

# When ERISA, state law differ, disability insurance decisions can get a second look

A federal court in Texas has concluded that the federal ERISA doesn't necessarily preempt state insurance laws that limit certain provisions in insurance plans. As a result, a former Texas employee who applied for disability benefits got a second chance to have his denial reviewed.

**Recent case:** Wilfred, a Texas computer engineer, applied for long-term disability benefits after he left his job. His former employer's disability plan originated in Illinois, which has a law that prohibits insurance policies from having a so-called discretionary standard that would otherwise allow a carrier to use its discretion in denying claims.

Under ERISA, an administrator's discretionary decision can only be reviewed for abuse of that discretion. Wilfred's claim was denied and he sued, requesting a fresh review (*de novo*, in legal parlance) of his disability status.

The administrators argued that ERISA rules applied because they preempted state laws.

But the court disagreed. It said nothing in ERISA prohibits a state from regulating insurance contract rules. Wilfred will get a second chance to show he is disabled and entitled to the benefits. (*Brasseur v. Life Insurance Company of North America*, No. 4:15-CV-03570, SD TX, 2016)

**Final note:** Have your attorney check to see if any insurance benefits you provide originate in another state with special insurance contract provisions that might bog you down in protracted litigation. This is especially important if your organization acts as the administrator.