

PUBLIC SUBMISSION

Received: October 24, 2017 Status: Pending_Post Tracking No. 1k1-8zem-pexo Comments Due: December 11, 2017 Submission Type: Web

Docket: EBSA-2015-0017

Claims Procedure for Plans Providing Disability Benefits; Extension of Applicability Date

Comment On: EBSA-2015-0017-0291

Claims Procedure: Plans Providing Disability Benefits

Document: EBSA-2015-0017-DRAFT-0381

Comment on FR Doc # 2017-22082

Submitter Information

Name: David Martin

Address: 2117 Jack Warner Parkway, Suite 1-B

P.O. Box 20087

Tuscaloosa, AL, 35401

Email: david@erisacase.com

Phone: 2053431771

General Comment

As an attorney who regularly represents claimants in disability claims under ERISA, I am concerned over the delay in adopting the regulation. Due process requires that the rule of law be followed, and in this instance there appears to be a departure from normal procedure under the Administrative Procedure Act (APA) of 1946 (5 U.S.C. 551 et seq.). I previously submitted comment during the normal time frames for comment. I have seen nothing factually sufficient to permit a delay in this matter.

The scant information available gives the impression that this is in some way politically motivated. The Secretary's office suggests the final rules are under reconsideration long after the time frames allowed for comment. The rule changes do not favor one party or another, and should not be tainted by politics. The rule changes only require well demonstrated and documented fairness which is long overdue.

Insureds and participants need this protection for a more fair and even handed process in making claim determinations by plan and claims administrators.

I have seen unfair claim processes spawn far more litigation than is necessary for over 10 years. If the process is grossly unfair as is often the case now, the benefit provided is really illusory. This aids in people being defrauded of premiums for a benefit that is difficult to ever obtain in many jurisdictions. (These typically are people who STAND and take pride in their country, when the national anthem is played!) The net result is that insurers are often shifting the costs of disability to the taxpayer. Many individuals who may be covered by a disability benefit, but yet retain some ability to work in another occupation are forced into giving up all work when their long-term disability claim is denied so that they can receive Social Security disability. That is unfair. That is a shifting of costs to the taxpayer for the benefit of insurance companies.

If fairness drives up the cost of disability policies, the market will take care of that on its own. As a taxpayer I object to this shifting of costs to the tax payer, when people have participated in plans that are to provide a benefit in difficult times. While it generates much business for attorneys, a large percentage of individuals do not know of an attorney to hire or are too sick to expend the effort. They end up as an added burden to our welfare system, when a long term disability benefit for which premiums have been paid might preclude that.

I am very concerned over a "confidential" study that supposedly predicts an increase in plan costs. The majority of people are covered by long term disability insurance companies. They know how to navigate the market. If there is some cost increase for self insured plans, it makes no sense to punish the majority for the benefit of a few. Again businesses are well equipped to adapt to this, and can switch to an insured option.

My request is that the Secretary of Labor not delay the effective date of the Final ERISA claims regulations adopted on December 19, 2016. Advocates are seeking to undo the regulations after the fact without going through the rule making process. This is generating the possibility of significant unfairness to millions of presently working people who are counting on a benefit that must pay in their time of need.