



## Newsletters

### The LHD/ERISA Advisor

October 5, 2020

As we enter the final months of 2020, this is a time to reflect on a year of unprecedented challenges. Although Covid-19 changed our lives in many ways, it did not halt new legal developments in the life, health and disability areas. We at *The LHD/ERISA Advisor* have worked diligently to bring you these developments with the goal of informing your claims handling and litigation decisions. We hope that our newsletter has been a valuable resource for you and your colleagues. We would appreciate hearing any comments, criticisms or suggestions you may have that would help us tailor the publication to meet your needs. Be well and stay safe.

Here's what we are covering in this edition:

- **Second Circuit Allows Breach of Fiduciary Duty Claim to Proceed Based on Misrepresentation of Benefits by ERISA Plan Administrator**
  - Second Circuit allows breach of fiduciary duty and other equitable relief claim under Section 502(a)(3) of ERISA to proceed against plan based upon misrepresentations of participant's coverage....
- **Tenth Circuit Finds District Court Applied Wrong Standard of Review in Evaluating Plan Administrator's Medical Necessity Determination**
  - In *Lyn M. v. Premera Blue Cross*, the Tenth Circuit held that a district court had applied the wrong standard of review and incorrectly evaluated an ERISA plan administrator's medical necessity determination when granting summary judgment to an insurer that had denied coverage for a plan participant's residential mental health treatment....
- **Third Circuit Rules State Law Reimbursement Claims Brought by Out-of-Network Medical Provider Not Precluded by ERISA**
  - In *Plastic Surgery Center, P.A. v. Aetna Life Ins. Co.*, the Third Circuit held that an out-of-network medical provider's state law claims against an insurer were not precluded by ERISA where the insurer agreed to pay for procedures before they were performed, but, after the procedures were completed, determined that it would not reimburse the provider for the full billed amount....
- **Ninth Circuit Finds ERISA Complaint Sufficiently Alleges Insurer had Waived Anti-Assignment Defense**
  - In *Cal. Spine & Neurosurgery Inst. v. Blue Cross of Cal.*, the Ninth Circuit held that a surgical provider's complaint sufficiently alleged that Blue Cross of California had waived its post-denial anti-assignment defense

### Attorneys

Peter J. Felsenfeld

### Service Areas

Life, Health, Disability & ERISA  
Litigation



under an ERISA plan....

- **Summary Judgment in Favor of Insurer Reversed by California Appellate Court in Application of "Genuine Dispute" Doctrine**
  - Under the "genuine dispute" doctrine, an insurer is not liable for bad faith if its denial of a claim was reasonable. In *Ghazarian v. Magellan Health, Inc.*, a California appellate court reversed a ruling of summary judgment in favor of a defendant insurer, finding that the "genuine dispute" doctrine did not apply where the insurer conducted a flawed investigation, but its ultimate denial could be deemed reasonable....
- **District Court Holds Breach of Contract Claims are Time-Barred**
  - In *Myers v Provident Life & Accident Ins. Co.*, a Florida district court rejected a plaintiff's multipronged attempt to extend the statute of limitations on a claim for long-term disability (LTD) benefits....
- **Material Misrepresentations in Life Insurance Policy Application Justified Rescission by Insurer**
  - In *Salopek v. Zurich Am. Life Ins. Co.*, a New Mexico district court affirmed an insurer's rescission of an individual life insurance policy based on material misrepresentations in the application regarding the insured's history of alcohol and tobacco use....
- **Insurance Coverage During Involuntary Legal Holds Under California Law**
  - Involuntary "legal holds" do not, per se, render services provided medically necessary or emergent and therefore do not dictate reimbursement rates under California's statutory scheme....
- **Utah Court Rules ERISA Plan Was Wrong to Deny Coverage for Mental Health Care Received at Residential Treatment Facility**
  - In *Raymond M. v. Beacon Health Options, Inc.*, a Utah district court held that an ERISA plan improperly applied acute-level criteria when denying benefits for a participant's sub-acute mental health care at a residential treatment facility....
- **ERISA Plaintiff Has Statutory Standing to Bring Action to Recover Spousal Healthcare Benefits**
  - In *Heckman v. United Healthcare Ins. Co.*, a Florida district court held that an ERISA plan participant had "statutory standing" to bring an action to recover healthcare benefits that were provided to his spouse....
- **Ninth Circuit Holds Attorneys' Fees Cannot be Recovered as "Other Equitable Relief" under ERISA**
  - In *Castillo v. Metro. Life Ins. Co.*, the Ninth Circuit held that attorneys' fees incurred during the administrative review process cannot be recovered as "other equitable relief" under Section 502(a)(3) of ERISA....