

May 10, 2024

Meggan Brumbaugh
General Counsel
Indiana Department of Insurance
311 West Washington Street
Suite 103
Indianapolis, IN 46204
Submitted Electronically

RE: ERIC Public Comments in Response to Indiana LSA Document #24-151 All Payer Claims Data Base – Application to Self-Insured Employer Plans Governed by Federal ERISA Law

Dear General Counsel Brumbaugh and Commissioner Beard:

The ERISA Industry Committee (“ERIC”) appreciates the opportunity to comment on the regulations contained in “LSA Document #24-151 All Payer Claims Data Base” (“Proposed Rules”) issued by the Indiana Department of Insurance (“Department”) implementing changes to the state’s All Payer Claims Database (“APCD”) and broad submission requirements established by Senate Enrolled Act 400 (“SEA 400”). ERIC has deep concerns with aspects of the Proposed Rules as currently drafted that would overstep state authority to control self-insured employer health care plans governed by the federal Employee Retirement Income Security Act of 1974 (“ERISA”).

If finalized in its current form, the Proposed Rule would place substantial recordkeeping and reporting requirements directly on self-insured ERISA plans, create an immediate conflict with federal law, and ignore the clear legal precedent established in this space by the U.S. Supreme Court in *Gobeille v. Liberty Mut. Ins. Co.*, 577 U.S. 312 (2016). Because this very specific sort of state regulation has already been held to be preempted by ERISA, ERIC would consider pursuing or supporting litigation challenging the Proposed Rule on behalf of our large employer member companies if advanced. **ERIC therefore strongly urges the Department to amend the Proposed Rule to remove application to self-insured ERISA plans and prevent a clearcut conflict with federal law as well as established legal precedent.**

ERIC is a national advocacy organization exclusively representing the largest employers in the United States in their capacity as sponsors of employee benefit plans for their nationwide workforces. With member companies that are leaders in every economic sector, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans. ERIC member companies offer benefits to tens of millions of employees and their families, located in every state and city.

Large employers have long been at the forefront of innovating health care benefit design and administration. By combining nationwide workforces into uniform benefit plans, employers are able to negotiate from a position of strength and secure valuable health care coverage at reduced rates, all to the benefit of plan participants. Use of these cost-saving advantages was the precise intention behind ERISA's creation by Congress, which provides a single set of standards for multistate employers to design and administer uniform health care and retirement benefits to their nationwide employees, regardless of where they live or work. Since ERISA's enactment, multistate employers have done just that, securing truly effective and efficient health care coverage enjoyed today by millions of Americans.

Unfortunately, a series of state laws proposed and enacted in recent years threaten to erode ERISA preemption, aiming to place a growing number of compliance burdens on self-insured plans and endangering valuable benefits that these plans have long provided. The Proposed Rule, as well as the underlying legislation that it seeks to implement, fit squarely within this trend by attempting to explicitly and directly require self-insured employer health care plans governed by ERISA to compile and submit claims data reports on a regular basis to the state APCD system.

Critically, the legal issue of whether states have the authority to place such a requirement on self-insured ERISA plans has already been decided by the U.S. Supreme Court in the case of *Gobeille v. Liberty Mut. Ins. Co.*, 577 U.S. 312 (2016). That key decision involved a nearly identical Vermont law that also required self-insured ERISA plans operating within the state to compile and provide regular claims data reports to the state's APCD system.

In its decision, the U.S. Supreme Court not only reinforced the core principle that ERISA expressly preempts "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan" but held that the Vermont APCD reporting law had an impermissible "connection with" ERISA plans by attempting to govern and interfere with the uniformity of plan administration. At its core, the *Gobeille* ruling states in no uncertain terms that under ERISA's uniform design:

"The Secretary of Labor, not the States, is authorized to administer the reporting requirements of plans governed by ERISA. He may exempt plans from ERISA reporting requirements altogether ... And, he may be authorized to require ERISA plans to report data similar to that which Vermont seeks, though that question is not presented here. Either way, the uniform rule design of ERISA makes it clear that these decisions are for federal authorities, not for the separate States."

The requirements at the heart of both Indiana SEA 400 and the Proposed Rule are overwhelmingly similar, if not identical, to those proposed by the Vermont law already held to be preempted by ERISA in *Gobeille*, precedent of which is clear in its application here. The Proposed rule would create an immediate conflict with both federal ERISA law and the *Gobeille* decision and stand to erode the ability of multistate employer health benefit plans to effectively

operate uniform benefits at scale. **To avoid these conflicts and prevent litigation challenging Indiana's law on ERISA preemption grounds, ERIC respectfully urges the Department to amend the Proposed Rule to remove application to self-insured ERISA plans.**

If you have any questions concerning our comments or would like to discuss the Proposed Rule's posed impact on health care benefits administration within the state and across the country, please contact us at (202) 789-1400 or dclair@eric.org.

Sincerely,



Dillon Clair
Director, State Advocacy