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

Comment On: EBSA-2015-0017-0291

Claims Procedure: Plans Providing Disability Benefits

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Submitter Information

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General Comment

Dear Deputy Assistant Secretary Houser,

I am an attorney in a firm whose focus is to represent claimants in disability claims under ERISA.

The Department finalized rules after the required notice and comment period and gave all stakeholders the chance to respond. I am requesting that the Secretary of Labor not delay the effective date of the Final ERISA claims regulations adopted on December 19, 2016. Suddenly, we are being told that additional input would be allowed-- information which was submitted and vetted during the proper notice and comment period. Further, ERISA participants and those that represent them, have no chance to respond to these comments (as they had the chance to respond to ours), because the input is not being made available.

The Industry references a "confidential" study that predicts an increase in premiums, however this information was not shared during the proper comment and notice period, nor is there ample time to respond to this information as the time it would take

to uncover what is influencing this process would span beyond the mere 15-day notice which is currently being made available. To grant these parties an extension to submit this information shows bias towards these parties and makes for an unfair procedural process, allowing the industry to collect data in a way that will be hidden from the public, and then be used to make a decision on how to protect participants' rights in the adjudication of disability benefits. To allow this to occur is unfair to ERISA participants and suggests violations of the APA.

I ask that the effective date of the regulations not be delayed, since the reason for doing so lacks the necessary transparency and undermines the sense of trust and fairness that should inhere in this rule-making process.