

HEALTH INSURANCE LAW UPDATE

Re: Preferred Provider Claims Under Texas Prompt Payment Act Survive ERISA Preemption Challenge

Preferred providers under contract with a HMO demanded late-payment penalties under the Texas Prompt Payment Act (TPPA) in connection with the administration of self-funded ERISA plans. A third-party administrator affiliated with the HMO brought a federal court action seeking declarations that (i) the TPPA does not apply to self-funded plans, or (ii) if it does apply, it is preempted by ERISA. The United States District Court for the Northern District of Texas abstained from the first issue, but determined the TPPA was not preempted by ERISA.

The court's preemption analysis focused on whether the TPPA "relates to" an employee welfare benefit plan. Although a prior [Eleventh Circuit case](#) found similar claims under a Georgia statute preempted, the providers argued that decision failed to consider whether the statute "directly affects the relationship between traditional ERISA entities."

The court began by finding the TPPA did not address an "area of exclusive federal concern." The court found the providers' claims arose from the provider agreements—not the ERISA plans. The court determined ERISA's goal of uniform plan regulation was not undermined by the TPPA because the ERISA plans were left "untouched."

The court further found the TPPA would not directly affect the relationship among traditional ERISA entities. The providers asserted no claims for benefits under the ERISA plans, either as beneficiaries or assignees, and no coverage decision was implicated. The court concluded ERISA was not intended to "go so far as to eliminate the ability of parties on the periphery of ERISA plans to contract with one another, nor the right of state legislatures to pass laws that impact those contracts."

A copy of the district court's decision may be found [here](#). If you have any questions or concerns, please contact Bryan D. Bolton, at 410.659.7754 or bbolton@fblaw.com.

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