

Summary Plan Description Posted on Company Intranet Does Not Satisfy ERISA Electronic Disclosure Rules

Labor & Employment Law Update

By Kelly Haab-Tallitsch on May 28, 2015

A recent court decision from the Eastern District of New York found that posting a summary plan description (SPD) on a company Intranet, without additional notice to participants, does not satisfy the electronic disclosure rules for employee benefit plans under ERISA.

In *Thomas v. CIGNA Group Ins.*, an employee was participating in her employer's life insurance plan at the time she became disabled. She stopped working and ceased paying the insurance premiums. The life insurance plan included a waiver of premium provision under which a disabled employee could request that life insurance coverage continue without payment of premiums. However, the employee never requested the waiver of premium and her life insurance coverage lapsed.

After her death, her beneficiary filed for life insurance benefits. The insurer denied the beneficiary's claim arguing that the employee did not request a premium waiver, as required by the plan, and therefore was not covered by the plan at the time of her death. The beneficiary sued the plan saying that the premium waiver requirement had not been communicated to the employee.

The employer argued that the employee should have known about the premium waiver requirements because they were included in the plan's SPD. The SPD was posted on the employer's Intranet site, but was not specifically forwarded to participants. The employer argued that the employee was notified that she could access the Intranet in her initial employment confirmation letter, two years prior to her disability.

The court found in favor of the beneficiary and ruled that the employee's estate was entitled to the death benefit. The court noted that simply posting the SPD on the company Intranet was considered insufficient delivery for ERISA plans under Department of Labor electronic disclosure rules. Those rules require the employer to provide notice to employees directing them to the website where the SPD is located, notification of the SPD's significance, and notice of the right to request a paper copy. The rules also require notice each time a new electronic

document is furnished.

Employers need to be aware of the rules regarding distribution of notices electronically and should review their distribution practices. While posting an SPD on a company Intranet is permissible, it alone does not satisfy the Department of Labor's electronic distribution rules.

When distributing an SPD by making it available on a company Intranet, employers must also provide notice to participants informing them of the availability of the SPD and how to access it, the significance of the SPD, and the participant's right to request a paper copy.

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