

Executive Summary

ERISA at 50: ERISA and Health Benefits

To mark the 50th anniversary of the enactment of the *Employee Retirement Income Security Act of 1974* (ERISA), the American Academy of Actuaries Health Practice Council examines the law's application to health benefits in *ERISA at 50: ERISA and Health Benefits*.

What is ERISA?

The *Employee Retirement Income Security Act of 1974* (ERISA)¹ was enacted to protect the interests of employer-sponsored retirement and health benefit plan participants and beneficiaries. Under the law, employers and certain employee organizations must abide by nationally uniform rules regarding reporting, participation, funding, and fiduciary responsibilities. Subsequent amendments have been added to improve health coverage portability, patient privacy, and coverage comprehensiveness. Most notably, ERISA preempts self-funded employer-sponsored health plans from state insurance laws.

What health plans are subject to ERISA?

ERISA applies to most private fully insured and self-funded health plans, but not to those maintained by government entities and churches. Only self-funded health plans are preempted from state laws.

What are ERISA's positive effects?

ERISA facilitates health coverage among large multi-state employers by establishing federal standards for employer benefit programs and preempting a patchwork of inconsistent state laws and regulations for self-funded plans. The law simplifies administration and communication of benefits to employees, helping group health plan sponsors provide and administer benefits uniformly to employees located across the country. ERISA also provides self-funded employers with broad flexibility to tailor benefit offerings to the unique needs of their plan participants.

¹ *Employee Retirement Income Security Act of 1974* [P.L. 93-406, as amended through P.L. 117-328, enacted December 29, 2022], 29 U.S.C. §1001 *et seq.*

What are ERISA's challenges?

The enactment of ERISA, along with the array of subsequent legislation and regulatory activity, has created significant complexity and challenges for employer health and welfare plans, including differing rules related to nondiscrimination; inconsistent rules related to wellness programs and annual disclosure; complex plan asset rules; negative impact of state pre-emption on the small group market; limits on data availability; and gaps in regulatory oversight.

Moving forward, policymakers and regulators may wish to consider addressing these challenges.

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