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To: EBSA, E-ORI - EBSA
Subject: RIN 1210-AB39

RIN No. 1210-AB39

Regulation: 29 C.F.R. §2560.503-1

Dear Deputy Assistant Secretary Hauser:

I work extensively in the field of ERISA disability and medical claims, representing claimants who typically are in great need of the assistance provided by the DOL's regulations.

From my perspective, the DOL's proposed delay of the final regulations raises very serious issues. The DOL finalized the rules after an extensive notice and comment period that produced numerous comments from various interested parties. Predictably, insurers and benefit plans, as well as the organizations that represent them, were quite vocal. Numerous industry comments suggested that there were cost issues associated with implementing the rules. Those comments, however, were highly speculative and rarely were supported by any relevant data. Moreover, many of the industry comments requested more time to adapt to the new rules, and the DOL seems to have accommodated such requests by significantly delaying the effective date of the new rules.

My current understanding is that yet *additional* input is now being relied upon. Plainly, however, this is information that could have been, but wasn't, contributed during the proper notice and comment period. *Critically, ERISA plan participants and their representatives have no way to respond to this input, since it is not being made available.* The public is not being told why this post-notice and comment information is apparently being deemed more valuable than what was collected during the notice and comment period itself. It is evident that there were meetings with industry representatives and that the industry and certain members of Congress submitted letters, but the content of these meetings and letters have not been fully disclosed.

The industry apparently has referenced a "confidential" study that predicts an increase in premiums in the wake of the new rules. It is completely acceptable that the very short 15-day notice and comment period does not even provide time for a concerned party to make a FOIA request to uncover what is influencing this process. This is the antithesis of a transparent process.

To make matters worse, the industry study that the DOL is now proposing plainly allows the process to become even *less* transparent. The industry will collect data in a way that will be hidden from the public; based on this, the DOL proposes to make a new decision on how to protect participants' rights with reasonable procedures in the determination of disability claims. How this process can be remotely considered "fair" defies understanding. To the contrary, it obviously is designed to permit an unscientific analysis to favor one set of interests over another. ERISA participants are unable to effectively comment because they are not in possession of the pertinent data!

It is both unreasonable and naïve to simply assume that the industry is correct in estimating that premiums for group disability benefits would increase by five to eight percent as a result of the new rules. To the extent the DOL actually believes a delay is needed to prevent such an increase, this needs to be carefully reconsidered. My view is that the effective date of the regulations should *not* be delayed. Simply put, the ostensible reason for doing so lacks the necessary transparency. It also erodes any semblance of trust and fairness, which are qualities that should be present throughout any such deliberative process.

Thank you considering my comments,

Sincerely,

Bob Keehn

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