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Claims Procedure: Plans Providing Disability Benefits

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General Comment

I am writing to comment in opposition to the proposal for a 90 day delay in applying the Department's Final Rule amending the ERISA claims procedures for employee welfare benefits plans covering disability benefits. The benefits under these plans are typically funded through insurance policies where the insurance companies who are responsible for paying claims also make the decisions as to whether to pay the benefits. As such these have a structural conflict of interest that they are now attempting to protect by circumventing the normal rule-making process with the support of certain Congressional members whose campaigns rely on financial support from that industry.

The insurance industry and its advocates (referred to in RIN 1210-AB39 as "stakeholders") had ample opportunity to address their concerns over these regulatory changes, including their disingenuous claim that the new procedural rules will

increase costs and "in doing so impair workers' access to disability insurance benefits." The Department evaluated those concerns along with the competing concerns of employee/consumers for information necessary to understand and protect the rights they already have under the ERISA regulations. The resulting regulatory changes simply clarify and give more meaning to the existing procedures through a well-reasoned compromise that ensures plan participants are provided with basic information necessary for them to understand why their claims are denied and have a reasonable opportunity to respond with information a plan administrator may not have but should have in order to perform the type of "full and fair" review the ERISA regulations were intended to provide. The rule-making process was closed and these self-interested stakeholders should not be permitted to reopen the process or delay implementation of the new procedures. The Department correctly determined that the changes scheduled to go into effect January 1, 2018, will have minimal impact on plan costs and serve a greater purpose in balancing the consumers' right to a full and fair review. By contributing to more informed and accurate decisions at the claim level through an improved collaborative process, these procedural changes will only increase the number of claims decided correctly the first time and hence reduce unnecessary litigation and litigation expenses for all plan participants.