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Via Email e-ORI@dol.gov  
Office of Regulations and Interpretations,  
Employee Benefits Security Administration  
Room M-5655  
U.S. Dept. of Labor  
200 Constitution Avenue NW  
Washington D.C. 20210

Re: Claims Procedure Regulations for Plans Providing  
Disability Benefits Examination  
RIN No.: 1210-AB39  
Regulation: 29 C.F.R. §2560.503-1

Dear Deputy Assistant Secretary Hauser,

This letter is regarding the Department's proposed delay of the final regulations. The proposed delay is of serious concern as it raises issues about the transparency in the rule-making process.

As I am sure you are aware, the Department finalized rules after an extensive notice and comment period that provided 60 days and yielded numerous comments from those concerned. Given I have practiced ERISA law for over 25 years, I submitted comments during the comment period as did many of my colleagues who practice ERISA law and represent insureds too often adversely impacted by it. Insurers and plans also commented, suggesting there were cost issues associated with implementing the rules. Those comments were merely speculative and rarely supported. Given many industry comments asked for more time to adjust to the new rules, the Department honored that request by significantly delaying the effective date.

Now, we are told that other input is being relied upon - information that could have been contributed during the proper notice and comment period but was not. The ERISA participants and their representatives have no way to respond to this input, since it is not being made fully available. Further, the very short 15-day notice and comment period does not provide time to make a FOIA request to reveal what is influencing this process.

The industry study that the Department is now proposing further diminishes the fairness of the process. The industry will collect data in a way that will be hidden from the public, and based on this, the Department proposes to make a new decision on how to protect participants' rights via reasonable procedures in the adjudication of the disability benefits. This seems designed to permit the twisting of facts to favor one set of interests

over another. Plan participants cannot effectively comment or even provide their own “study,” since they are not in possession of the data and, likely, do not have the resources to process it.

I ask that the effective date of the regulations not be delayed because the reason for doing so lacks transparency and thereby undermines the fundamental sense of trust and fairness that should be inherent in this rule-making process.

Thank you,

*Rhonda Harris Buckner*

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