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The Importance of Including Exhaustion Requirements in Plan Documents: Taking a Closer Look at the Sixth Circuit's Decision in *Wallace v. Oakwood Healthcare, Inc.*

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A recent decision by the U.S. Court of Appeals for the Sixth Circuit reminds plan fiduciaries once again of the importance of including claims and appeals procedures and administrative exhaustion language in their plans. See *Wallace v. Oakwood Healthcare, Inc.*, 954 F.3d 879 (6th Cir. 2020). Often, plan fiduciaries assume that this language setting forth the plan's claims and appeals process and requiring administrative exhaustion is already in the plan document. However, in light of this decision, plan fiduciaries should review their plan documents, including summary plan descriptions (SPDs), to ensure that such language is included. As the Sixth Circuit, which covers the states of Kentucky, Michigan, Ohio and Tennessee, points out in its decision, failure to do so may allow the claimant to head straight to court without exhausting his or her administrative remedies.

Administrative Exhaustion

The Employee Retirement Income Security Act of 1974 (ERISA) requires that employee benefit plans provide any participant whose claim for benefits has been denied the right to appeal such denial. ERISA regulations require that employee benefit plans establish and maintain reasonable procedures for filing benefit claims, notifying participants of benefit determinations, and appealing adverse benefit determinations.[1] In general, plan participants must complete or "exhaust" these steps before filing a lawsuit — this step is often referred to as "administrative exhaustion." Although ERISA does not explicitly require administrative exhaustion, courts have held that administrative exhaustion is typically necessary before a participant can file a lawsuit.

The Sixth Circuit's Decision

The Sixth Circuit's decision in *Wallace v. Oakwood Healthcare, Inc.* ("*Wallace*") highlights the importance of including internal procedures and administrative exhaustion in the plan document and summary plan description.

In March 2020, the Sixth Circuit affirmed the district court's decision that Wallace, a participant in the Oakwood Healthcare, Inc. Employee Welfare Benefit Plan ("Plan") which provided long-term disability (LTD) benefits, did not have to exhaust her administrative remedies before commencing litigation in court.

Wallace was a registered nurse who contracted an illness while traveling in Belize. After she returned from her trip, she began suffering from various medical conditions including hypothyroidism, hormone deficiencies, immune suppression disorder, and arrythmia of the heart. Consequently, she took medical leave from work in October 2012. She returned to work in April 2013, but took another medical leave a month later in May 2013. Subsequently, Wallace applied for LTD benefits. She submitted her claims to two insurance companies — The Hartford Life and Accident Insurance Company ("Hartford"), which funded and insured the Plan through December 31, 2012, and Reliance Standard ("Reliance"), which became the Plan's insurer beginning January 1, 2013. Both companies denied Wallace's claims. Although Wallace appealed the denial from Hartford, she did not appeal Reliance's claim denial. Wallace then filed a lawsuit against the insurance companies in the Eastern District of Michigan.

At the district court level, the court granted Wallace's motion for judgment for benefits and awarded Wallace LTD benefits and attorney's fees. Reliance appealed the decision.

One of the key issues that the Sixth Circuit reviewed on appeal was whether the district court erred in determining that Wallace was not required to exhaust her administrative remedies before filing a lawsuit against Reliance.[2] Reliance argued that exhaustion is required, regardless of whether exhaustion is expressly stated in the Plan document. Reliance also argued that even though the exhaustion language was not in the Plan document, that language was set forth in the denial letter and that it had "substantially complied" with ERISA's notice requirements. The court rejected Reliance's arguments. The Sixth Circuit held that simply including the exhaustion requirement in the denial letter was not sufficient because "for a plan fiduciary to avail itself of this Court's exhaustion requirement, its underlying plan document must — at minimum — detail its required internal appeal procedures."[3] The court also rejected Reliance's argument that it had "substantially complied" with ERISA because "a plan document that does not include either procedures for review of denied benefits claims or the remedies for such claims is wholly non-compliant."[4] The court further pointed out that the plan document not only failed to contain any information about the review procedures or remedies available for denied claims, but was "actively misleading" because ERISA and the internal claims and appeals process was only mentioned in the section discussing arbitration, which was not applicable to Wallace's benefit claim.[5] As the Sixth Circuit explained, "one of ERISA's central goals is to enable beneficiaries to learn their rights and obligations at any time including before a denial of benefits"[6] — and, therefore, Congress required that plans be established and maintained pursuant to a written instrument so the beneficiaries are aware of their rights and obligations upon review of such plan-related documents. Because Reliance's plan document failed to establish any internal claims procedures consistent with ERISA regulations, the court deemed Plaintiff's administrative remedies exhausted.

Notably, in issuing its decision, the court explained that it was not deciding whether a plan document "must explicitly and affirmatively require exhaustion" but that at a minimum, Reliance's plan document must "detail claims review procedures and remedies and must not mislead an employee into believing there are no administrative remedies or that those remedies must not be exhausted."[7] Essentially, if participants are required to complete an internal claims process, plan fiduciaries notify them of such requirement by including these procedures in the plan documents and SPDs.

Interestingly, Judge Thapar issued a concurring opinion questioning ERISA's exhaustion requirement. He found it "troubling to have no better reason for a rule of law than that the courts made it up for policy reasons."[8] Taking a textualist approach, Judge Thapar explained that the statute itself is silent about administrative exhaustion: "ERISA requires plans to offer fair and reasonable internal-review procedures for claims they deny. But the statute nowhere says claimants must take advantage of those procedures as a precondition to informing their rights in court."[9] Although Judge Thapar urged "[f]ederal courts [to] reconsider when — or even where — it's legitimate to apply this judge-made doctrine,"[10] he agreed that Wallace had no notice that she could lose her right to benefits by failing to appeal the denial of her claim because Reliance's plan document not only failed to mention an exhaustion requirement but also lacked an internal claims-review procedure.

The Importance of Administrative Exhaustion

As long as courts continue to apply the administrative exhaustion doctrine to benefit claims, plan fiduciaries should review their plan documents and SPDs to ensure that a claims and appeals procedure, including administrative exhaustion language, is included in these documents. Administrative exhaustion is beneficial for several reasons — (1) it allows the parties to resolve their benefit dispute without costly and time-consuming litigation, (2) it reduces the number of frivolous lawsuits and, (3) if the benefit claim is litigated, the administrative process creates an administrative record that eliminates or limits the need for discovery. Ultimately, until the courts reconsider the administrative exhaustion doctrine, as Judge Thapar suggested, and decide to no longer apply such a doctrine, plan documents should include clear claims procedures requiring exhaustion and do so in language that is readily understood by a reasonable participant.

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[1] 29 CFR § 2560.503-1 *et seq.*

[2] The Sixth Circuit also addressed the issues of whether the district court erred in granting Wallace LTD benefits and attorney's fees.

[3] *Id. at* 888.

[4] *Id. at* 889.

[5] *Id. at* 888.

[6] *Id. at* 887.

[7] *Id. at* 889.

[8] *Id. at* 900.

[9] *Id.*

[10] *Id.*