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BLOG

11th Circuit Faults ERISA Disability Plan Administrator For Ignoring Claims Evidence That Was Never Submitted

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It has been well-established (or so we thought) that judicial review of an ERISA plan administrator's decision to deny a benefit claim is generally limited to the evidence and documentation made available to the plan administrator at the time the decision was made. However, in a recent case out of the 11th Circuit, the appellate court remanded an insurer's denial of a disability claim back to the district court because the insurer failed to take into account the claimant's favorable Social Security Disability Income (SSDI) decision and the underlying medical evidence – even though such evidence did not exist when the insurer made its initial claim determination and was never submitted by the claimant during the subsequent appeal process. This case is a cause for concern for ERISA disability plan administrators that take into account SSDI benefit determinations in deciding benefit claims but do not affirmatively seek out those determinations or SSA medical records where the claimant fails to provide them.

In *Melech v. Life Insurance Company of North America* (January 2013), the insurer (LINA) made its initial determination to deny the disability claim in 2007. At that time, the claimant's SSDI application (which she was required to file under the terms of LINA's disability policy) was pending. Melech appealed LINA's initial claim determination, and, in the meantime, her SSDI application was approved in early 2008 based on two independent medical assessments mandated by the SSA. Melech told LINA that her SSDI benefits had been approved, but did not submit either the written decision, the medical assessments, or any other materials considered by the SSA. LINA followed the procedures set forth in ERISA for administering disability claims and appeals, including inviting her to submit any additional medical or other evidence supporting her disability claim and giving her the ERISA-mandated period of time in which to supply such evidence. It did not, however, specifically request any SSDI-related materials.

In its decision, the 11th Circuit conceded that Melech bore the burden of proof for proving her entitlement to benefits, and that judicial review of a plan administrator's decision to deny benefits generally should be limited to consideration of the materials made available to it at the time. The court also noted that nothing in ERISA imposes an affirmative obligation on a plan administrator to "ferret out evidence" in the possession of other parties. However, in this case, the fact that LINA (1) required claimants to file a SSDI application as a pre-condition to receiving benefits and (2) had a policy of offsetting SSDI benefits against amounts paid under its policy, reversed that burden of proof. In other words, having involved itself in Melech's SSDI process by requiring her to file under the SSA's program, LINA created an affirmative obligation on itself to specifically ask Melech to supply her SSDI paperwork (or even, as the court suggested, go directly to the SSA to request her file).

In her dissent, Judge Orinda Evans highlighted the inconsistency in the majority opinion's position that LINA did not have an obligation under ERISA to find its own evidence but that the administrative record created during the claims process was incomplete *because* the insurer did not affirmatively seek out more evidence. This case certainly muddies the waters around the question of what constitutes a "full and fair review" of a claim for disability benefits under ERISA, particularly where the disability policy requires the claimant to file for SSDI benefits and/or implements an SSDI offset (as many, if not most, such policies do).

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