

FOURTH CIRCUIT: PLAN ADMINISTRATOR MUST OBTAIN “READILY AVAILABLE INFORMATION” IN CLAIMS DETERMINATION

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What is a plan administrator’s obligation under ERISA to seek and obtain information potentially relevant to a participant claim where the participant has not provided it? The Fourth Circuit recently provided guidance on that issue in the case of *Harrison v. Wells Fargo Bank, N.A.*

Nancy Harrison was an online customer service representative for Wells Fargo Bank. In 2011, she underwent a thyroidectomy to remove a large mass that had extended into her chest and which caused chest pain and tracheal compression. She was unable to work and received short-term disability benefits under the Wells Fargo plan. While she was recovering and waiting for a second, more invasive surgery, her husband died unexpectedly, triggering a recurrence of depression and post-traumatic stress disorder (PTSD) related to the death of her children in a house fire a few years before.

Approximately three weeks after Ms. Harrison’s first surgery, Wells Fargo determined that she had recovered and it discontinued her short-term disability benefits. (It later provided short-term disability benefits after Ms. Harrison’s second surgery.) Ms. Harrison submitted a claim for reinstatement of the short-term disability benefits due to her depression, PTSD and related physical ailments. The outside claims administrator denied that claim. Ms. Harrison submitted an administrative appeal to Wells Fargo, supported by documentation from two of her physicians and a detailed letter from a relative who was her primary caretaker. She also disclosed that she was under the care of a psychologist and provided the psychologist’s contact information, as well as a signed medical release.. Wells Fargo submitted the administrative appeal to an independent peer review. The peer review physician contacted Ms. Harrison’s primary care physician, but he did not contact the psychologist. The peer reviewer ultimately concluded that in the absence of psychological records, it could not be determined whether Ms. Harrison’s psychiatric status limited her functional capacity. Wells Fargo denied Ms. Harrison’s administrative appeal and upheld the prior claim denial.

Ms. Harrison filed a lawsuit for benefits under ERISA. The district court found there was insufficient evidence of disability under the plan to conclude that Wells Fargo had abused its discretion in

denying Ms. Harrison's claim. On appeal, the Fourth Circuit reversed.

The Fourth Circuit held that by not contacting Ms. Harrison's psychologist, Wells Fargo "chose to remain willfully blind" to readily available information that might have confirmed her claim of disability. The court noted that ERISA requires that an administrator use a "deliberate, principled reasoning process" in claims determination. It does not require that the plan administrator "scour the countryside in search of evidence" to bolster a participant's claim. But where potentially relevant information is readily available, the court noted, ERISA does not permit an administrator to "shut his eyes" to that information.

In light of this appellate court opinion, plan and claims administrators are well-advised to affirmatively pursue all readily available information in the claims determination process, even where the claimant has not provided it as part of the original claim or appeal. Otherwise, a court may determine that the administrative claims process was deficient, resulting in a remand of the claim for further consideration. Furthermore, after the Supreme Court's ruling in *Hardt v. Reliance Standard Life Ins. Co.*, 532 U.S. 598 (2009), such a remand could be considered "some degree of success on the merits" in the litigation, entitling the claimant to an award of attorneys' fees.

MEET THE TEAM



W. Bard Brockman

Atlanta / Miami

bard.brockman@bclplaw.com

[+1 404 572 4507](tel:+14045724507)



Lisa A. Van Fleet

St. Louis

lisa.vanfleet@bclplaw.com

[+1 314 259 2326](tel:+13142592326)

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