OFFICE OF HEALTH ANALYTICS
All Payer All Claims Data Reporting Program
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Impact of *Gobeille v. Liberty Mutual* Decision

On March 1, 2016, the U.S. Supreme Court issued its decision in *Gobeille v. Liberty Mutual Insurance Company*, regarding whether states can require certain types of health plans to submit data to all-payer claims databases. In *Gobeille*, the Supreme Court held that the federal Employment Retirement Income Security Act of 1974 (ERISA), preempts sections of a Vermont statute that required health plans regulated by ERISA, including self-insured plans, to report health care claims to Vermont's All Payer Claims Database. The *Gobeille* decision does not affect the remaining portions of Vermont's law requiring non-ERISA health insurers, health care providers, health care facilities, and governmental agencies to report information relating to health care costs, prices, quality, and utilization. As a result of the decision, the Oregon Health Authority (OHA) may no longer require self-insured ERISA-covered health plans with covered lives in Oregon to submit claims data to the All Payer All Claims database (APAC). *Gobeille* does not prevent OHA from requiring that fully-insured ERISA-covered plans, which are not subject to ERISA preemption, and public health plans which are not covered by ERISA, continue to submit claims data to APAC.

APAC was established to measure and provide information about the quality, quantity, and value of health care in Oregon in order to further health system transformation, and advance the Triple Aim goals of better health, better care, and lower costs. APAC has received data from self-insured health plans since its inception, and the continued inclusion of data from ERISA plans will help provide a comprehensive view of cost, quality, and utilization in Oregon's health care system. Claims data submitted by ERISA plans prior to the Supreme Court's decision in *Gobeille* will remain a valuable part of APAC, and OHA will continue to accept voluntary data submissions from ERISA plans going forward.

The Supreme Court's decision does not affect the obligation under Oregon law for non-ERISA self-insured health plans to submit claims data to APAC. It also does not prevent OHA from accepting claims data voluntarily submitted by or on behalf of ERISA plans. OHA is working on minor revisions to the APAC administrative rules (OAR 409-025-0100 to 409-025-0170) to align the rules with the U.S. Supreme Court's decision in *Gobeille*.

APAC and *Gobeille v. Liberty Mutual*: FAQs

What does this decision mean for APAC?
On March 1, 2016, the U.S. Supreme Court ruled that states may no longer require ERISA self-insured plans to report claims to all-payer claims databases. As such, OHA will no longer require mandatory reporters to submit data for ERISA self-insured plans. APAC will continue to require submissions for the following lines of business: Medicare Parts C and D; Medicaid; individual, small group, and large group insured plans; associations and trusts; PEBB plans, OEBB plans, and non-ERISA self-insured plans. This decision will not impact the data elements layout or submission schedule by which mandatory reporters are required to submit to APAC. Instructions about submissions are posted to the APAC website: http://www.oregon.gov/oha/OHPR/RSCH/pages/apac.aspx.

What does this mean for mandatory reporters that administer ERISA self-insured health plans?
Although OHA may no longer require mandatory reporters to submit data for ERISA self-insured plans to APAC, OHA will continue to accept data submitted voluntarily by or on behalf of these plans. The Supreme Court decision does not affect OHA's authority to request or collect data for non-ERISA self-insured plans or fully-insured ERISA-covered plans. Those entities that administer both ERISA and non-ERISA self-insured plans must continue to submit data for required lines of business.

My organization only has ERISA self-insured covered lives in Oregon, but I have previously received a letter from OHA notifying me of mandatory reporter status. How should I proceed?
Please contact OHA at APAC.Admin@dhsoha.state.or.us. OHA will send you a form in which you may testify that your organization has **zero** covered lives in Oregon that fall into the lines of business that are required to report to APAC. As stated above, required lines of business include Medicare Parts C and D; Medicaid; individual, small group, and large group insured plans; associations and trusts; PEBB plans, OEBB plans, and non-ERISA self-insured plans. The organization will then be exempted from reporting to APAC.

What happens to data that was submitted for ERISA self-insured plans prior to the Supreme Court's March 1, 2016 decision?
Claims data submitted by or on behalf of ERISA self-insured plans prior to the Supreme Court's decision will remain a valuable part of APAC and will be treated the same as data submitted from any other category of payer. Data from APAC provides transparent health care information and is used by OHA and released to other data users in accordance with state and federal laws. Data submitted prior to the Supreme Court decision may be included in public and non-public data releases.

What does this decision mean for mandatory reporters that administer non-ERISA self-insured health plans?
The Supreme Court's decision only applies to a narrow subsection of health plans–specifically, to ERISA self-insured health plans. Mandatory reporters that administer non-ERISA self-insured health plans are still legally obligated to submit data to APAC in accordance with ORS 442.464, 442.466, and 442.993 as well as OAR 409-025-0110 to 409-025-0170.

Is OHA going to modify the existing APAC rule based on the Supreme Court decision?
Yes. OHA is working on a revision to OAR 409-025-0110 that will bring the rules into compliance with the Supreme Court's decision. This revision will update the required lines of business that must be included in future APAC submissions and outline the voluntary lines of business that may be included in future submissions.