

Compliance Checklist For  
Amendments to ERISA Disability  
Claim Regulations

Assuring Independence

- ✓ Make sure vendor contracts do not include incentives that could be interpreted to promote the denial of claims
- ✓ Make inquiries of vendors to make sure their own compensation plans do not incentivize their employees to deny claims.

Content of Denial Letters

- ✓ Does the letter explain why the claim decision differs from the findings of medical and vocational experts who treated the claimant?
- ✓ Does the letter address the findings of the plan's medical and vocational experts irrespective of whether they supported the denial of benefits?
- ✓ If the claimant is receiving SSA disability benefits does the letter distinguish why the plan arrived at a contrary decision?
- ✓ Does the letter cite any and all internal rules or guidelines that were relied on in reaching the adverse decision? If no rules or guidelines were used in the claim analysis, does the letter make that clear?
- ✓ After an initial denial of benefits, has the claimant made a request for information relevant to the claim decision. Has the information been provided?
- ✓ Does the claimant reside in a county where more than 10% of the population is literate in a single language other than English? If so, do the notices that are sent to the claimant include reference to the non-English language services provided by the plan? Is the notice written in the appropriate non-English language?

Claimant's Right to Review and Respond to New Information Before a Final Decision

- ✓ During the appeals process, was new information gathered or was a new rationale developed? If so, has the new evidence and the new rationale been provided to the claimant before a final decision was made?
- ✓ Does the claimant have enough time to respond to the new information before a final decision is due? If not, has an extension of time been requested so that the claimant has a reasonable amount of time to respond?

Notice of Actual Date on Contractual Limitations to File Suit

- ✓ Does the final denial letter, issued after an appeal, contain the specific calendar date on which any applicable contractual limitation period expire?

### Deemed Exhaustion of Claims and Appeal Processes

- ✓ Has the claimant alleged that a violation of the claim regulations has occurred? Has a response been provided within 10 days after receiving the allegation?

### Rescission

- ✓ Is the plan rescinding coverage based on a reason other than non-payment of premium? If so, has the protocol been followed in the same manner as any other denial of benefits under ERISA?