LEGAL UPDATE

Plan Penalized for Failure to Follow Its Own Provisions

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In *Laake v. Benefits Committee, Western & Southern Financial Group Co.*, the U.S. Court of Appeals for the Sixth Circuit determined that the *de novo* standard of review applies where an employer's long-term disability (LTD) plan ignores plan provisions by allowing its Benefit Department, rather than its Benefits Committee, to make benefit claims determinations.

Law. The default standard of review for benefit denials under an ERISA-covered plan is the *de novo* standard of review, which means that a Court will independently review a claim and not defer to the plan administrator's (or insurer's) decision. However, if the plan document (or insurance policy) grants discretionary authority to determine benefit entitlement to a specified entity, the court will apply a less demanding "abuse of discretion" standard of review, under which the entity's decision will be upheld unless it is determined to be "without reason, unsupported by substantial evidence or erroneous as a matter of law."

Facts. An employee who participated in her employer's LTD plan was granted disability benefits. The LTD plan contained a provision that limited LTD benefits to 24 months if the disabling condition was due to any mental, nervous, psychiatric condition, or chronic pain syndrome.

The plan stopped paying the employee's disability benefits after 24 months, stating that she had failed to show that the disability wasn't due to chronic pain syndrome. When she sued, the plan maintained that the plan provisions granted it discretionary authority to determine claims. Nevertheless, the District Court ruled in favor of the employee.

Appeals Court. The Court noted that plan provisions gave discretionary authority to the employer's "Benefit Committee." However, it observed that a separate entity called the "Benefits Department" made the claims determination.

The Court found that the Benefits Committee and Benefits Department are "two separate arms of the employer," and the plan clearly recognizes them as such, granting them each separate and distinct functions under the plan. The Court further found that the discretionary authority granted to the Benefits Committee could not be delegated or transferred to the Benefits Department. The Court noted that if it agreed with the employer that the Benefits Committee and Department "are functionally the same because they operate within the same corporate family, then [the Court] would be disregarding the explicit terms of the Plan."

The Court ruled that "when the benefits decision is made by a body other than the one authorized by the procedures set forth in a benefits plan, federal courts review the benefits decision *de novo*." It further explained that no medical doctor, at the time of the claim denial, had ever diagnosed the employee with chronic pain syndrome, and that different doctors had reached different conclusions with regards to the extent of her disability. The Court ultimately concluded that the prevailing evidence in the record showed the employee was fully disabled and entitled to disability benefits beyond the 24-month period.

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