

Exhaustion of Administrative Remedies Under ERISA Not Required If Exhaustion Would Have Been Futile

Terrance Burnett was eligible for short-term disability (“STD”) benefits and long-term disability (“LTD”) benefits through employee welfare benefit plans funded by his employer, The Raytheon Company, and administered by Metropolitan Life Insurance Company (“MetLife”). After his doctors stated that Burnett’s psychiatric condition prevented him from performing his job duties, he filed a claim for STD benefits. While, MetLife denied his claim for STD benefits, in *Burnett v. Raytheon Co. Short Term Disability Basic Benefit Plan*, 2011 U.S. Dist. LEXIS 40725 (C.D. Cal. Apr. 14, 2011), Judge Dolly Gee ruled that MetLife abused its discretion when it denied Burnett’s claim, and awarded him the STD benefits he sought. In addition, the court held that Burnett was eligible for some LTD benefits, even though he had yet to file an LTD claim.

In ruling that the medical records supported Burnett’s claim, the court Gee criticized the findings of MetLife’s so-called “independent” expert Dr. Mark Schroeder, a psychiatrist. Specifically, the court determined that “Dr. Schroeder arbitrarily discounted the opinion of Dr. Friedman, the treating physician whom Burnett saw weekly, and distorted the importance of the progress reports submitted by Dr. Anderson. Further, the court held that Dr. Schroeder “overemphasized the significance of Dr. Anderson’s February 20 and March 19 progress reports to the exclusion of the overwhelming weight of the evidence in the record, including the characteristics of the job that Burnett previously occupied and the corroborating results of the MMPI-2.”

Overall, the court classified Dr. Schroeder’s findings as “unreasonable” and awarded Burnett “STD benefits for the maximum 10-week period—from February 15 through April 25—because the evidence clearly shows that Burnett qualified as fully disabled during that time period.”

In addition, the court held that Burnett was entitled to LTD benefits, despite the fact that because he had yet to file a claim for LTD benefits, he could not have met ERISA’s requirement that a claimant exhaust his administrative remedies. The court ruled that requiring Burnett to exhaust his administrative remedies with respect to his LTD claim would have been futile:

17. The general exhaustion rule covering ERISA claims requires a claimant to "avail himself or herself of a plan's own internal review procedures before bringing suit in federal court." *Diaz v. United Agr. Employee Welfare Benefit Plan & Trust*, 50 F.3d 1478, 1483 (9th Cir. 1995) (citing *Amato v. Bernard*, 618 F.2d 559, 566-68 (9th Cir. 1980)). The general rule of exhaustion, however, is not a statutory requirement, and a court "may waive the exhaustion requirement, and should do so when exhaustion would be futile." *Horan v. Kaiser Steel Ret. Plan*, 947 F.2d 1412, 1416 (9th Cir. 1991) (citing *Amato*, 618 F.2d at 568).

18. The Court finds that, under the facts of this case, Burnett's exhaustion of the LTD administrative remedies would have been futile for the following reasons. First, the definitions for "fully disabled" for purposes of STD benefits and LTD benefits are substantially the same. (A.R. 7, 39.) Second, the STD and LTD plans are integrated, such that they rely on and refer to each other. (A.R. 40.) MetLife's termination of Burnett's STD Plan benefits essentially doomed any claim he might have to LTD Plan benefits. Finally, because MetLife is the designated Claim Administrator under both the STD and LTD plans (A.R. 6, 38.), the plans are administered by the same entity. In light of the foregoing—considered together with MetLife's unwavering denial of Burnett's post-March 13 STD benefits—MetLife likely would have denied any LTD benefits claim Burnett submitted for the same reasons it terminated his STD benefits claim.

19. Finally, the Court considers the policy implications of the exhaustion doctrine, which include "the reduction of frivolous litigation, the promotion of consistent treatment of claims, the provision of a nonadversarial method of claims settlement, the minimization of costs of claim settlements and a proper reliance on administrative expertise." *Diaz*, 50 F.3d at 1483. None of these policy considerations preclude the Court from applying the futility exception to the facts of this case. To require Burnett to submit a written claim for LTD benefits—which would be subject to a denial similar to that of his STD benefits claim—only then to require him to exhaust his administrative appeals and then possibly return to this Court, would exalt form over substance and defeat the fair and efficient administration of justice.

The court therefore awarded Burnett LTD benefits through July 1, 2008, the date of the more recent medical record in the Administrative Record.

Finally, the court's ruling is also interesting for its analysis of MetLife's conflict of interest. Previously, courts generally held that if a plan was self-funded – that is, benefits were paid by the employer, not the insurer/claims administrator – then there was little danger that the administrator's claim decision was improperly impacted by an interest in reducing the amount of claims it paid out. Here, however, the Court noted that:

Although no structural conflict of interest exists, MetLife does maintain a contract with Raytheon to provide claim administration services under Raytheon's disability benefit plans. Thus, MetLife has an incentive to maintain that contract by keeping the cost of Raytheon's disability benefit program low. This is but one factor the Court weighs in determining whether MetLife abused its discretion in terminating Burnett's STD benefits beyond March 13. *See Abatie*, 458 F.3d. at 967 (noting that the Court's abuse of discretion review is to be informed by the nature, extent, and effect on the decision-making process of any conflicts of interest).

Thus, claimants must always be aware that a claims administrator's decision could be improperly influenced, not only by a desire to pay out less in claims, but also to keep the employers as a customer.



By: Robert J. McKennon
Partner
McKennon | Schindler LLP
20321 SW Birch St, Suite 200
Newport Beach, California 92660
877-MSLAW20
(877) 675-2920