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The Demise of ERISA Preemption has been Exaggerated

Many states have recently enacted laws requiring insurers, and self-funded health plans, to report detailed medical information to state databases, including eligibility and medical claims data. The purpose of collecting this information in what are known as "all payer claim databases" is to find ways to control health care costs and improve outcomes. Today, in a case challenging Vermont's law requiring self-funded health plans subject to ERISA to disclose this information, the Supreme Court, in a 6-2 decision, agreed with the Second Circuit Court of Appeals: the Vermont statute is preempted by ERISA with respect to self-funded health plans. Click here for a copy of the opinion.

The Court, after noting that ERISA's reporting, disclosure and recordkeeping requirements are extensive, and that it is the Secretary of Labor who is authorized to administer reporting requirements, concluded that "reporting, disclosure and recordkeeping are central to, and an essential part of, the uniform system of plan administration contemplated by ERISA." Complying with varying rules in the different states would place a burden on ERISA plans. Vermont argued that its objective in compiling the data differs from the objectives under ERISA, but this did not sway the Court which found that the law represents a "direct regulation of a fundamental ERISA function."

Laws similar to Vermont's law are on the books of many other states as well. This decision also calls into question the validity of these other similar state laws as they apply to self-insured health plans under ERISA. Nevertheless, it is possible that, in light of this decision, the Department of Labor may collaborate with states to require more detailed reporting in the future that can be used for these purposes, as suggested by Justice Breyer in his concurring opinion.