

ERISA Does Not Preempt Michigan Paid Claims Tax

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In *Self-Insurance Institute of America v. Snyder*, the U.S. Court of Appeals for the Sixth Circuit ruled that ERISA does *not* preempt a Michigan state statute requiring insurers and third-party administrators (TPAs) of self-funded group health plans to pay a one percent tax on all paid claims that such entities make to medical service providers. The statute also requires insurers and TPAs to (i) file quarterly returns with the Michigan Department of the Treasury, (ii) keep accurate and complete records, and (iii) develop and implement a methodology for collecting the tax. By way of background, earlier this year the U.S. Supreme Court vacated the Sixth Circuit's 2014 decision in this case (which also held that the Michigan statute was not preempted by ERISA) and remanded the case for further consideration in light of the Supreme Court's recent decision in *Gobeille v. Liberty Mutual Insurance Co.* In *Gobeille*, the Supreme Court held that a Vermont statute imposing substantial reporting requirements on TPAs of self-funded group health plans was preempted by ERISA. However, the Sixth Circuit distinguished the Michigan tax statute from the Vermont reporting statute, reasoning that the reporting requirements under the Michigan statute are incidental to its primary purpose, which is to collect taxes (*i.e.*, an area of traditional state concern). Consequently, because the Michigan law does not attempt to directly regulate employee benefit plans, it is saved from ERISA preemption. The *Snyder* decision could embolden other states to enact similar tax laws. The opinion in *Self-Insurance Institute of America v. Snyder*, No. 12-2264 (6th Cir. July 1, 2016) is available [here](#).