stake, state laws like the one in Vermont will not survive ERISA preemption.

“The fact that reporting is a principal and essential feature of ERISA demonstrates that Congress intended to pre-empt state reporting laws like Vermont’s, including those that operate with the purpose of furthering public health,” Justice Anthony Kennedy stated, writing for a majority of the Court.
Thus, even though the state law's purpose was to further the public good, the Court found that it was not enough to overcome ERISA preemption. Additionally, the state's argument that its law had little, if any, economic impact did not persuade the Court. The Court reasoned that employer-sponsored plans should not have to wait until they are burdened by multiple state laws with inconsistent obligations resulting in growing costs before seeking protection under the preemption doctrine.

Implications

The Supreme Court's decision may prompt many plan sponsors (particularly larger plan sponsors with employees in multiple states) to look more critically at state reporting and other requirements that affect their plans. But they should proceed cautiously as the Supreme Court's decision does not invalidate all state reporting laws.

Even though Gobeille places employers in a strong position, particularly with respect to onerous state and local requirements, any decision not to follow a similar law, or even to challenge it in court, should include an appropriate cost-benefit analysis.

As Justice Stephen Breyer pointed out in his concurring opinion, Gobeille may shift the focus of efforts to collect health plan data from individual states to national efforts by the federal government, notably the U.S. Department of Labor and the U.S. Department of Health and Human, agencies vested with such authority by ERISA and the Affordable Care Act, respectively.

Employers should consult with employment counsel to determine whether and how their particular plans are affected by this decision. Please contact a Jackson Lewis attorney if you have any questions.