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Claims Procedure: Plans Providing Disability Benefits

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General Comment

Dear Mr. Hauser:

I am writing to request that the Secretary of Labor refrain from delaying the effective date of the Final ERISA claims regulations adopted on December 19, 2016. The late objectors, who consist primarily of ERISA plans, insurance companies and their advocates, are seeking to bypass the rule making process in which they had they had the opportunity to participate, and, in fact, did participate. The rule-making process was extensive, and provided considerable time for the parties to voice their concerns and to provide supporting information regarding the cost of the regulations and/or any other concerns the objectors are once again attempting to raise. There has been no claim by the late objectors that their ability to comment on the impact of the regulations was compromised. Indeed, the Secretary of Labor's notice and comment period resulted in innumerable comments from these individuals, among others,

including plan participants, whose rights are directly impacted by the new regulations. Comments included the financial cost of the new regulations on plans, an issue which was vetted by the Secretary.

Regardless, these entities are now seeking to undo the regulations without following the Administrative Procedure Act (APA) of 1946, 5 U.S.C. 551 et seq., as well as other statutes and court decisions which together guide regulation making and undoing. The new regulations are well-reasoned. While the objectors may not agree with each new regulation, it is unfair to ask plan participants and beneficiaries to continue to wait for the implementation of these regulations in order to provide the objectors yet another opportunity to argue points already submitted and considered by the Secretary. Plan participants and beneficiaries participated in the process in good faith. They deserve to realize the impact of these regulations without further delay.

Thank you for your consideration,

Mala M. Rafik
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