

## **ERISA Advisory Council**

### **2024 Advisory Council on Employee Welfare Benefit Plan Claims and Appeals Procedures**

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The ERISA claim procedure regulations (29 C.F.R. § 2560.503-1) set forth minimum procedural standards for the filing of claims, timely notification of benefit determinations and appeals of adverse benefit determinations, to fulfill ERISA's overriding purpose of providing participants with a full and fair review by fiduciaries of any claim denial. Certain provisions are specifically applicable to group health plans such as appeal deadlines for pre-service and urgent care claims along with other topics.

Recent studies, including a survey published by the Kaiser Family Foundation, have pointed to the sparse number of appeals of health benefit claim denials and have suggested that some appeal requirements for health benefit claims may be too complex or are not adequately understood by plan participants.

The 2024 Advisory Council will examine the reasons behind the low appeal rates and the extent to which health benefit plan participants may lack information or an adequate understanding of the claim procedure requirements. This will include examination of whether and to what extent claim denials, including Explanation of Benefits (EOB) forms, and Advanced EOBs that are required by the No Surprises Act, adequately inform plan participants of the specific reasons for adverse benefit determinations in language calculated to be understood by lay persons, and what information or assistance may be needed to enable participants to perfect their claims, their appeal rights, and their rights to obtain documents and information. This will also include an examination of the role that plan administrators, insurers and claims administrators have in the claims and appeals process. The Council will also examine whether unique issues or concerns arise with respect to prescription drug claims and appeals.

The Council will consider whether changes to regulations, other Department guidance or education or the Department's enforcement policies and practices might make it easier for participants to navigate the claims and appeals process for a group health plan.

Three prior ERISA Advisory Councils addressed issues which touch upon this year's topic. The 2017 Council studied Mandated Disclosures concerning Health Benefit Plans. The 2010 Council studied Health Care Literacy and the 2005 Council studied Health and Welfare Plan Communications. The Council will review those reports to the extent that they bear upon its work.