

Best Practices in Administering Benefit Claims #5 – Establishing (and Following) a Good Claims Process

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This week we discuss the importance of establishing good claims procedures and the benefits of following those procedures.

A plan's claims procedures should be spelled out clearly in both the plan document and the summary plan description (where the two documents are not one in the same). In addition to setting all of the applicable deadlines for submitting claims and appeals (as we discussed last week), the procedures should inform claimants of: optional levels of appeal or review (if any); procedures for designating an authorized representative; the requirement to exhaust the plan's claims procedures before commencing an action; and their right to review documents relevant to the claim decision. Good claims procedures also will confer final, decision-making authority on one or more people, or a committee. Importantly, the claims procedures must be made known to all participants because, of course, without knowledge of what the claims procedures are, a participant cannot reasonably be expected to utilize them.

The claims process, contrary to what may be intuitive to many, is not generally viewed by the courts to be an adversarial process—at least not at the beginning stages. That is because plan fiduciaries—such as those responsible for deciding claims and appeals—owe a fiduciary duty of loyalty to participants. Now, that is certainly not to say that claims decisions must always be in the participant's favor. It does mean, however, that participants must be given an opportunity to present their position on why they believe they are entitled to benefits and that the plan fiduciary should consider and evaluate all of their arguments at the claim and appeal stages. The fiduciary should give careful consideration to the evaluation of a participant's claims and arguments, particularly since the participant is generally entitled to all documents that are considered by the claims fiduciary in making its decision—even if the documents are not relied upon in reaching the decision.

There are many benefits to making sure the claims fiduciary follows the plan's claims procedures. For instance, a court (or arbitrator) will require a claimant to first exhaust the plan's administrative process before s/he brings an action for benefits under ERISA section 502(a). And, if after exhausting the claims procedures, the participant pursues a claim for benefits in court (or arbitration), the judge (or arbitrator) is required to defer to the claims fiduciary's decision unless it was arbitrary and capricious. Unlike giving the claim a fresh review, the arbitrary and capricious standard of review is highly deferential to the plan fiduciary's decision. Furthermore, the participant generally will not be entitled to discovery in litigation (or arbitration) outside of the administrative record. This has the added benefit of reducing litigation (or arbitration) costs.

Next week, we'll discuss the mechanics of benefit claim administration, including dealing with the fiduciary exception to attorney-client privilege.

You can find our previously published best practices here:

- [#1 – Know \(and Read\) Your Plan Document](#)
- [#2 – Know \(and Read\) Your SPD](#)
- [#3 – Dealing with Benefit Assignments](#)
- [#4 – Know \(and Understand\) the Law: Full and Fair Review](#)

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