



Pegram v. Herdrich, 530 U.S. 211 (2000)

Topics Covered: ERISA Preemption, Managed Care Tort Liability

Outcome: Very Favorable

Issue

The issue in this case was whether mixed treatment and eligibility decisions by HMO physician-employees are “fiduciary” decisions under the federal Employee Retirement Income Security Act (ERISA).

AMA Interest

The AMA believes that physicians should not be deemed ERISA fiduciaries simply by rendering clinical care to ERISA plan participants.

Case Summary

Patient Cynthia Herdrich sued Lori Pegram, a physician-owner of Carle Clinic and Carle (an HMO) for malpractice and fraud in an Illinois court, based on Dr. Pegram’s having determined that Herdrich, who had an inflamed mass in her abdomen, would have to wait eight days for an ultrasound at a Carle-staffed facility more than fifty miles away, instead of being treated more promptly at a local hospital. Before the eight days elapsed, Herdrich’s appendix ruptured, causing peritonitis.

Pegram and Carle removed the case from state to federal court, claiming that ERISA preempted the fraud counts. Herdrich amended her complaint to allege that the provision of medical services at Carle, which rewarded physician owners for limiting medical care, entailed an inherent or anticipatory breach of an ERISA fiduciary duty, since the physicians were in effect incentivized to make medical decisions in their own interest, rather than in the exclusive interest of their patients.

The trial court dismissed the ERISA count, based on a determination that Pegram’s decision had not been made as an ERISA fiduciary. (A jury awarded Herdrich \$35,000 on her original malpractice claims, however.) Herdrich appealed the dismissal of the ERISA claim to the Seventh Circuit Court of Appeals, which reversed, holding that Herdrich had adequately stated a claim in that incentives to physicians can rise to the level of a breach of fiduciary duty.

Pegram and Carle appealed to the United States Supreme Court, which reversed the Seventh Circuit. The Supreme Court held that mixed treatment and eligibility decisions by HMO physicians are not fiduciary decisions under ERISA, and therefore Herdrich had not stated an ERISA claim.

Litigation Center Involvement

The Litigation Center filed an amicus brief arguing that physicians should not be deemed ERISA fiduciaries.