

# HR Heads-up

PERIODIC UPDATES ON IMPORTANT HR LEGAL ISSUES

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## ***New DOL Disability Claims Procedures Apply April 1, 2018***

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Section 503 of the Employee Retirement Income Security Act of 1974, as amended (ERISA), requires that every employee benefit plan establish and maintain reasonable procedures governing the filing of benefit claims, notification of benefit determinations, and appeal of adverse benefit determinations. The Department of Labor (DOL) has issued new regulations regarding benefit claims procedures for ERISA plans.

New rules for claims relating to disability become effective April 1, 2018. The rules for disability claims are substantially more complex than the rules for claims under deferred compensation plans or arrangements (called “pension plans” under ERISA). The DOL’s position is that the nature of the benefit determines which procedural standards apply to a specific claim, rather than the manner in which the plan itself is characterized. This means that any plan providing a benefit triggered by disability may be subject to the special rules for disability claims, regardless of whether the plan’s primary benefit is a disability benefit.

However, the DOL also has indicated that if a plan provides a benefit triggered by disability but the determination of disability is made by a party other than the plan, then the plan need not apply the special rules for disability claims. For example, if a pension plan provides that benefits shall be paid to a person who has been determined to be disabled by the Social Security Administration or under the employer’s long term disability plan, a claim for pension benefits based on the determination that the claimant is disabled would be subject to the rules for pension plan claims, not disability claims. See DOL Benefit Claims Procedure Regulation FAQs, Q/A-A9, available on the [dol.gov](http://dol.gov) website.

Consequently, sponsors of deferred compensation plans or other arrangements where benefits can be triggered by disability may want to provide that the determination of disability be made by Social Security Administration or under the sponsor’s long term disability plan. Alternatively, sponsors may want the flexibility to make the determination themselves, in which case they will need to follow the new disability rules. In either case, sponsors of plans where benefits may be triggered by disability should review their plan’s definitions of disability and claims procedures to ensure compliance with the new disability claims procedures regulations.