

Maximum Statutory Penalty Awarded for Failure to Provide SPD

July 14, 2012

A U.S. federal district court assessed the maximum penalty available under ERISA (\$110 per day) against an employer for failing to timely provide an accurate and up-to-date summary plan description ("SPD") upon a participant's request. In 2010, the participant requested an SPD for the company's long term disability plan. The employer provided a copy of the 2006 SPD, at which point the participant asked if there was a more recent SPD. The employer did not respond, and so the participant hired an attorney. In response to the attorney's request for documents, the employer again provided the 2006 SPD and stated that additional information would be provided, though it never was. The attorney then arranged a visit to the employer's office to inspect the plan documents, at which point, five months after the initial request, the employer provided summaries of material modifications showing the changes to the plan since the 2006 SPD. The court cited the employer's unresponsiveness and failure to provide a reason for the delay as bases for assessing the maximum available penalty. The court noted that participants should not have to hire attorneys to obtain documents containing accurate and up-to-date information about employer sponsored plans. *Latimer v. Washington Gas Light Co.*, No. 1:11cv571, 2012 WL 2119254 (E.D. Va. June 11, 2012).