The Clock is Ticking: Are Your ERISA Covered Plans Impacted by The New Disability Regulations?

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The DOL’s regulations on disability claim procedures was effective on January 18, 2017 and is generally applicable to claims for disability benefits filed on or after January 1, 2018. In the preamble to the Final Rule, the DOL cited a need for consistency in the claims and appeals process among ERISA covered plans that offer disability benefits. In our previous post, we outlined the most significant changes in the new regulations. Now, we will take a closer look at what plans may be impacted by the new regulations.

The Final Rule governs employee benefit plans subject to ERISA that offer disability benefits, not just disability plans. In addition to disability plans, it is not unusual for a retirement plan to provide disability benefits. It is also common for ERISA covered benefit plans to waive premiums or provide some other form of benefit in the event of a disability.

Under DOL regulations, a plan offers a disability benefit when it provides for a benefit that is only available upon a showing of disability. For example, a retirement plan that provides benefits upon the showing of a disability or accelerates vesting on disability is an ERISA covered plan that provides disability benefits. However, the DOL disability claims procedures do not apply to an employee benefit plan if it conditions disability benefits on a determination made by a party other than the plan, such as the Social Security Administration or your long-term disability plan. Further, the new regulations do not apply when the parties to a collective bargaining agreement have agreed to use a grievance and arbitration process to adjudicate disability claims.

As discussed in our previous post, there are substantial risks associated with failing to comply with the new disability claims regulations. Any ERISA plans making a disability determination will likely require amendments to the plan documents and summary plan description. We can assist you in determining whether your employee benefit plans are subject to the DOL’s Final Rule.