CARLTON FIELDS

Medical Incapacity Does Not Toll Life Insurance Conversion Period

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A plan administrator did not abuse its discretion in concluding that a former employee's surviving spouse was not entitled to life insurance benefits under an employee benefit plan. In *Hayes v. Prudential Insurance Company of America*, the plan participant's surviving spouse filed suit to recover benefits after her husband died. Several months before his death, her husband lost his job because of medical issues, which resulted in termination of his employer-provided life insurance policy. Although he had 31 days to convert the employer-provided coverage to individual coverage, he failed to make a timely election. Instead, the former employee waited 26 days after the conversion deadline passed to contact the plan administrator about converting his life insurance policy. The plan administrator denied his belated conversion request.

The employee passed away six months later and his surviving spouse submitted a claim for benefits under her husband's employer-provided life insurance policy. The plan denied her claim. During the administrative appeals process, the claim administrator noted that although the deceased was "incapacitated due to his medical conditions and symptoms during the time period he had to convert his coverage," the plan was required to administer claims under the plan in strict adherence to the policy provisions. The district court reviewed the plan denial of benefits for abuse of discretion and upheld the plan determination, and the Fourth Circuit Court of Appeals affirmed.

Both courts rejected the plaintiff's plea to apply the doctrine of equitable tolling to extend the conversion deadline because of the former plan participant's medical incapacity during the conversion period. The Fourth Circuit explained that because the decedent missed the conversion deadline, awarding benefits under 29 U.S.C. § 1132(a)(1)(B) would require modifying the plan's terms. The court also held that the doctrine of equitable tolling applies only to periods that operate like a statute of limitations, which a conversion period is not, because "it is not triggered by the violation giving rise to the action."

An interesting issue in the case was the Fourth Circuit's comments concerning the viability of 29 U.S.C. § 1132(a)(3) as a basis for courts to enforce contracts other than as written. Although the plaintiff did not assert a claim under subsection (a)(3), and expressly disavowed its application to the case, the Fourth Circuit recognized that subsection (a)(3) permits a plan participant or beneficiary to obtain equitable relief to redress violations of that subchapter. The court did not decide whether the plaintiff could have obtained relief under subsection (a)(3), thus laying the foundation for the possibility of equitable tolling relief under that provision for similar claims.

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