

PUBLIC SUBMISSION

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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

See attached file(s)

Attachments

RIN 1210-AB39

November 6, 2017

Regarding proposed claims procedure by the Employee Benefits Security Administration on 10/12/2017 RIN 1210-AB39

The perspective that I present is that of a spouse of a claimant who has had multiple claim reviews denials, reinstatement and twice litigation to insure her benefits. I have spent many hours working to insure she receives a full and fair review and have a meaningful dialogue with the Plan Administrator (The Hartford Life & Accident). However, I failed to achieve both.

I feel the new Claims Procedure for Plans providing disability benefits would achieve both goals stated above. First off under Disclosure Requirements in our situation we have been given the standard response that "We recognize you are awarded Social Security Disability (SSDI) benefits. It is possible to qualify for SSDI, but no longer continue to qualify for private long-term disability (LTd) benefits from the Hartford". This has been their standard acknowledgment that she receives SSDI. They give no other explanation why it would be different. I feel this statement is just to justify that they acknowledge her receiving SSDI. I feel a meaningful dialogue should be established to explain why it is different.

The very most important part of the proposed claim procedure is Review and Respond to New Information. In her situation she was given an independent medical exam and a peer to peer review to determine that she did not qualify for benefits under the 1st denial. The peer to peer review Doctor contacted her treating physician and mischaracterized the conversation to support that she was not disabled under the definition of the plan. The Hartford sent a fax to Dr. Zachary Stowe and gave him 5 days to answer if he disagreed with the report. Dr. Stowe is one of the top 100 physicians in his field and is employed by a major university in research and teaching. It would be impossible to respond in such a short time as he lectures all over the US.

The Hartford send Dr. Stowe this letter but failed to inform us that they contacted him or made us aware they needed a response from him. This resulted in us not having the ability to respond to the letter or new information that Hartford had received. Many courts view this tactic as a failure to have a meaningful dialogue and it appears to be a common practice. Dr. Stowe sent a letter explaining that the peer doctor has misconstrued what he said. But this was only after Hartford made a denial of benefits. With a meaningful dialogue of a simple phone call or letter to the claimant this would have been resolved prior to denial of benefits.

Upon appeal of the denial of benefits Hartford again had their peer to peer review doctor contact Dr. Stowe. Again, whether intentional or from carelessness the peer doctor notated her the last time she had symptoms where the exact day but put down the wrong year. He reported Dr. Stowe said her last symptom was January 2015, April 2015 and 7/25/2015 when the actual dates were January, April, July 25, 2016. The Hartford even had records showing January 2016 and April 2016 but failed to notice the discrepancy. If we would have been informed of this new evidence, we could have easily corrected Hartford's mistake and received a fair review.

This was the determining factor that denied the continuation of her benefits. If the Hartford would have just informed us of the new evidence or rationale and had a meaningful dialogue I feel we would not have been denied benefits. Because of the denial we were forced to file suit *Miller v. Hartford Life & Accident Insurance Company* 4:17-cv-00108 .

In conclusion I feel that *Review and Respond to New Information* is vital to ensure that the Plan Administration has a meaningful dialogue with the claimant. It is been notated that the proposed

plan would increase costs to insure. I strongly disagree and feel that having an open dialogue would actually reduce costs especially due to not having to file litigation with our case if we would have had the opportunity to respond to erroneous information and have open dialogue with Hartford we would not have been forced to file suit. Review and Respond to New Information only insures the Plan Administrator will have a meaningful dialogue with the claimant.