



**Disappointing Decision from United States Supreme Court Holds that State Anti-Subrogation Laws Preempted In Federal Employee Health Benefits Plans**

April 18, 2017

Dear Colleague:

Today, the United States Supreme Court issued its Decision in [\*Coventry Health Care of Missouri, Inc. v. Nevils\*](#), 581 U.S. \_\_\_\_ (April 18, 2017). This case involved the reimbursement rights of insurance carriers which provide health coverage for federal employees under the Federal Employees Health Benefits Act (FEHBA) and whether subrogation provisions in a contract preempt state laws barring subrogation, such as in Missouri and New York State.

The FEHBA statute provides that the terms of any contract with one of these insurance companies "which relate to the nature, provision, or extent of coverage or benefits" preempt state law which relates to health insurance. 5 U.S.C. §8902(m)(1).

There were two issues before the Court. First was whether provisions in those contracts relating to subrogation/reimbursement rights "relate to the nature, provision, or extent of coverage or benefits" and therefore preempt state anti-subrogation laws. The second was whether the statute is consistent with the Supremacy Clause insofar as it allows the terms of a contract to preempt state law.

Finally deciding the question left open in *Empire Healthchoice Assurance, Inc. v. McVeigh*, 547 U.S. 677 (2006), the Court held first that provisions relating to subrogation/reimbursement are indeed related to "the nature, provision, or extent of coverage or benefits." Therefore, these provisions preempt state anti-subrogation laws. The Court explained that there is an expansive view of Congress' use of the phrase "relate to." The purpose of the statute also supported the Court's view, reasoning that there is a strong federal interest in uniform administration of the Federal Employee Health Benefits program, free from interference by the individual states.

Going further, the Court held that the statute does not violate the Supremacy Clause because it is the statute itself, not contract provisions, which preempt state law, while also noting that other federal statutes have similar effect and have been held to be valid, such as ERISA and the Federal Arbitration Act.

Ultimately the case was remanded for further proceedings consistent with the opinion. The decision was unanimous, with the newly appointed Justice Gorsuch taking no part, and Justice Thomas writing a concurring opinion.

A copy of the Decision can be found [here](#).

Best regards,

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