



BY EMAIL TO: e-ORI@dol.gov

October 25, 2017

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW.
Washington, DC 20210

Regarding: Claims Procedure for Plans Providing Disability Benefits Examination
RIN: 1210-AB39

We are attorneys who represent claimants and their beneficiaries in employee welfare benefit matters. We have evaluated, litigated, and resolved many thousands of ERISA disability insurance cases over the past 25 years. Our practice includes all states of ERISA claims issues: at the claim level, appeals of adverse claim decisions, litigation in the district court, and at the court of appeals.

We respectfully request that the Secretary of Labor not delay the effective date of the Final ERISA claims regulations adopted on December 19, 2016. The Department finalized these rules after an extensive notice and comment period that yielded numerous comments from attorneys on both sides of these issues, insurers and plans, claimants, beneficiaries, and the organizations that represent them. Many of insurance industry comments at that time suggested that there were cost issues associated with implementing the new rules. The Department carefully considered these concerns in light of the evidence presented during the comment period. Indeed, some of the new rules proposed by claimants and the organizations that represent them were not adopted. The insurance industry also asked for more time to adjust to the new rules, a request that the Department honored by delaying the effective date. No one was 100% happy with all of the new regulations, but such is the nature of a fair and even-handed rule-making process.

Now, late objectors are seeking to undo the regulations after the fact, in a manner that lacks transparency and undermines the sense of trust and fairness that should be inherent in the rule-making process. These parties had ample opportunity to voice their concerns and to provide data supporting their allegations prior to the adoption of the new rules – which they did. To grant them another bite at the apple now raises questions of bias and impropriety. Further, it is likely to require the Departments of Labor and Justice to expend substantial resources defending the litigation that is sure to be filed to contest the violations of the rulemaking process under the Administrative Procedure Act (APA) of 1946 (5 U.S.C. §551 et seq.).

Thank you considering our comments.

Sincerely,




FRANK N. DARRAS, Attorney


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