

ERISA Claims

“ERISA” is an acronym for the Employee Retirement Income Security Act of 1974. This federal statute governs the vast majority of insurance claims submitted by employees with benefits through their employer benefit plans. Unfortunately, few attorneys are willing to accept denied claims governed by ERISA. Why? Because success on the merits of the claim is difficult; the remedies available to claimants are limited; and an award of attorney’s fees is discretionary with the federal court (even if the attorney “wins” in court). Consequently, the people making the decisions to deny or pay claims – known as The Plan Administrator or the Claims Administrator – have little incentive to reverse a denial of benefits.

ERISA mandates that the designated fiduciary overseeing the administration and interpretation of the Plan for benefits (either the Plan Administrator or both the Plan Administrator and the Claims Administrator) act with the utmost care for your interests, as if they were administering their own claim with their own interests at heart. Failure by the Plan Administrator to do so is actionable under ERISA.

What you should do if your claim is governed by ERISA:

Once you know that you will be making an insurance claim through your employer benefit plan, you should ask for three documents: 1) the Plan Document; 2) the Summary Plan Description; and 3) the Form 5500. The Plan Document is the official written contract explaining your benefits and how to use them when you need them. The Summary Plan Description (SPD) is the “user-friendly” version of the Plan Document. It is generally given to you upon hire and may be familiarly referred to as an “employee handbook” or a “benefits handbook.” With most claims, the language of the Plan Document will supersede the language of the SPD if there are differences in language between the two. The Form 5500 must be filed with the Internal Revenue Service by the employer. It is proof that an ERISA Plan is in effect. Since some plans are exempt from ERISA – such as governmental entities and church groups – it is important to obtain the Form 5500 to ensure your Plan is governed by ERISA. If it is not, the remedies available to you (and thus your ability to retain legal counsel if necessary) are greatly increased. You should request these 3 documents from both the Plan Administrator AND the Claims Administrator. See [request for docs PA and request for docs CA]

What you should do if your claim is denied:

If your claim is denied, you should immediately request the three documents noted above if you haven’t already. At the end of your denial letter, the author of the letter must advise you of your right to file an appeal; the time limits within which the appeal must be filed; and other rights afforded you under ERISA. Within the past few years, the Department of Labor has made it easier for claimants to receive the documents referred to or relied upon by the Plan Administrator in reaching the decision to deny a claim. You should immediately request those documents and they should be sent to you within thirty (30) days of your written request (make sure you send your letter certified mail, return receipt requested). For example, if you are disabled and your denial letter cites to an independent medical review as the basis for the denial, you are allowed to

get the actual report by the medical reviewer. To assist in your appeal, you can then take that report to your own doctor for a written response. See [request for docs after denial]. Note that you cannot file suit in federal court unless you have “exhausted your administrative remedies” first. That is, you must complete the review process set forth in the Plan Document before you can file suit. In addition, be mindful of deadlines for filing your appeal. It is important that your appeal be submitted in time. Again, your denial letter should note those deadlines as will the Plan Document and SPD.

Although you do not have to have an attorney represent you before you have exhausted your administrative remedies, it may be helpful to consult with an attorney for further guidance on how to submit an effective appeal. Why? If your appeal is denied and you proceed to file suit, you may not be able to submit additional information on your behalf for the court’s review. Absent special circumstances, courts will not allow the employee or the Plan Administrator to “supplement the Administrative Record” after suit is filed. A knowledgeable attorney can assist you in providing thorough documentation in support of your appeal.

What you should do if your appeal is denied:

If your appeal is denied and you have exhausted the administrative process, you can then proceed to file suit in federal court. Deadlines vary from Plan to Plan and state to state regarding the deadlines for filing ERISA complaints (known as “statutes of limitations”) so make sure to adhere to those deadlines or you may be forever barred from prosecuting your claim in court.

Remedies available under ERISA

If you are seeking payment of benefits --- whether health, disability, or life — and you prevail in federal court, the judge can order the Plan to pay benefits with interest from the time benefits should have been paid until they are paid. The court can also fashion further relief, depending on the facts of a particular case. For example, the court may award attorney’s fees to you to defer the cost to you of bringing suit to redress your rights. Conversely, if you lose in federal court, the court can award attorney’s fees to the Plan Administrator. Your attorney will be able to advise you at each stage of your case of your options, given your particular facts.

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