

From: brian@briansking.com
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To: EBSA, E-ORI - EBSA
Subject: 1210-AB39

I write to provide comments on the implementation of the DOL's revised claims procedure regulations.

I know that the rules were finalized at the end of last year and were originally scheduled to be applied to ERISA plans next month. I know a couple of months ago the DOL delayed the applicability date until April, 2018, and is using the delay to evaluate, among other things, the cost of the revised claims procedure regulations.

i have represented hundreds of claimants in ERISA cases over the last 25 years. My experience is that the legal playing field is very much stacked against claimants. It's very difficult for them to find competent counsel to represent them. The lack of meaningful damages available under ERISA ensures few attorneys want to represent claimants. The ease with which ERISA plans and their sponsors and insurers can obtain a highly deferential abuse of discretion standard of review is another reason few lawyers are willing to represent claimants.

The bottom line is that making the claims procedure regulations a bit more explicit in what they require of insurers and ERISA plans is both reasonable and fair. That additional guidance simply ensures claimants are more likely to get what they are paying for and that ERISA plans and their insurers understand more clearly what they are required to do. Given the fact that the revised claims procedure regulations are based on the holdings of many cases and provide greater clarity to the existing claims procedure regulations, I am puzzled why ERISA plans and insurers are complaining about them.

In short, I don't believe the implementation and application of the revised claims procedure regulations will likely result in meaningful increases in premiums, if they result in any increases at all. And even if a marginal increase in premiums is the result of applying those revised claims procedure regulations, the benefits provided will justify any small premium increase that could occur.

Thank you for taking the time to consider my comments.

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