CIGNA v. Amara and ERISA Claims for Faulty Summary Plan Descriptions: A Second Look

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The Supreme Court recently held that misleading and inaccurate statements in plan communications cannot form the basis for claims under ERISA[1] by plan participants to recover plan benefits, and that the actual plan document governs the rights of plan participants (CIGNA Corp. v. Amara, 2011 U.S. LEXIS 3540 (May 16, 2011)). However, the Court's decision also indicates that plan participants may sue under ERISA for "other appropriate equitable relief" when misleading or inaccurate plan communications cause them harm.

This Employee Benefits ALERT discusses the impact of the CIGNA case and the actions that plan sponsors should take in its aftermath.

**Background**

When converting its traditional defined benefit pension plan to a cash balance plan in 1998, CIGNA, as both the plan sponsor and plan administrator, was required to send notices of the change to plan participants and to establish opening account balances for each participant in the cash balance plan reflecting the actuarial value of their benefits under the prior pension plan. Participants and beneficiaries of the prior pension plan challenged the adoption of the cash balance plan, claiming that CIGNA's notice of the conversion was improper - particularly because the cash balance plan in certain respects provided them with less generous benefits than the prior pension plan.

In agreeing that CIGNA's descriptions of the cash balance plan were significantly incomplete and misleading to participants, the District Court determined that the appropriate relief would be to amend the terms of the cash balance plan and ordered CIGNA to pay benefits accordingly. The Court based its authority on ERISA Section 502(a)(1)(B), which provides that an action may be brought by a participant or beneficiary "to recover benefits due
to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan." In ordering this relief, the District Court found that CIGNA's notice failures had caused the participants "likely harm" and violated CIGNA's disclosure obligations under ERISA. The Second Circuit affirmed the decision of the District Court.

The CIGNA Ruling

The Supreme Court held that the District Court did not have authority, under ERISA Section 502(a)(1)(B), to change the terms of a plan based on statements contained in summaries of the plan. The Court emphasized that the terms of a "plan" do not include statements in the summary plan description ("SPD") or summary of material modifications ("SMM") for purposes of remedies under ERISA Section 502(a)(1)(B), and that to rule otherwise would defeat the intended purpose of SPDs and SMMs as simple, clear communications.

However, in finding that ERISA Section 502(a)(1)(B) did not authorize the relief ordered by the District Court, the Supreme Court did indicate that claims arising from conflicts between an SPD or SMM and a plan document may be resolved under ERISA Section 502(a)(3), which allows a participant, beneficiary, or fiduciary to obtain other appropriate equitable relief to redress the violations of the relevant provisions of ERISA "or the terms of the plan." The Supreme Court remanded the case to the lower court for further proceedings regarding the applicability of ERISA Section 502(a)(3).

The 6-2 majority decision, written by Justice Breyer, departed from earlier lower court decisions and significantly expanded the potential remedies available under ERISA Section 502(a)(3), even suggesting that monetary damages may be available. The decision also indicated that in certain cases it may not be necessary to demonstrate that the participant detrimentally relied on the deficient SPD or SMM in order to seek relief (as some lower courts have previously required in order to enforce the terms of a SPD or SMM). Significantly, both the majority opinion and Justice Scalia's concurring opinion agreed that plan participants generally would need to show actual harm in an equitable relief claim where monetary damages are sought.

Putting the Ruling to Practice: What To Do Now

Given the Supreme Court's decision in CIGNA Corp. v. Amara that the SPD is not the plan document, plan sponsors and administrators should be prepared for more requests from participants for actual plan documents. In this regard, the plan sponsor should confirm that plan documents are accurate, up-to-date and reflect current plan policies and procedures.

The plan sponsor and administrator should also review plan communications for accuracy, completeness, and readability, as well as compliance with ERISA. Although the Supreme Court confirmed that statements in an SPD or
SMM do not themselves constitute the terms of a plan for purposes of remedies under ERISA Section 502(a)(1)(B), plan sponsors and other fiduciaries are not immune from claims for monetary compensation under ERISA Section 502(a)(3), relating to misleading statements or material omissions that harm participants.

The Supreme Court's decision confirmed that SPDs and SMMs are meant to be clear and concise summaries and should not be overly complex - in other words, SPDs and SMMs should actually summarize, and not restate, plan terms and modifications. Plans that provide that the plan document also serves as its own SPD (for example, certain welfare benefit plans) especially should be reviewed to ensure that plan terms are complete and unambiguous.

Plan sponsors and administrators should review plan communications to ensure also that any material amendments to the plan are accurately reflected. A plan amendment is generally considered "material" if it affects the rights or obligations of plan participants to a material extent. Before changing plan provisions, plan sponsors and administrators should consider whether notices or other communications will need to be distributed or updated as a result.

Plan sponsors and administrators may also want to consider setting up a process for comparing (and verifying) the content of plan communications against the plan document before being distributed to participants. This process may be used as a means to avoid misrepresentation of plan provisions and, ideally, to prevent the sort of claims addressed in CIGNA Corp. v. Amara.


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