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E. ERISA subrogation and reimbursement provisions are ambiguous if they fail to clearly establish a right to priority over a partial recovery from a third party. If the right of priority is ambiguous, and not clear, it cannot overcome the made-whole default rule. *Hiney Printing Co. v. Brantner*, 243 F.3d 956 (6 th Cir. 2002).

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## **ERISA Subrogation and Reimbursement: A Step-by-Step ...**

Employee has health insurance through her employer, which is governed by ERISA. The health insurance policy contains a “subrogation” provision granting the insurer the right to be reimbursed for all medical bills in the

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event that employee receives a personal injury recovery from a third party. Employee suffers a personal injury.

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The Case That Affects ERISA-Based Subrogation Rights (Liens) Throughout the past couple of months, the Supreme Court of the United States heard and decided a case dealing with an ERISA-based subrogation rights or ERISA-based health plan's ability to receive reimbursement rights from third-party settlements.

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## **The Case That Affects ERISA-Based Subrogation Rights ...**

Unlike most areas of insurance litigation/subrogation, health insurance subrogation requires the subrogation professional to be familiar not only with applicable state law and the many vagaries and nuances of health

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insurance subrogation within each state, but also the treatment of health insurance subrogation through ERISA, as applied by Federal District Courts, Federal Appellate Courts, and the United States Supreme Court.

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ERISA preemption means that almost all employee benefit plans that provide such benefits as health insurance, life insurance, or disability insurance are preempted by federal ERISA law; however, plans sponsored by governmental employers and churches are not usually preempted by ERISA. ERISA § 4 (a), 29 U.S.C. § 1003 (a)

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provides that ERISA

## **ERISA Health Care Subrogation, Reimbursement, and ...**

Preemption is the key to why ERISA subrogation is different and more powerful than ordinary insurance subrogation, and much more effective. The benefit of preemption, is that it

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“trumps” state law and ensures state doctrines do not apply to reduce or eliminate an ERISA plan’s interest.

## **Subrogating Fully-Insured ERISA and Non-ERISA Employee ...**

On January 20, 2016, the United States Supreme Court issued a significant decision that makes it more difficult for

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employee benefit plans governed by the Employee Retirement Income Security Act of 1974 (ERISA) to obtain reimbursements of payments made to plan participants who have subsequently received third-party settlements.

## **U.S. Supreme Court Decision Limits ERISA Plans ...**



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ERISA is the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq. which governs most employee health plans. Many ERISA plans rely on preemption principles to assert that they are under no obligation to reduce their lien claims, and purport that they are entitled to their entire reimbursement claim regardless of the

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## **Tips for Negotiating ERISA Liens in Personal Injury Cases ...**

This right of reimbursement or right to subrogation means that your ERISA-based health insurance provider is entitled to be paid directly from your North Carolina personal injury

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settlement or judgment for those related medical expenses.

## **ERISA Liens - Wallace Pierce Law**

If the plan is insured (an insurance company is paying the health care expense payments with its money), then Federal law does not preempt state law on the question of ERISA subrogation. In

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some states, the distinction between Federal law and state law on the regulation of insurance and thus subrogation is nothing more than a distinction without a difference.

## **Tips For Handling ERISA Liens In Personal Injury Cases**

Erisa stands for Employee Retirement

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Income Security Act. That law sets forth a number of rules as to employer/employee-related compensation. The right of subrogation exists as to those health benefit plans established or maintained by an employer or employee organization. The plan must be fully or partially funded by the employer.

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## **Erisa Subrogation in Personal Injury | Erisa Subrogation**

ERISA and Health Insurance Subrogation in All 50 States is the most complete and thorough treatise covering the complex subject of ERISA and health insurance subrogation ever published. Health insurance subrogation requires its

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practitioners to be familiar with applicable state law, with the nuances of health insurance subrogation in each state, but also with the treatment of health insurance subrogation through ERISA, as applied by the Federal District Courts, Federal Appellate Courts, and ...

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and reimbursement claim, contact our top-rated ERISA attorney today for a consultation. Call 617-357-9700 or fill out our online How Can We Help form. Learn everything you need to know with this helpful Subrogation and Reimbursement Claim fact sheet.

### **Reimbursement Claim | Subrogation**

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**Claim | Boston ERISA ...**

Health insurance subrogation requires its practitioners to be familiar with applicable state law, with the nuances of health insurance subrogation in each state, but also with the treatment of health insurance subrogation through ERISA, as applied by the Federal District Courts, Federal Appellate Courts, and

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the U.S. Supreme Court.

**ERISA and Health Insurance  
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However, in *FMC Corp. v. Holliday*, the U.S. Supreme Court did reach the ERISA issue, finding that state law cannot prevent a self-funded ERISA health insurance plan from seeking subrogation

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from an insured's tort recovery for benefits it provided on behalf of the insured.

## **ERISA Health Insurance & Coordinated No-Fault Benefits**

At the time ERISA was enacted by Congress, however, subrogation for health insurers was uniformly prohibited

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in the United States. Such claims were deemed unlawful in all jurisdictions. The first reported judicial decision involving an effort of a health insurer to seek subrogation on a personal injury claim is the 1982 decision in Frost v.

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