

New Department of Labor Rule regarding Claims Procedures for Disability Benefits Effective April 2, 2018 – Amendments Required to Plans and Agreements

After much delay and uncertainty, the U.S. Department of Labor's proposed amendments to its regulations governing the claims procedures that companies must follow when handling claims for disability benefits are now effective. The new rule applies to all claims for disability benefits received on or after April 2, 2018.

The new rule applies to all employee benefit plans which provide for disability benefits, including both employee welfare benefit plans and employee pension benefit plans, unless the disability determination is made by a party other than the plan and for a purpose that is not related to the plan (i.e., a disability determination by the Social Security Administration), except that excess benefit plans, as defined in Section 3(36) of ERISA, are excluded from the rule.

Plans Covered. A sample listing of plans that are covered include employee stock ownership plans, BOLI plans, supplemental executive retirement plans and deferred compensation plans that provide for disability benefits. While group insurance plans and 401(k) plans are also covered, typically your insurance carrier or 401(k) provider would handle the revisions required for the new claims procedures. Summary plan descriptions with respect to covered plans should also be reviewed and revised as appropriate.

Summary of New Requirements. The final rule was designed to require that plans, plan fiduciaries and insurance providers comply with additional procedural protections when dealing with disability benefit claimants, including requirements relating to the processing of claims and appeals from denials of disability benefits. The final rule also requires that notices regarding disability benefits be provided in a "culturally and linguistically appropriate manner" in certain situations, essentially adopting the Affordable Care Act standard for group health benefit notices.

Actions Required. All claims for disability benefits now need to comply with the new requirements, and the Human Resources department should be notified of this to ensure operational compliance. In addition, your employee benefit plans which provide for disability benefits need to be reviewed, and the disability claims procedures in such plans will need to be revised to ensure documentary compliance. The plan amendments should be retroactively effective for all claims received after April 1, 2018. We can assist you in the review of the employee benefit plans and the required revisions.

For more information about these new requirements, please contact either the attorney at Silver, Freedman, Taff & Tiernan LLP that you primarily deal with or Jerry Heupel of Silver, Freedman, Taff & Tiernan LLP at 202-295-4516 or at Jerry@sfttlaw.com.