

M. Appeal Item Number Thirteen (13)

XXXX, the Plan sponsor and Administrator of Mr. XXXX's Long Term Disability policy at issue in this appeal has rejected both Cigna's adverse determination dated May 2, 2006 and Cigna's adverse determination on review dated January 30, 2007 as a "qualifying event," pursuant to the terms of the Summary Plan Description. A "qualifying event" would trigger the termination of Mr. XXXX's other medical benefits (health, dental) that are tied to his disability benefits. XXXX's clear and unequivocal conduct demonstrates conclusively that it considers both of Cigna's adverse determinations problematic and will not accept them as "qualifying events."

On May 19, 2006 Mr. XXXX sent an internal communication to the XXXX Benefit Resource Center:

I need to know if the letter from Cigna dated May 2, 2006 denying disability benefits is a qualifying event for COBRA? What is the official date of the qualifying event? In the SPD I am obligated to notify the plan administrator, what is the required means and what documents are necessary?

The UTC Benefits Resource Center responded the same day in two communications:

Cigna denying disability, health and group benefits is a qualifying event. As for the official date of the event, we would have to receive notification from XXX to confirm the coverage end date.

Your case is under investigation.

To date, XXXX has rejected Cigna's adverse determination as a "qualifying event." Mr. XXXX's coverage for health and dental has continued, uninterrupted; furthermore, he has not been notified, as the law requires, of a COBRA qualifying event. The email confirmation of Mr. XXXX's benefit continuation dated April 1, 2007 from the XXXX Benefit Resource Center is hereto attached.

Notably, the Summary Plan Description states "the master contract between the company and the insurance company legally governs the operation of these benefits." The master contract, produced by XXXX pursuant to an ERISA request, does not confer discretionary authority to Cigna to interpret the provisions of the plan, including but not limited to, the "definition of disability." Moreover, it should be noted that Cigna was replaced as XXXX disability insurance carrier by Liberty Mutual coincident with the Cigna's fervent attempts to deny Mr. XXXX his benefits after ten years. XXXX apparently views Cigna's decision to deny Mr. XXXX's benefits after ten years and coincident with Cigna's removal as XXXX disability insurer with much suspicion.