

**From:** Michael Quirk  
**Sent:** Monday, December 11, 2017 8:10 PM  
**To:** EBSA, E-ORI - EBSA  
**Subject:** RIN: 1210-AB39

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

Dear Deputy Assistant Secretary Hauser:

My name is Michael Quirk and I am an attorney at Pillsbury & Coleman, LLP, an insurance policyholder law firm. Over the past two decades, our firm has represented thousands of policyholders in insurance benefit litigation. A large number of those cases involve disability benefit claims under ERISA-governed disability plans.

The Department of Labor (“DOL”) should not modify or delay the final ERISA disability claim regulations scheduled to go into effect on April 1, 2018. The industry has alleged the regulations will result in increased premiums, yet there is no reliable evidence to show an increase in industry costs that would require a corresponding rise in insurance premiums.

The industry already made this cost argument during the administrative process before final adoption. And the DOL already concluded that costs would not outweigh the benefits associated with the new claims regulations. The DOL does not need to allow the industry to re-submit data regarding the cost argument, or “conduct a formal cost-benefit analysis in which each advantage and disadvantage is assigned a monetary value.” *Michigan v. Environmental Protection Agency*, 135 S. Ct. 1699, 2711 (2015).

Nonetheless, the DOL already has the evidence it seeks. Bureau of Labor statistics available at <https://www.bls.gov/opub/btn/volume-4/disability-insurance-plans.htm> show that since the year 2000, a year when substantive disability claims regulations were implemented, access and participation in employer-based disability insurance has actually increased.

Moreover, even if financial costs are associated with implementation of the regulations, the benefits those regulations provide to insureds surely outweigh the cost. The DOL has stated the purpose of the regulations is ensure disability claims are fairly adjudicated and to prevent unnecessary financial and emotional hardship, and has acknowledged that the disability claims industry has been needlessly adversarial toward insureds. Assuming there are costs associated with the final regulations, the vast majority of ERISA participants I work with would gladly accept higher premiums in return for greater regulatory protection.

Very Truly Yours,

Michael James Quirk, Esq.

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MICHAEL QUIRK

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