

# PUBLIC SUBMISSION

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**Docket:** EBSA-2015-0017

Claims Procedure for Plans Providing Disability Benefits; Extension of Applicability Date

**Comment On:** EBSA-2015-0017-0291

Claims Procedure: Plans Providing Disability Benefits

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## General Comment

I have reviewed the proposal that the Department of Labor delay for ninety days the applicability of the Final Rule amending the claims procedure requirements applicable to ERISA-covered employee benefit plans that provide disability benefits. My firm represents hundreds of disabled employees who have had their disability benefits denied under ERISA plans. We have expertise handling ERISA appeals. I commented on the proposed rules during the extensive notice and comment period in 2016. My comments along with those expressed by the industry representatives and counsel, were, no doubt considered by the DOL when enacting the Final Rule. The strict adherence to the deadlines for comment in 2016 mandated that all who wished to be heard, submit their opinions along with any supportive evidence. Just as ERISA imposes strict deadlines on my clients to submit evidence to support their claim, all interested parties to this Rule had their opportunity to submit evidence. That time has now passed.

Now, after the fact, the insurance companies and plan advocates seek to reopen the review and submit evidence that has thus far not been made available to the public. Their statistical analysis most certainly will weigh in favor of continuing to deprive disabled people of a fair and full review of claims contrary to 29 C.F.R. 2560.503-1(h)(2)(iv).

To allege that enactment of the New Rule will drive up premiums sounds like the mantra always asserted by insurers to justify their actions. How can it be more costly to provide full and fair review of claims? It is their inaction, their failure to fairly adjudicate claims that lies at the heart of this New Rule to protect participants' rights. To open the Rule to further comment is to kick the can down the road once again, and deprive claimants. These individuals struggle every day with their disability and its impact on them financially. Insurers happily accepted premium dollars from healthy plan participants, but have turned into financially motivated claims management centers who must be subject to more control, which the Rule provides. The fact is, the Final Rule evenhandedly provided the disabled more open access to information generated by the plans and insurance companies, yet declined to enact some of the protections sought by plan participants. The Rule should go into effect and apply to all claims as of January 1, 2018.