Supreme Court Heals Hospital Issue: ERISA-Exempt Church Plans Don't Need to be Set Up By a Church

by Withum's Healthcare Services Team
Alerts, ERISA

In a unanimous decision, the Supreme Court reasoned based on statutory interpretation that religiously-affiliated hospitals can run ERISA-exempt church plans. The decision could affect retirement and pension benefits to more than 300,000 workers.

The Employee Retirement Security Act ("ERISA") definition of a "church plan,"[1] and whether a religiously-affiliated hospital that has a retirement plan can meet this definition *despite not being established by a church*, has been a hotly debated issue. The distinction is that a qualifying "church plan" is exempt from certain Internal Revenue Code ("IRC" or the "Code") legal and reporting requirements.

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The U.S. Supreme Court recently held in *Advocate Health Care Network v. Stapleton*[2] that the **ERISA exemption for church plans does not require the plan to be originally established by a church**. **Thus, a plan maintained by an entity described in ERISA §3(33)(C)(i), which the Court called a "principal-purpose organization," qualifies as a church plan, regardless of who established it**. Although, the decision does not address which entities fall within the scope of a "principal-purpose organization."

In *Advocate Health Care v. Stapleton*, employees (the "Employees") of the hospital ("H" or the "Hospital") had vested claims to benefits under H's retirement plan (the "Plan"). The Employees alleged that H had not maintained its pension plan according to the standards set forth by ERISA.

More specifically, it was alleged that H breached its fiduciary duty and harmed the Plan's participants by: (i) requiring an improperly long period of five years of service to become fully vested in accrued benefits; (ii) failing to file reports and notices related to benefits and funding; (iii) funding the Plan at insufficient levels; (iv) neglecting to provide written procedures in connection with the Plan; (v) placing the Plan's assets in a trust that did not meet statutory requirements; and (vi) failing to clarify participants' rights to future benefits. The Hospital argued that because the Plan was a "church plan," it was exempt from the ERISA requirements.

Internal Revenue Code §414(e) and ERISA §3(33) define a "church plan" as a plan established and maintained for its employees (or their beneficiaries), by a church, or by a

convention or association of churches, which is exempt from tax under Internal Revenue Code §501. Additionally, a plan not meeting the above requirements may nevertheless be a "church plan" if the plan covers persons who may be deemed employees of a church, or a convention or association of churches, and the plan is maintained by an organization that is controlled by or associated with a church or convention or association of churches, and that has as its principal function the administration of retirement or welfare benefits to church employees.

The Supreme Court unanimously ruled that a plan maintained by a church-associated organization, whose principal purpose or function is to fund or administer a benefits plan for the employees of a church or a church-affiliated nonprofit, may qualify as a church plan regardless of whether a church established the plan (backing the longstanding IRS position on the matter).

[1] As per Internal Revenue Code Section 414(e) and ERISA Section 3(33).

[2] *Advocate Health Care Network v. Stapleton*, No. 16-74, No. 16-86, No. 16-258, U.S. (June 5, 2017).

The court relied on strict interpretation of the statutory language, which reads a plan "established and maintained by a church" includes a plan "maintained by" a qualifying church-affiliated entity.

This victory for the hospitals is also a victory for the IRS, which has for decades given its blessing to hospitals treating their pension plans as ERISA-exempt church plans.

As mentioned earlier, the decision does not address which entities fall within the scope of a "principal-purpose organization." In the months leading up to the Supreme Court decision, a number of hospitals have agreed to multimillion dollar settlements, such as Providence Health and Services ($352M), Saint Francis Hospital ($107M), Trinity Health Corp. ($75M), among others. As such, employees challenging a church plan's ERISA exemption may still be able to formulate an argument based on the entity's ties to the church; specifically that they are insufficient in terms of rising to the level of "principal-purpose organization."