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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

It has come to my attention that there is discussion about delaying the effective date of the DOL's ERISA administrative claim regulation. As a lawyer working in the ERISA disability field, I am very much opposed to any action that would delay the January 1, 2018 effective date.

It is my understanding that the DOL already assessed and took into consideration the potential increase in cost of the regulations - so I do not view this as a legitimate basis for any further delay. I have litigated over 100 ERISA disability cases over the past 15 years, I can attest that the new regulation will reduce litigation and the cost of claims that do end up being litigated. This is because the regulations put in place common-sense rules that facilitate a productive, full, and fair "administrative" process during the claim review and appeal period. As it currently stands, many ERISA claims administrators shirk their fiduciary responsibilities (perhaps motivated by the financial

conflict of interest all too common for claims administrators who are usually for-profit insurance companies obligated to make a profit for their shareholders).

Considering "ERISA imposes higher-than-marketplace quality standards" on claims administrators, the regulations set to go into effect January 1, 2018 simply bring more clarity to the standards that need to be met to fulfill an already existing responsibility. See *Metropolitan Life Ins. Co. v. Glenn*, 554 U.S. 105, 115 (2008). If this leads to increased costs or litigation (which it should not), it is simply evidence that, prior to the new regulations, claims administrators were not abiding by the law already in place.