



BENEFIT NEWS BRIEFS

Sixth Circuit Again Holds Michigan's Health Insurance Claims Assessment Act Is NOT Preempted by ERISA

In August 2014, the Sixth Circuit Court of Appeals upheld a District Court's decision that Michigan's 2011 *Health Insurance Claims Assessment Act (HICA Act)* was NOT preempted by federal law in regards to *ERISA*-covered self-insured entities, including self-insured multiemployer group health plans. See [Benefit News Briefs 2014-39](#).

The Self-Insurance Institute of America, Inc. ("SIIA") appealed the decision of the Sixth Circuit to the United States Supreme Court which entered an order granting certiorari, vacating the judgment of the Sixth Circuit court, and remanding the case for further consideration in light of the Supreme Court's decision on *ERISA* preemption in *Gobeille v. Liberty Mut. Ins. Co.*, 136 S. Ct. 936 (2016).

The Sixth Circuit Court reconsidered its opinion in light of *Gobeille* and again reaffirmed the district court, holding the Michigan law is not preempted by *ERISA*. The Sixth Circuit Court's opinion available by "[clicking here](#)."

Background To Michigan Claims Law

In 2011, Michigan passed the *HICA Act*, to generate the revenue necessary to fund Michigan's obligations under Medicaid. The Act functions by imposing a one percent tax on all "*paid claims*" by "*carriers*" or "*third party administrators*" (TPAs) to healthcare providers for services rendered in Michigan for Michigan residents.

"*Carriers*" include sponsors of "*group health plans*" set up under the *Employee Retirement Income Security Act of 1974 ("ERISA")*. On top of the tax, every carrier and TPA paying the tax must submit quarterly returns with the Michigan Department of the Treasury and "*keep accurate and complete records and pertinent documents as required by the department*." Every carrier and TPA must also "*develop and implement a methodology by which it will collect the tax*," subject to several conditions.

Conclusion

As noted, on rehearing, the Sixth Circuit upheld the Michigan Claims Assessment Act that had been challenged in court by the SIIA and held the HICA Act was not preempted by *ERISA*.

This means entities affected by the *HICA Act* will need to continue to pay the tax. This includes insurers, TPAs and self-insured entities, such as Taft-Hartley multiemployer group health plans, that pay *health claims for Michigan residents for health-related services performed in Michigan*.

For more information on the *HICA Act*, see the [Topical Index](#) at page 40.

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