



Pappas v. Asbel, 768 A.2d 1089 (Pa. S. Ct. 2001)

Topics Covered: ERISA Preemption, Managed Care Tort Liability

Outcome: Very Favorable

Issue

The issue in this case was whether the Employee Retirement Income Security Act (ERISA) preempted a state law under which a managed care organization was liable to its insured for negligent denial of medically necessary care.

AMA Interest

The AMA believes that managed care organizations should be held liable for the injuries they cause patients on account of improper denials of medically necessary care.

Case Summary

Basile Pappas was insured by U.S. Healthcare. He sought treatment at Haverford Community Hospital for an epidural abscess. Despite the treating physician's recommendation that he be transferred to a university hospital, U.S. Healthcare refused to pay for the transfer. As a result, he was not transferred, and he suffered permanent spinal damage.

Basile and his wife, Theodora Pappas, filed a medical malpractice action against David Asbel, D.O. and Haverford Community Hospital. The defendants, in turn, sued U.S. Healthcare, alleging that U.S. Healthcare bore sole responsibility for Basile's injury under Pennsylvania law. U.S. Healthcare moved to dismiss the complaint filed by Asbel and Haverford, claiming that the action "related to" a health benefits plan governed by and was therefore preempted by ERISA.

The Pennsylvania Supreme Court ruled that ERISA did not preempt the claim against U.S. Healthcare. Congress did not intend to preempt state laws that govern the provision of safe medical care, the court held. The United States Supreme Court reversed and then remanded the case to the Pennsylvania Supreme Court for further consideration.

On remand, the Pennsylvania Supreme Court confirmed its earlier decision.

Litigation Center Involvement

The Litigation Center and the Pennsylvania Medical Society filed *amicus* briefs to the Pennsylvania Supreme Court in the original appeal and upon remand from the U.S. Supreme

Court. Their briefs argued that ERISA should not preempt claims derived from substandard care.