

BNA Webinar: Discretionary Clauses Under Fire - The Future of Discretionary Clauses in Health, Disability, and Life Insurance Plans

April 20, 2010

Mark Nielson will participate in a BNA-sponsored webinar, "Discretionary Clauses Under Fire: The Future of Discretionary Clauses in Health, Disability, and Life Insurance Plans" on April 20th, 2010.

In recent years, there has been a surge in activity by states to prohibit or severely restrict the use of "discretionary clauses" in health, disability, and life insurance policies, including policies issued to ERISA-covered plans. Discretionary clauses allow plan administrators to obtain deferential court review of lawsuits that challenge the denial of a benefit. State efforts to limit such clauses significantly increase the odds that a court may overturn a benefit denial.

This webinar will analyze state efforts to limit the use of discretionary clauses and the impact of such restrictions on plans and plan sponsors in the claims adjudication process. The webinar will also examine several recent court decisions addressing whether state efforts to limit discretionary clauses are preempted by ERISA. The program will provide critical insight regarding:

- Actions by states to ban or limit the use of discretionary clauses in health and welfare plans
- The impact of such state regulation on the claims adjudication process
- How state action regarding the use of discretionary clauses may expose plan administrators to greater liability for denied benefits
- Recent court decisions addressing the preemption of state efforts to restrict discretionary clauses
- Steps plan administrators should be taking to establish better claims adjudications processes and to minimize litigation risks