

District Court Finds Reduction in Monthly LTD Benefit Due to IRA Rollover Appropriate Under Plan Terms

Hinshaw Alert | 3 min read

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In *DeBold v. Liberty Life Assur. Co. of Bos.*, 2021 U.S. Dist. LEXIS 120153 (D. Mass, June 28, 2021), a district court held that an ERISA plan administrator could reduce an insured's monthly long-term disability (LTD) benefit based on retirement funds that she rolled over into an IRA.

Courts nationwide are split on whether such a transfer qualifies as "Other Income" under an ERISA plan that would justify an offset against approved disability benefits. Part of the answer depends on the standard of review applied by the court.

In *DeBold*, Jami DeBold was awarded LTD benefits in 2002, after an accident had rendered her a person with quadriplegia. At the time, she was an employee of the Wachovia Corporation (Wachovia) and a participant in the company's group employee benefits plan (Plan). Liberty Life Assurance Company of Boston (Liberty Life) was the claims administrator for the Plan.

DeBold received benefits without incident until 2018. At that time, she made an election to receive a one-time lump sum payment in lieu of monthly retirement payments from her employer's Cash Balance Plan. That lump sum payment was rolled over into her IRA. Liberty Life, in its capacity as claims administrator, deemed that payment as "income from another source" and reduced DeBold's monthly LTD benefit accordingly.

DeBold contested the decision and, after exhausting her administrative remedies, sued multiple entities, including Liberty Life and the Plan, in federal court. DeBold asserted claims under ERISA for wrongfully denied benefits (§1132(a)(1)(B)) and breach of fiduciary duty (§1132(c)).

The defendants moved to dismiss DeBold's second amended Complaint, pointing to the Plan provision providing for an offset for "Benefits from Other Income" that included "[t]he amount of any Disability Benefits, or Retirement Benefits the Participant voluntarily elects to receive as retirement payment under the Employer's

Retirement Plan.” The defendants argued that because the Plan requires the offset to be taken, DeBold had failed to state a plausible cause of action.

DeBold conceded that the Plan required the offset to be taken but argued that the Plan language is not enforceable because it is inconsistent with ERISA and the Tax Code. Applying a discretionary standard of review, the court rejected those arguments, noting that “whether her rollover had tax consequences is distinct from whether it had consequences to her long term disability benefits under the terms of the Wachovia Plan.” The court also found no merit to the argument that the Plan is seeking to apply ERISA requirements to her IRA. As such, the court granted the defendants’ motion to dismiss.

Significance of Decision

Among other things, the *DeBold* decision highlights the importance of the standard of review. Several ERISA cases addressing the impact of rolling of retirement benefits into an IRA under *de novo* review had found the plan term “receive” ambiguous and held that the plan participant had not “received” income by virtue of the direct trustee-to-trustee rollover. See, e.g., *Blankenship v. Liberty Life Assur. Co.*, 486 F.3d 620 (9th Cir. 2007). In those cases, the reduction of the monthly benefit was disallowed. In *DeBold*, however, the arbitrary and capricious standard applied because Liberty Life had been granted discretionary authority under the Plan, which included the “right to resolve and remedy ambiguities, inconsistencies or omissions in the Plan.” Because of the favorable standard of review, the defendants were not faced with the argument that an ambiguous plan term should be construed against the drafter (*contra proferentem*).

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