



Supreme Court Addresses Impact of Plan Administrator's Conflict of Interest in Court's Review of Benefit Claim Denials


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The United States Supreme Court recently issued a decision likely to affect many employee benefit plans. In the case, *Metropolitan Life Ins. Co. v. Glenn*, decided June 19, 2008, the Court held that when the same entity has both the authority for determining whether a benefit claim is covered by the plan, and the financial responsibility for paying the benefit under an ERISA plan, an inherent conflict of interest exists. Although the Court was divided on how to weigh this conflict, the majority held that the conflict must be considered as a factor in determining whether the plan administrator has abused its discretion.

Background

When courts review the decisions of ERISA plan administrators who have discretionary authority under the terms of the plan, they generally defer to the administrators' determinations. The rationale for this "hands off" judicial approach is that courts should not interject themselves into benefit plan determinations. Under this legal standard of review, courts traditionally have not been willing to overturn a plan administrator's decision to deny a participant's appeal of a denied claim unless, based on the facts and information properly before the administrator, the participant could demonstrate that an administrator's decision lacked a rational basis, or was "arbitrary and capricious."

According to dictum in the Supreme Court's previous 1989 decision, *Firestone Tire & Rubber Co. v. Bruch*, if a benefit plan grants discretion to an administrator or fiduciary who is operating under a conflict of interest, that conflict must be weighed as a factor in determining whether there is an abuse of discretion. After *Firestone*, federal courts struggled to formulate appropriate guiding principles. The circuit courts split, however, on whether a conflict of interest exists when the same entity both makes claim determinations and pays claims,



and the circuits had reached different conclusions about what impact a conflict should have on the appeal of a denied claim. The Supreme Court agreed to resolve the conflict in *Metropolitan Life Ins. Co. v. Glenn*, on appeal from the Sixth Circuit Court of Appeals.

Metropolitan Life Ins. Co. v. Glenn Decision

Many employers sponsoring employee benefits plans have the dual role of determining eligibility for benefits and paying benefits. In *Glenn*, the Supreme Court held that such a structure creates an inherent conflict of interest. The majority concluded that a conflict of interest exists when one entity, such as an employer, makes both discretionary benefit determinations and pays claims for benefits.

In *Glenn*, the employer sponsor of an insured long-term disability plan granted MetLife the discretionary authority to determine whether an employee's claims for benefits were covered under the plan. As the insurer, MetLife was also responsible for paying benefits. The Court determined that, even when an insurance company is the plan administrator, an inherent conflict of interest exists. Thus, conflicts of interest can exist in both fully-insured and self-insured plans.

According to the Court, a conflict of interest must be weighed as a factor by a court in its review of a contested denial of benefits. However, the Supreme Court declined to create special burden-of-proof rules or eliminate the deferential standard of reviews when there is a conflict. The Supreme Court reiterated that if a plan grants the administrator discretion, the court will apply a deferential "abuse of discretion" standard of review to the administrator's decision, regardless of whether a conflict exists.

Importantly, *Glenn* allows courts to vary the weight given to a conflict of interest depending on the facts of a particular case. The majority noted that a conflict would be a more significant factor when there is evidence of a history of biased claims administration. In contrast, when an administrator takes precautions to reduce bias such as walling off claims administrators from those interested in firm finances or imposing management checks that penalize inaccurate decision making irrespective of whom the inaccuracy benefits, the conflict would have less weight.

Impact on Employee Benefit Plans

Although *Glenn* involved the denial of long-term disability benefits, the decision has implications for all health and welfare plans. Since many employers sponsoring employee benefits plans both administer and pay benefits, or have insurance companies perform both functions, employers should review their plan structure and administration procedures. In light of *Glenn*, it is important that plan sponsors determine the extent to which a plan administrator has a financial interest in the outcome of the claims decision. Although *Glenn* does not change the standard of review, employers will face additional scrutiny from courts in the event of a conflict of interest, potentially reducing the amount of deference accorded to plan administrator decisions. The Court held that ERISA imposes a higher-than-marketplace standard on insurers who make benefits decisions. Thus, it is important that benefits decisions are well documented and administrative procedures are designed to show a reviewing court that the conflict of interest has not influenced the benefit decision.

Plan sponsors should evaluate the structure of benefit determinations, any contracts with insurance companies or third party administrators, and the fairness of previous claims determinations. Employers might also consider implementing procedures designed to reduce bias in claims decisions. For example, the plan administrator may consider establishing an independent third party administrator of claims or imposing management checks to ensure accurate decision making.

Additionally, the employer should document all claims decisions, including the measures the employer has taken to reduce the possibility of conflict. The more evidence an employer has that procedures are in place to reduce bias in claim determinations, the less significant a conflict of interest will be to a court evaluating the denial of a claim for benefits.



For more information on these decisions and how they may affect your business, please contact Mr. Speyer at our Toledo office (419-241-6000). Mr. Speyer, a member of the Firm, has 20 years of experience in legal practice focused in the areas of employee benefits law and ERISA and oversees the Firm's employee benefits practice. Mr. Speyer regularly advises plan sponsors and fiduciaries regarding the legal and tax issues involved with the design and administration of employee benefit plans, as well as the drafting of such plans.

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