

Benefit Fact Sheet

What is it?

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that mandates minimum standards for health and pension employee benefit plans. The law provides protections for employees and their beneficiaries that participate in such plans by setting standards for plan communication, fiduciary responsibilities, grievances and appeals, and claims procedures.

Objective

To protect participants and beneficiaries of employee benefit and retirement plans.

Why offer it?

The Federal government requires employers to comply with ERISA. Failure to do so may trigger penalties and fines.

Who offers it?

All employers are subject to ERISA except government employers, church programs, and plans which are maintained solely to comply with workers' compensation, unemployment or disability laws. ERISA also does not cover plans maintained outside of the United States primarily for the benefit of nonresident aliens or unfunded excess benefit plans.

ERISA preempts any state laws that regulate employee benefit plans. This preemption enables self-insured plans to be exempt from any state laws that regulate insurance.

What are the provisions of the law?

ERISA does not require employers to provide benefits. However, the law does impose a number of administrative requirements including:

- Providing written plan documents that contain specific information and benefit provisions.
- Holding assets in trust unless certain exemptions are satisfied.
- Detailing procedures for reporting and appealing claims within the plan document. This includes reporting information to the Internal Revenue Service ([IRS](#)), Department of Labor ([DOL](#)), and Pension Benefit Guaranty Corporation ([PBGC](#)), as well as to plan participants.

ERISA mandates standards of conduct, responsibility, and obligation for plan fiduciaries and provides appropriate remedies, sanctions, and access to the Federal courts when responsibilities have been breached.

To effectively communicate information, employers are required to maintain several documents including:

- [Plan Document](#)
- [Summary Plan Description \(SPD\)](#)
- [Summary of Material Modifications \(SMM\)](#)
- [Annual Report \(Form 5500 Series\)](#)
- [Summary Annual Report \(SAR\)](#)

There have been a number of amendments to ERISA, expanding the protections available to health benefit plan participants and beneficiaries. One important amendment, the Consolidated Omnibus Budget Reconciliation Act ([COBRA](#)), provides some workers and their families with the right to continue their health coverage for a limited time after certain events, such as the loss of a job. Another amendment to ERISA is the Health Insurance Portability and Accountability Act ([HIPAA](#)) which provides important new protections for working Americans and their families who have preexisting medical conditions or might otherwise suffer discrimination in health coverage based on factors that relate to

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an individual's health. Other important amendments include the Newborns' and Mothers' Health Protection Act, the Mental Health Parity Act, and the Women's Health and Cancer Rights Act.

What's new in this area?

In recent years states and cities have enacted their own versions of health care reform, such as the Massachusetts Health Care Reform Act, which mandates all residents to maintain health insurance and requires employers to meet a specified spending requirement for providing their employees group health care coverage. If the covered employer does not meet this state-mandated contribution requirement, they must instead pay a "fair share employer contribution" to the Commonwealth Care Trust Fund. The Massachusetts' Health Care Reform Act has been challenged in court under the presumption that it preempts federal ERISA.

A similar law in Maryland, which imposed a health insurance spending requirement on large employers, was struck down by a federal judge in 2006. The law had required employers with over 10,000 employees to spend a minimum of 8% of their payroll on health insurance benefits, or pay to the state the amount their spending fell short of that percentage. The federal ruling held that states cannot interfere in administering how employers provide benefits to their employees, and such interference was a violation of ERISA. This decision was upheld by the U.S. Court of Appeals for the Fourth Circuit in 2007. Comparatively, ERISA experts argue that the Massachusetts Health Care Reform Act differs in that it does not mandate employers to provide coverage; however it simply imposes a tax, which is one of the states' rights guaranteed under the U.S. Constitution.

Similarly, the Health Care Security Ordinance enacted in San Francisco requires employers to meet a specified spending requirement for providing employees health care coverage or make payments to the city. The Ninth Circuit held that this ordinance does not preempt ERISA because it applies to multiple types of employers. Furthermore, since the law applies to employers with and without ERISA plans, employers have an actual choice to either pay into county funds or offer health benefits, unlike the Maryland law.

As states continue to enact their own form of health care reform legislation, ERISA preemption comes into play as a potential barrier to the scope and type of reforms states can enact. The prevalent trend in ERISA litigation has been to preempt state legislation that conflicts with the administration of private employer sponsored health plans, making large-scale state health care reform a challenge. As the Federal government continues to work through the issue of nationwide health care reform, new legislation will likely be enacted on the state and local level. This may lead to health care reform laws at the state and city level being struck down as the Federal government overhauls ERISA legislation.

Informational link(s)

- [ERISA](#) (Department of Labor)
- [When Benefits are Subject to ERISA & What that Means](#) (Poyner Spruill LLP)
- [The Role of ERISA Preemption in Health Reform: Opportunities and Limits](#) (Georgetown University)
- [Legal Issues Relating to State Health Care Regulation: ERISA Preemption and Fair Share Laws](#) (Congressional Research Service)

This Fact Sheet is designed to provide a general overview of the benefit program, service, or regulatory act it describes. The information included in this document is not a substitute for legal or professional opinion relative to a plan sponsor's particular fact pattern. Your ArlenGroup consultant can answer more specific questions relative to its application for your organization. A menu of additional topics is available online at: www.arlengroup.com/facts.