

Court Blocks Plaintiff's Attempt to Conduct Discovery Into Claim Review History of Medical Reviewer

Hinshaw Alert | 3 min read

Jun 7, 2021

In *Adkins v. Life Insurance Company of North America*, 2021 U.S. Dist. LEXIS 37847 (E.D. Wash., March 1, 2021), a Washington district court blocked a plaintiff's attempt to conduct discovery into the claim review history of an insurance company's medical reviewer.

While ERISA cases are generally confined to the administrative record, courts may allow parties to conduct limited discovery to clarify the appropriate standard of review or address conflicts of interest. The *Adkins* court held that discovery into a medical reviewer's history was out-of-bounds. Specifically, the court refused to order Life Insurance Company of North America's (LINA) to disclose how many files one of its medical consultants had reviewed for it and how much LINA paid the reviewer's employer for her services.

In *Adkins*, Carrie Adkins, who was insured under an ERISA plan (Plan) offered by her employer, claimed to be disabled from neck, back, and shoulder pain, as well as traumatic brain injury symptoms, following a car accident in January 2016. Adkins submitted a claim for LTD benefits, which she supported with medical records that included reports from two psychologists who concluded that she suffered from cognitive and communication deficits arising from her injuries. LINA's claim review included an opinion from a clinical psychologist who determined that Adkins was not cognitively impaired.

After exhausting her administrative remedies, Adkins filed a federal lawsuit asserting a claim for benefits under ERISA § 1132(a)(1)(B) and a claim for breach of fiduciary duty pursuant to § 1132(a)(3). The parties agreed that review of the claims was *de novo*. Nevertheless, Adkins proposed discovery seeking information on the number of claims LINA's psychology peer reviewer performed for LINA as well as the amount of money that LINA paid to her employer. Adkins asserted that although this discovery was outside the administrative record, it should be allowed because it was relevant to the claimant's breach of fiduciary duty claim. The court ordered LINA to disclose the amount of money paid to the psychologist through third-party vendors from 1/1/2019 through 12/31/2020 and how many times she was hired.

LINA filed a motion for reconsideration of the court's order, arguing that obtaining the requested information was neither possible nor practical due to the way its claim files were stored, and that the claimant failed to establish exceptional circumstances to seek information outside the administrative record on *de novo* review.

While this dispute was pending, the parties filed cross motions for judgment on the administrative record on the (a)(1)(B) claim only.

On March 1, 2021, the court issued an order finding in favor of LINA, denying the claimant's (a)(1)(B) claim for LTD benefits. That same day, the court also granted LINA's motion to reconsider because the claimant acknowledged during the discovery hearing that her claim for breach of fiduciary duty was likely contingent upon the success of her benefit claim, which the court denied. The court stated:

The Court accepts Defendant's representation that it does not keep the information sought, would have to conduct a physical review of every claim filed during the timeframe at issue to see whether [the psychologist] was involved and how much her employer was paid for her services. Even then, such a process would not reveal the precise relevant information Plaintiff seeks. The Court finds such process too expensive and burdensome, given that the information would more easily be obtained directly from [the psychologist] or her employer.

Also of interest in the case was the court's order on the claimant's (a)(1)(B) claim. In the court's findings of fact and under *de novo* review, the court fully credited the opinions of LINA's medical reviewers, and discredited the opinions of the claimant's treating physician. In so holding, the court conducted a detailed analysis as to whether the stated opinions on both sides were consistent with the office visit notes, testing, and the medical evidence as a whole.

Key Takeaways

This case is important for plan administrators because it shows the value of well-reasoned medical reviews and further demonstrates that successful challenges to discovery regarding medical reviewers can be successful if there is a persuasive argument that the information cannot be readily obtained by the plan.

Hinshaw & Culbertson LLP is a U.S.-based law firm with offices nationwide. The firm's national reputation spans the insurance industry, the financial services sector, professional services, and other highly regulated industries. Hinshaw provides holistic legal solutions—from litigation and dispute resolution, and business advisory and transactional services, to regulatory compliance—for clients of all sizes. Visit www.hinshawlaw.com for more information and follow @Hinshaw on LinkedIn and X.

Related People



Jennifer J. Kalas

Senior Counsel

📞 219-864-4521