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Disability Claims Procedures Get an Affordable Care Act Makeover

In light of the volume of litigation involving claims for disability benefits, and the perceived need to improve procedural protections for workers who become disabled, the DOL is updating the disability claims and appeals procedures. Issued today, the newly proposed regulations mirror in large part the rules that are now in place for claims relating to health benefits, as revised under the Affordable Care Act for non-grandfathered health plans.

The proposed rules are intended to reduce conflicts of interests by those making the disability benefit claims and appeals decisions. The hiring, compensation, and promotion of individuals adjudicating claims cannot be tied to the outcome of the claim. The proposed rules would also require more robust explanations to accompany claim denials and provide a right to the claimant to review and respond to new evidence obtained while an appeal is being considered, such as a new medical report. As with health plan claims, claimants would have a right to their entire file and to present evidence and testimony prior to the decision. Violations of the procedural rules would be deemed a denial and allow the claimant to bring legal action, with certain exceptions for minor errors.

The proposed rules also contain some protection for rescissions of disability benefits or coverage which would trigger the protections provided by the appeals procedures. As is the case with health plan claims, the proposed rules require that notices be provided in a culturally and linguistically appropriate manner for individuals not fluent in English.

The proposed regulations can be found here.