

[What Constitutes an Appeal? Not a Mere Request for Records.](#)

By [Mike Reilly](#) on March 27th, 2012

An update on ERISA Life, Health, Disability matters from *BOOM: The ERISA blog.*
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We all know that ERISA disability claimants must exhaust administrative remedies before bringing a suit. Exhausting administrative remedies typically includes seeking an internal appeal.

But...what is required in the claimant's letter to the Plan to constitute an "appeal"?

Here's a new case on the issue: [Reindl v. Hartford Life and Accident Insurance Co.](#), [PDF] ___ F.Supp. 2d ___ (E. D. Missouri March 21, 2012) (Claimant's letter to Plan with the following language did not constitute an appeal: "We will be reviewing the records and obtaining additional medical information for my client's appeal of the decision to terminate her Long Term Disability.")

FACTS: Plaintiff became disabled and applied for ERISA disability benefits under her employer's plan, insured by The Hartford. She received benefits from 2005 until November 25, 2008. The plan provided that the decision to terminate benefits is appealable by "request[ing] a review upon written application within 60 days of the claim denial." The denial letter from Hartford informed Plaintiff that she could appeal by sending a signed, dated, written letter outlining her position and issues to Hartford within 180 days of receipt of the notice of termination. The plan contained discretionary language to determine benefit eligibility and to construe plan terms.

December 12, 2008: Plaintiff's attorney sent a letter to Hartford requesting a copy of all medical records in file. The letter closed by stating: "We will be reviewing the records and obtaining additional medical information for my client's appeal of the decision to terminate her Long Term Disability."

July 8, 2009: Plaintiff's attorney sent Hartford a letter disagreeing with the adverse decision along with "written comments, documents and information relating to the appeal" and requesting that Hartford "review ...and advise [Plaintiff and her attorney] of [Hartford's] further determination."

HELD/RATIONALE: Defendant's Motion to Dismiss GRANTED for Failure to Exhaust Administrative Remedies.

1. A claimant must exhaust administrative remedies before filing suit. Op. at 5.
2. It was reasonable for Hartford to conclude that the December 12, 2008 letter from Plaintiff's attorney did not constitute an appeal of Hartford's termination of disability benefits. Op. at 9.
3. A plain reading of the December 12, 2008 letter reveals that plaintiff "intended to first obtain Hartford's records, as requested by the letter, and then obtain additional medical information." Op. at 9.
4. The July 8, 2009 letter constitutes a letter demanding an appeal, but it was untimely. Op. at 10.