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BLOG

Supreme Court Limits Health Plan's Right to Recovery Under Subrogation Clause

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The Supreme Court recently held that ERISA health plans cannot recover amounts paid on behalf of an injured participant who later receives settlement proceeds from third parties if the participant has spent the proceeds on non-traceable items (for example, on services or consumable items).

As a cost containment measure, many employer and union health plans contain subrogation clauses that require a plan participant to reimburse the health plan for medical expenses if the participant recovers money from a third party for his or her injuries.

In *Montanile v. Board of Trustees of the National Elevator Industry Health Benefit Plan,* a health plan participant was seriously injured by a drunk driver, and the plan paid more than $120,000 for his medical expenses. The participant later sued the drunk driver and obtained a $500,000 settlement. Pursuant to the plan's subrogation clause, the plan administrator sought reimbursement of the medical expenses paid on behalf of the participant from the settlement. The participant refused to reimburse the plan and the plan brought an action under ERISA, which authorizes plan fiduciaries to file suit to obtain appropriate equitable relief to enforce the terms of the plan. The plan sought an equitable lien on the proceeds. However, the participant argued that no equitable lien was possible because he had already spent almost all of the settlement. As such, no identifiable funds existed against which to enforce the lien. The district court rejected this argument, and the Eleventh Circuit affirmed, holding that even if the participant had completely spent the settlement, the plan was entitled to reimbursement from the participant's general assets.

The Supreme Court rejected this approach and found that a plan fiduciary may not bring a suit under ERISA's equitable relief provisions to attach the participant's separate assets. The Supreme Court noted that a suit of this nature by the health plan would be for equitable relief only if it was against specifically identified funds that remain in the participant's possession or against traceable items that the participant purchased with the funds. Therefore, once the settlement funds are spent on non-traceable items, the plan cannot attach the participant's general assets.

As a result of this ruling, plan fiduciaries will need to act quickly to enforce subrogation provisions before all settlement proceeds are expended by a plan participant.

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