

What is ERISA?

THE EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA), enacted in 1974, creates uniform federal standards for employer-sponsored benefit plans -- including both health and retirement plans -- and preempts the application of varying rules under State laws which "relate to" these employer-sponsored plans.

SCOPE OF ERISA: All **employers** (except federal, states and certain religious organizations) who offer health and retirement benefits are governed under ERISA law. ERISA governs the administration of an employer's plan and defines how any disputes are handled. Legally, the relationship between the employer and employee is similar to "trust" law -- that is, the employer appoints a particular person to act as a fiduciary to appropriately handle the benefits in accordance with the plan documents.

OUTSIDE ERISA'S SCOPE: ERISA does not preempt States from regulating health insurers or health insurance products. So, when an employer purchases a fully insured health plan to offer to its employees, additional State insurance rules will apply to the insured coverage. ERISA also does not preempt State laws of "general applicability", State regulation of the individual insurance marketplace or many innovative State programs such as high-risk pools to expand access to health coverage.

TYPES OF PLANS: Employers, large or small, can offer health plans to their employees that are:

- a) **Self-insured, self-administered** - This means that the employer pays for the health care claims of its employees directly (not by purchasing an insurance product) and assumes the direct administrative responsibility for managing the health plan. There are very few employers who do both.
- b) **Self-insured, using a third-party administrator (TPA)** - This is where the employer pays for the health care claims of its employees directly, but contracts with a TPA for administering their plan.
- c) **Fully insured** - This is where an employer contracts and selects a fully insured product for their employees. These products are also subject to State regulation.

Many employers do a combination of both - they may self-insure for some of the health plan choices they offer to their employees and buy insurance products for others. However, regardless of which way they choose to offer health coverage to their employees, the administrative rules of ERISA apply to the management and any subsequent disputes relating to the managing of the employer-sponsored health plan, although additional State rules will apply to any fully insured health insurance coverage which the employer offers.

ERISA UNIFORMITY: The critical element of ERISA is in the administrative rules governing these plans. For example, ERISA is essential for employers who want to provide a uniform set of benefits to their employees -- regardless of where they live -- and want to be able to administer these benefits under a single, uniform set of rules. ERISA allows these employers two important advantages: providing all employees the same benefits and minimizing the employer's administrative costs in order to keep these benefits for employees (and the employer) as affordable as possible.

Where States seek to require varying benefits, or dictate how an employer's plan, particularly a health plan, is operated, or require "added taxes" to pay for extra services in the States, employers are unable to offer uniform benefits to their employees and incur additional expenses which make coverage more costly for both the employer and its employees.

