ERISA

Implications for Universal Health Coverage in New Mexico

ERISA

Employee
Retirement
Income Security
Act

Institute of Public Law - June 2007

ERISA

ERISA preempts state laws that relate to private sector employee benefit plans.

ERISA

ERISA ‘s preemption provision is intentionally broad and is meant to:

- provide a uniform regulatory regime over employee benefit plans
- minimize state-by-state variation in requirements for employee benefit plans

ERISA: Relation to State Law

A state law *REFERS TO* a plan if:

– It acts immediately and exclusively upon a plan

OR

– The existence of a plan is essential to the law's operation.

ERISA: Relation to State Law

A state law relates to an employee benefit plan *IF*:

– It REFERS to a plan

OR

– It has a CONNECTION with a plan.

ERISA: Relation to State Law

A state law has a CONNECTION WITH a plan if it AFFECTS its:

- Benefits
- Structure
- Administration

ERISA: Relation to State Law

There are three ways a state law can affect the benefits, structure or administration of a plan:

ERISA: Relation to State Law

- by mandating coverage or specific benefits,
- by interfering with an employer's ability to administer multi-state or national employee benefit plans,

OR

- by creating irresistible incentives to modify an existing employee benefit plan.

ERISA: Relation to State Law

The proposed models do not mandate:

- employer-based coverage,
- specific benefits,

OR

- a minimum level of spending on employee health benefits.

ERISA: Relation to State Law

A state law will affect the benefits, structure, or administration of a plan if it interferes with an employer's ability to administer a multi-state or national employee benefit plan.

ERISA: Relation to State Law

- A state law will affect the benefits, structure, or administration of a plan if it creates irresistible incentives to modify an existing employee benefit plan.
- But, a state law will not be preempted if it creates *INDIRECT ECONOMIC INFLUENCES* on employer-based plans.

ERISA: Relation to State Law

A state law will not be preempted if:

- It creates an *INDIRECT ECONOMIC INFLUENCE*

OR

- It falls within an area of *TRADITIONAL STATE REGULATION* (such as taxation, health, welfare) *and* it was the clear and manifest intention of Congress to preempt such laws.

CHOOSING A MODEL

Evaluating risks and benefits