

Employee Benefits Law Alert

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Third Circuit Clamps Down On ERISA Notice Requirements

Plan administrators beware. The Third Circuit Court of Appeal's recent decision in *Mirza v. Insurance Administrator of America, Inc.* may change the way that you deny benefits. In an opinion handed down on August 26, 2015, the Third Circuit ruled that, where an ERISA plan imposes deadlines for a participant to file a lawsuit after being denied benefits, these deadlines must be included in the written notice denying benefits. Failing to do so forfeits the argument that the claim is time-barred.

ERISA regulations require that denials of benefits contain "a description of the plan's review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action." In the *Mirza* case, the plan imposed a one-year deadline for a participant to bring a civil lawsuit after exhausting the internal review process. However, the final notice denying benefits sent to the participant did not contain this deadline. The participant then waited nineteen months to file a lawsuit. The plan administrator's main argument was that the lawsuit was time-barred. The Third Circuit disagreed, stating that the notice did not comply with ERISA regulations, because it failed to include the plan imposed one-year deadline. Therefore, the participant's case could proceed.

Plan administrators for plans with filing deadlines should make sure that all future notices include these deadlines. The consequence of not doing so could forfeit an otherwise meritorious argument that a participant's lawsuit is time-barred.

If your plan does not contain these deadlines, you may want to consider amending it to include them to preserve a time-bar argument should a case reach litigation.

If you have any questions regarding this information, or employee benefits in general, please contact Lauren N. Wolesslagle at (412) 594-5510, or lwolesslagle@tuckerlaw.com.