

TO:

CC:

FROM:

RE: Company
 Self-funded ERISA Health and Welfare Plan
 Soc. Sec. No.

DATED:

Attached for your review is a copy of correspondence, dated _____ relative to my client, _____. Please be advised that your notice of denial is deficient for various reasons.

ERISA requires that specific reasons for denial be communicated to a claimant and that a claimant be afforded an opportunity for "full and fair review by the administrator". 29 U.S.C. Section 1133, provides:

In accordance with regulations of the Secretary, every employee benefit plan shall

- (1) provide adequate notice in writing to any participant or beneficiary who's claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant, and
- (2) afford a reasonable opportunity to any participant who's claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim.

29 C.F.R. Section 2560.503-1(f) provides that the initial notice of a claim denial shall contain:

- (1) the specific reason or reasons for the denial;
- (2) specific reference to pertinent plan provisions on which the denial is based;
- (3) a description of any additional material or information necessary for the claimant to perfect the claim; and an explanation of why such material or information is necessary; and
- (4) appropriate information as to the steps to be taken if the participant or beneficiary wishes to submit his or her claim for review.

The regulations are designed to afford a beneficiary an explanation of the denial of benefits that is adequate to insure meaningful review. The claimant is entitled to knowledge of what evidence the decision maker relied upon and an opportunity to address the accuracy and reliability of that evidence. Describing additional information needed and explaining its relevance as required by Subsection 3 of 29 C.F.R. Section 2560.503-1, enables a participant to appreciate the fatal inadequacy of his claim and knowledge of what is needed to supplement the record. Wolfe v. J.C. Penned Co., 710 F.2d 388, 392 (7th Cir. 1983).

The claimant is also entitled to have the decision maker consider the evidence presented by both parties prior to reaching and rendering his decision. Brown v. Retirement Committee of Briggs & Stratton Retirement Plan, 797 F.2d 521, 534 (7th Cir. 1986, **cert denied**, 479 U.S. 1094 (1987)). The above requirements enable the claimant to prepare adequately for further administrative review as well as appeal to the Federal Courts. Matuszak v. Torrington Co., 927 F.2d 320, 323 (7th Cir. 1991).

A blanket request for "additional medical information" does not satisfy the regulatory requirements. Halpin v. W. W. Grainger, Inc., 962 F.2d 685, 691 (7th Cir. 1992). Bare conclusions are not a rationale. Defects in an initial denial letter are not cured by later correspondence. Providing claimant with a claim file, without sufficient indication of what parts of the file the administrator relied upon or rejected does not repair the inadequacy. Halpin v. W. W. Grainger, Inc., 962 F.2d 685, 693 (7th Cir. 1992). ERISA is intended to help claimants process their claims efficiently and fairly and were not intended to be used by the fund as a smoke screen to shield against legitimate claims. Richardson v. Central States S.E. & S.W. Areas Pension Fund, 645 F.2d 660, 665 (8th Cir. 1991). Halpin, at 696.

Request is therefore made pursuant to ERISA for the following:

1. A copy of the plan in question so that I may analyze the precise terms and definitions as it relates to my client;
2. A copy of all plan documents which purports to provide _____ with any type of discretion in administering this plan;
3. Copies of all documents analyzed, reviewed or considered in relation to this claim;
4. Copy of any notes, records, reports or scans pertaining to _____;
5. A copy of any report or analysis of the board certified occupational physician used by _____ in reviewing this claim;
6. A full and complete compliance with 29 U.S.C. Section 1133; and
7. A full and complete compliance with 29 C.F.R. Section 2560.503-1(f).

Glenn R. Gaffney

CERTIFICATE OF SERVICE

I hereby certify that on _____, I mailed a copy of the above and foregoing to whom it is addressed.

Attorney

Glenn R. Gaffney
Attorney for _____
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