

# How does ERISA Affect Long Term Disability?

ERISA is the acronym for The Employee Retirement Income Security Act of 1974. ERISA is a comprehensive and complicated federal law that was originally intended to protect employee pension plans. Since ERISA was enacted it has been amended extensively. One of many such amendments permitted ERISA to regulate the administration and operation of employer sponsored group short-term disability and long-term disability plans. ERISA now sets rules and establishes standards of conduct for insurance company disability plan administrators to control how claims, appeals and decisions on short and long-term disability plans are made.

It is important to emphasize that ERISA only applies to employer sponsored group short-term disability and long-term disability plans. Governmental entity and church disability plans are not covered under ERISA and ERISA also does not apply to privately purchased, individual short or long-term disability plans. Various federal and state laws would apply to these types of disability plans.

If your application for an ERISA governed short-term or long-term disability benefits is denied, it can take a long time to resolve an ERISA disability dispute. Before a lawsuit, a civil action, can be filed in federal court, ERISA requires an applicant to “exhaust all administrative remedies” by filing a mandatory written administrative appeal with the insurance carrier. All short and long-term disability plans require a mandatory written appeal to be filed within 180 days of the date of the disability application denial letter. Some insurance companies also allow for a voluntary administrative appeal to be filed and typically allow 60 days for this filing. Insurance companies then have up to 90 days to render a decision on the appeal(s).

Building a solid administrative record to support your appeal is the most important part of the entire appeal process. The insurance companies will lead you to believe that submission of additional documentation is discretionary. This could not be further from the truth. Building a solid administrative record is the key to successfully overturning a denial of your short or long-term disability benefits.

In the event the insurance company denies the appeal, ERISA requires the insurance company to provide notice in writing of the reason for the denial and to describe the procedure for filing an appeal. Once the mandatory administrative appeals have been exhausted, ERISA then permits for the filing of a civil action in federal court. However, once the case proceeds to federal Court, the record for the case is closed. This is why it is crucial to bolster the administrative record during the appeal phase of the case. In their review of the case the federal judge will be limited to reviewing only the information contained in the administrative record as it existed when the insurance company's plan administrator denied the claim.

Lastly, ERISA limits the damages that may be recovered in federal court. ERISA provides for preemption, meaning it "overrides" all conflicting state laws that "relate to any employee benefit plan." The preemptive nature of ERISA supersedes all state laws that allow for recovery of damages for bad faith insurance practices and payment of punitive damages. Essentially, ERISA limits recoverable damages to only the amount of past benefits due under the long-term disability policy and in certain instances, provides for attorney's fees. ERISA does not provide for payment of future benefits as an available remedy, although oftentimes, payment of a portion of future benefits is a negotiating point in settlement discussions.

ERISA also does not provide for jury trials. The federal judge is limited to reviewing the administrative record that was

originally before the short or long-term disability plan administrator when the decision to deny the claim was made.

As you can see [ERISA negatively affects the short and long-term disability process](#) from start to finish. That is why it is key to retain Martin Law the minute that you make application for your benefits. We will start building a strong administrative record from day one to give you the best shot at getting and keeping your benefits paid.