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Big Win for Self-Insured ERISA Plans at Supreme Court

On March 1, the Supreme Court issued a decision in *Gobeille v. Liberty Mutual Insurance Company* that delivered a big win for self-insured group health plans. The case involved a challenge to a Vermont law that required certain entities, including health insurers and self-insured group health plans (as well as their third-party administrators), to submit "information relating to health care costs, prices, quality, utilization, or resources required," including data related to claims and enrollment, to a state-appointed contractor for inclusion in the State's 'all payer claims database' (or APCD). Blue Cross Blue Shield of Massachusetts, Inc. (the third-party administrator for Liberty Mutual's self-insured group health plan) was served with a subpoena by Vermont demanding this information, and threatening significant penalties for non-compliance. Liberty Mutual, concerned that disclosure of the requested confidential information might violate its fiduciary duty under the Employee Retirement Income Security Act (ERISA) to protect the plan's information, directed Blue Cross not to answer the subpoena, and filed suit claiming that the statute's reporting requirements were preempted by ERISA. ERISA preempts "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan."

Initially, the courts agreed with Vermont, and a Federal District Court Judge granted summary judgment to the state, holding that ERISA did not preempt the state law. On appeal, however, the Second Circuit unanimously reversed that decision, holding that ERISA preempted the state law. Vermont appealed to the Supreme Court, which granted *certiorari*.

In one if its first decisions since the sudden and untimely death of Justice Scalia, the Supreme Court affirmed the Second Circuit's decision, by a vote of 6-2. In doing so, the court noted that that ERISA already imposes significant reporting requirements on covered entities, and that "[d]iffering, or even parallel regulations from multiple jurisdictions could create wasteful administrative costs and threaten to subject plans to wide-ranging liability;" thereby defeating the very purpose of ERISA, which was enacted in order to create a uniform, national regulatory scheme.

This decision is especially noteworthy given that several other states, including New York, either have implemented or are in the process of implementing laws similar to the one at issue in this case. New York, in an *amicus curiae* brief in support of the law, contended that it had already expended considerable resources towards creating its own APCD, and was "about a year away from launching" the database. This decision calls into question whether any future data collection/reporting laws enacted in conjunction with the creation of these APCDs by New York or other states would also be preempted by ERISA. Although *Gobeille* appears to be a victory for employers who sponsor self-insured group health plans, it is important to note that the decision does not invalidate all state reporting laws, so employers should proceed with caution and consult with counsel before refusing to comply with any similar state reporting laws. Further, as Justice Breyer suggests in his concurring opinion, *Gobeille* may pave the way for the federal government (specifically the U.S. Departments of Labor and Health and Human Services) to collect health plan data or to approve or delegate to a State the authority to collect such data.

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