In *Coventry Health Care of Missouri v. Nevils* the State and Local Legal Center (SLLC) asked the Supreme Court in its *amicus brief* to rule that *Chevron* deference does not apply when an agency is construing the scope of a statute's preemption provision, absent Congress's assent. The Court didn’t rule on (or even discuss) this issue in its brief, unanimous opinion.

The Court held that the Federal Employees Health Benefits Act (FEHBA) preemption clause overrides state laws prohibiting subrogation and reimbursement and that the preemption clause is consistent with the Supremacy Clause.

FEHBA allows the federal government to contract with private insurance carriers for federal employees' health insurance. FEHBA preempts state law related to the “nature, provision, and extent of coverage of benefits.” The Missouri Supreme Court ruled that FEHBA’s preemption clause does not clearly preempt Missouri reimbursement and subrogation laws that prohibit insurance companies from collecting monetary settlements from federal employees who sue those who have injured them. In response, the agency that administers FEHBA promulgated a rule saying FEHBA’s preemption clause preempts state reimbursement and subrogation laws. The Missouri Supreme Court, refusing to apply *Chevron* deference to the agency’s rule interpreting FEHBA’s preemption clause, again ruled that FEHBA doesn’t preempt Missouri law.

The Court, in an opinion written by Justice Ginsburg, focused on the plain language of FEHBA to conclude it preempts state reimbursement and subrogation laws. “Contractual provisions for subrogation and reimbursement ‘relate to . . . payments with respect to benefits’ because subrogation and reimbursement rights yield just such payments. When a carrier exercises its right to either reimbursement or subrogation, it receives from either the beneficiary or a third party ‘payment’ respecting the benefits the carrier had previously paid. The carrier’s very provision of benefits triggers the right to payment.”

The Court also rejected the argument that FEHBA violates the Supremacy Clause, which states that federal laws are the supreme law of the land, “by assigning preemptive effect to the terms of a contract, not to the laws of the United States.” According to the Court it is the statute and not a contract that “strips state law of its force.”

In *Chevron v. NRDC* (1983) the Supreme Court held that courts should defer to reasonable agency interpretations of ambiguous statutes. States and local governments generally prefer that courts not defer to federal agency regulations because this deference gives federal agencies a lot of power.

The SLLC *amicus* brief agreed with the Missouri Supreme Court that regulations interpreting preemption clauses should not receive *Chevron* deference unless Congress has “directly and unequivocally” authorized the agency to determine the scope of a preemption clause. The Court did not reach the question of whether it should defer to the agency’s interpretation of FEHBA’s preemption clause because it completely ignored the agency’s interpretation instead deciding the meaning of the statute looking only at its “text, context, and purpose.”
Legislatures [6], the Council of State Governments [7], the National Association of Counties [8], the National League of Cities [9], the United States Conference of Mayors [10], and the International City/County Management Association [11]) joined the brief which was written by William Stein [12], Scott Christensen [13], Sam Cowin [14], Eleanor Erney [15], and Stephen Halpin [16] of Hughes Hubbard & Reed [17].

By:
Tuesday, April 18, 2017 at 02:48 PM
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