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Best Practices in Administering Benefit Claims #8 – Facing Litigation of Benefit Claims

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Up to now, our blog series has focused on best practices for implementing a plan's claims and appeals procedure. We shift gears this week to see how following these best practices pays dividends if a participant's (or beneficiary's) claim is denied and the participant decides to pursue the claim for benefits in court (or, if required, arbitration).

After a participant exhausts a plan's claims procedures, ERISA Section 502(a)(1)(B) authorizes the participant to seek benefits due under the terms of the plan, enforce his or her rights under the terms of the plan, or clarify his or her rights to future benefits under the terms of the plan.

With the plan's claims process exhausted, the plan administrator defending the benefit claim should be armed with a full administrative record that supports the reasonableness of the decision for denial of benefits. Participants are entitled under ERISA to request and receive a copy of the administrative record prior to commencing litigation, and participants often make such a request. Even where a participant does not request the administrative record, consideration should be given to producing the record to the participant.

Strategically, of course, the plan administrator's goal is to find the quickest means to get the case dismissed. And, putting the administrative record in the hands of the participant prior to the participant commencing an action often helps put the plan administrator in a better position to try to get the case dismissed on an immediate "motion to dismiss" or "motion for summary judgment." As we have explained in prior blog entries, in ERISA benefit claim litigation, discovery typically is limited to the administrative record, and courts are required to defer to the plan administrator's decision unless it was arbitrary and capricious. The bottom line—a good administrative record is key to setting up the possibility of an early resolution of a benefit claim dispute.

That said, sometimes a participant will try to avoid early dismissal of his or her case based on the administrative record by claiming that he or she needs discovery because the plan administrator had a conflict of interest in reaching the decision to deny benefits. For instance, a participant may claim that because the company was responsible for paying severance benefits and the plan administrator (*i.e.*, the decision-maker) worked for the company, the plan administrator suffered from a conflict of interest—by denying the claim the plan administrator was trying to benefit the very company that he or she worked for. This, so the argument goes, makes the decision to deny benefits arbitrary and capricious and necessitates discovery beyond the administrative record to get more information about that conflict. But, a structural conflict such as that just described does not in and of itself warrant additional discovery. A participant must allege more. He or she must plausibly allege—in more than a conclusory fashion—that the conflict infected the decision-making process in order to possibly be entitled to discovery on the conflict outside of the administrative record.

In short, with a well-documented administrative record, and application of the highly deferential arbitrary and capricious standard of review, the plan administrator should be well-positioned to minimize costs and obtain immediate dismissal of the action.

Next week, we'll discuss other techniques for controlling and minimizing the costs of litigation of benefit claims, including contractual limitations clauses and venue selection clauses.

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
- #5 – Establishing (and Following) a Good Claims Process
- #6 – Distinguishing an Inquiry from a Claim
- #7 – Understanding Attorney-Client Privilege in the Benefits Claims Process

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