

EBIA Weekly Archives

Posting SPD on Intranet Insufficient Electronic Disclosure Without Notice to Participants

From the March 26, 2015 EBIA Weekly

[*Thomas v. CIGNA Group Ins.*, 2015 WL 893534 (E.D.N.Y. 2015)]

Available at http://www.gpo.gov/fdsys/pkg/USCOURTS-nyed-1_09-cv-05029/pdf/USCOURTS-nyed-1_09-cv-05029-1.pdf

The crux of this case involves satisfying ERISA's electronic disclosure rules when posting SPDs on a company intranet. The rules require, among other things, that the plan administrator provide a written or electronic notice to employees directing them to the website and describing the SPD's significance and the right to request a paper copy. The participant here obtained life insurance through her employer's ERISA plan. When she became disabled, she stopped working and paying premiums. After her death, the insurer denied her beneficiary's claim for benefits, determining that although the coverage allowed premium waivers for disability, the participant had not timely requested a premium waiver and thus was not covered when she died. The beneficiary sued, asserting that the premium waiver requirements had not been appropriately communicated to the participant due to inadequate SPD distribution.

The court held that the denial was arbitrary and capricious because there was no evidence that the plan administrator had provided the participant with an SPD—and the insurer never considered the appropriateness of the SPD distribution method. The court explained that ERISA's electronic disclosure rules require notice each time a new electronic document is furnished. Even if (as the insurer suggested) the employment confirmation letter referencing the company intranet provided notice of the SPD when the participant was hired, a different SPD was in effect when she stopped working. There was no evidence that notice of the new SPD was ever provided or that SPDs were furnished in any manner other than intranet posting. According to the court, intranet posting is akin to simply placing materials in a location frequented by employees, which is not an acceptable method under the DOL's SPD distribution regulations. The court also noted that the SPD's premium waiver provisions were unclear, the insurer had not established that electronic delivery was appropriate for the particular participant's job, and the insurer's judgment appeared to be clouded by a conflict of interest. (For more about structural conflicts of interest, see our [article](#).)

EBIA Comment: Company intranets are a common and convenient tool for benefit communications—but if ERISA's electronic distribution rules are not followed, the plan administrator may not be able to rely on the posted materials in litigation. The takeaway from this case is simple: Merely placing SPDs on a website, without notifying participants of their availability and significance (and the right to a paper copy), does not satisfy ERISA's requirement that the distribution method be reasonably calculated to ensure actual receipt and result in full distribution. For more information, see EBIA's [ERISA Compliance](#) manual at Section XXIV.G ("Electronic Disclosure of SPDs and Other ERISA-Required Documents"). See also EBIA's [Self-Insured Health Plans](#) manual at Section XXVIII.B.4 ("When and How to Furnish SPDs and SMMs") and EBIA's [401\(k\) Plans](#) manual at Section XXIX.B.3 ("How to Distribute SPDs").

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