

Insurers May Be Sued Directly Under ERISA

Healthcare Law Alert

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By: Dennis Rolstad

On June 22, 2011, the Ninth Circuit Court of Appeals issued its long awaited *en banc* decision in *Cyr v. Reliance Standard Life Insurance Company* with the expected result: a claimant may sue an insurer directly under ERISA section 1132(a)(1)(B) for unpaid benefits.

Laura Cyr received long term disability benefits under an ERISA plan from Reliance due to a back condition that allegedly prevented her from working. While on disability she sued her employer and ultimately entered into a settlement in which her salary was retroactively adjusted upwards. When the insurer did not increase her monthly LTD benefit (which was based upon a percentage of her pre-disability income), Cyr filed suit against the insurer, the Plan, and the employer as plan administrator for benefits under 28 U.S.C. Section 1132(a)(1)(B), as well as equitable estoppel and breach of fiduciary duty under Section 1132(a)(3). The district court ruled for Cyr on the benefit claim, and Reliance appealed on a number of grounds.

The Ninth Circuit, *en banc*, addressed only the question of whether an insurer is a proper defendant in a suit seeking benefits under Section (a)(1)(B). The court ultimately found that:

- ❖ (i) Section (a)(1)(B) does not by its terms limit the parties which may be proper defendants,
- ❖ (ii) the secretary of labor has not promulgated such regulations,
- ❖ (iii) the Supreme Court earlier rejected the suggestion that there was a limitation on the identity of defendants in suits under Section (a)(3), and
- ❖ (iv) related sections of ERISA support the determination that insurers can be sued directly for benefits.

The court remanded the other issues in the appeal for consideration by the previously assigned three-judge panel.

Cyr resolves a dispute in the Ninth Circuit regarding whether insurers can be directly sued and named as defendants in ERISA suits for benefits, overruling *Gelardi v. Pertec Computer Corp.*, 761 F.2d 1323 (9th Cir. 1985), and other decisions that held that insurers could not be sued for ERISA benefits. In its ruling, the Ninth Circuit has brought greater clarity to ERISA litigation.

The case is *Cyr v. Reliance Standard Life Insurance Company* (click link to read the decision).

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