

Summary of the ERISA Disability Claim regulation changes and New York Life Group Benefit Solutions' operational readiness.

Your questions answered.

For claims filed on and after April 1, 2018

Conflicts of interest

Rule: There can be no incentives to deny claims. For example, bonuses may not be based on the number of claim denials, and carriers cannot select or contract with a medical or vocational expert based upon his/her reputation for outcomes in contested cases.

Q: How does this requirement affect Group Benefit Solutions?

A: There will be no change. Group Benefit Solutions currently complies with this standard.

Rescission of disability coverage

Rule: Even when there is no claim pending, a decision to rescind coverage must be treated as an ERISA adverse benefit determination.

Q: How will rescission of coverage be handled going forward?

A: There will be no change. Group Benefit Solutions currently administers rescissions as adverse benefit determinations.

Contractual limitations periods

Rule: Denial letters on appeal must disclose plan-imposed contractual deadlines for filing a lawsuit including the date that period expires.

Q: How will Group Benefit Solutions comply?

A: Group Benefit Solutions currently discloses in its appeal denial letters the relevant plan provisions for filing a lawsuit and, consistent with the new requirement, will now include a date of expiration.



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Denial letters

Rule: Adverse decision letters must include an explanation stating why the opinions offered by the claimant's health care provider or vocational expert were rejected or agreed with.

Rule: Adverse decision letters must discuss disability determinations made by the Social Security Administration that are given to Group Benefit Solutions by the claimant. Discussion includes explaining any Group Benefit Solutions disagreement with the decision.

Rule: Adverse decision letters must inform the claimant about the right to obtain the claim file and other relevant documents upon request.

Rule: Adverse decision letters must disclose any internal rules or guidelines the claims administrator relied upon in deciding the claim.

Q: Does Group Benefit Solutions have procedures in place to ensure compliance with these requirements?

A: Yes, claimants will continue to see a full explanation and supported basis for adverse decisions and will receive all the required disclosures and requested materials. Our materials and procedures provide a full explanation of adverse decisions including resolution of conflicting medical opinions, discussion of Social Security Disability Insurance (SSDI) award decisions, and informing claimants of their right to file copies and policies relied upon.

Foreign language requirements

Rule: Adverse decision letters arising in certain geographies must routinely include a statement offering telephonic/oral language assistance services (notice requirement) and, upon request, certain written translations into the non-English language (translation requirement). This applies to claimant addresses located in a county where 10 percent or more of the population is literate only in the same non-English language (as published by the U.S. Department of Labor and U.S. Census Bureau statistics).

Q: Will Group Benefit Solutions be prepared to issue these notices where required?

A: Yes. Group Benefit Solutions expects to exceed the notice requirement by extending notices to all claimants and has revised its letters to notify claimants about the availability of language services.

Right to review and respond

Rule: During an adverse appeal decision, and before any final appeal decision is made, the claimant must automatically be given any new or additional rationales or evidence developed by the plan during the appeal and an opportunity to review those rationales or evidence and respond to us. We must consider any such response in our final decision-making before the required time for decision runs out.

Q: How will Group Benefit Solutions comply with this requirement and avoid unreasonable delays in appeal resolution?

A: There should be no service interruption for those claimants who wish to provide Group Benefit Solutions with additional comments or data during this exchange, but decision times may be affected by the frequency and substance of material submitted to Group Benefit Solutions. Group Benefit Solutions has prepared revised appeal procedures, trained its staff, and adjusted correspondence templates to accommodate this requirement.

Strict adherence (deemed exhaustion)

Rule: Generally, if the claims administrator fails to “strictly” follow the claims procedures, a claimant can sue without exhausting administrative appeals. Allegations of failure to follow the rules may be filed by claimants with the claim administrator, and the claim administrator has 10 days to respond to the claimant explaining why they think no failure had occurred or an exception applies. Violations excepted from this rule are ones that are *de minimis*, non-prejudicial, for good cause or beyond the plan’s control, part of a good faith exchange of information, and not part of a pattern or practice of violations by the plan. If a court agrees that a violation has occurred, we expect it will either keep the case and decide it or return the claim back to the carrier for decision.

Q: Does this require Group Benefit Solutions to manage claims differently?

A: This standard does not require Group Benefit Solutions to process claims any differently; it simply creates an expanded right to seek relief for claimants who believe a rule violation has occurred. Group Benefit Solutions continues to believe that providing a full and fair review of claims through the appeal stage prior to filing suit is still the most efficient process.

Group Benefit Solutions has updated all of its relevant policies and procedures for necessary disclosures to claimants. Group Benefit Solutions’ staff is trained and is aware of the strict compliance standard under which they must operate. Group Benefit Solutions has designed procedures to answer allegations of procedural failure.

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