

ERISA and Federalism: Limits on State and Local Health Reform

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Abstract

The United States Supreme Court is considering whether to grant a petition to review a case involving the validity of a local ordinance requiring employers to make certain expenditures on employees' health care benefits. In 2008, the Ninth Circuit Court of Appeals held that the ordinance did not violate the provisions of the Employee Retirement Income Security Act (ERISA) that exempt certain employer financed employee health benefits plans from state regulation. The petitioner seeking review in the Supreme Court claims the Ninth Circuit ruling contradicts a 2007 ruling by the Fourth Circuit invalidating a Maryland statute requiring employer expenditures for employee health benefits.

Whether or not the Supreme Court accepts the Ninth Circuit case, it is now time to articulate the purposes of ERISA as a health policy statute. ERISA's purpose must be understood in the context of incremental attempts to contain the costs of health care through private market mechanisms. So understood, the validity of local or state health benefit expenditure mandates under ERISA depends upon the institutional context in which those mandates are imposed and the "choice architecture" chosen by local and state policy makers.

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