

16-149 COVENTRY HEALTH CARE OF MISSOURI, INC. V. NEVILS

DECISION BELOW: 492 S.W.3d 918

LOWER COURT CASE NUMBER: SC93134

QUESTION PRESENTED:

The Federal Employees Health Benefits Act ("FEHBA"), 5 U.S.C. § 8901 *et seq.*, governs the health benefits of millions of federal workers and dependents, and authorizes the Office of Personnel Management ("OPM'") to enter into contracts with private insurance carriers to administer benefit plans. FEHBA expressly "preempt[s] any State or local law" that would prevent enforcement of "the terms of any contract" between OPM and a carrier which "relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits)." *Id.* § 8902(m)(l). In a 2015 regulation, OPM codified its longstanding position that FEHBA-contract provisions requiring carriers to seek subrogation or reimbursement "relate to ... benefits" and "payments with respect to benefits," and therefore FEHBA preempts state laws that purport to prevent FEHBA insurance carriers from pursuing subrogation and reimbursement recoveries. 5 C.F.R. § 890.106(h). Expressly disagreeing with multiple federal circuits and state appellate courts, the Missouri Supreme Court nevertheless construed FEHBA not to preempt such state laws—explicitly refusing to accord any deference to OPM's regulation. A majority of the court further concluded that Section 8902(m)(l) violates the Supremacy Clause of the U.S. Constitution. The questions presented are:

1. Whether FEHBA preempts state laws that prevent carriers from seeking subrogation or reimbursement pursuant to their FEHBA contracts.
2. Whether FEHBA's express-preemption provision, 5 U.S.C. § 8902(m)(l), violates the Supremacy Clause.

CERT. GRANTED 11/4/2016