Published on *The National Law Review* https://natlawreview.com

ERISA Administrative Appeal Barred As Untimely

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The First Circuit held that a plaintiff failed to timely exhaust her administrative remedies under a long-term disability plan because the plan's 180-day time limit for submitting appeals commenced on the date the plaintiff received notice of the decision that it was going to terminate her long-term disability benefits, not the actual date her benefits were terminated. In so ruling, the Court rejected plaintiff's argument that the doctrine of substantial compliance and the state's notice-prejudice rule somehow excused her late-filed appeal. The Court first concluded that the doctrine of substantial compliance, which is sometimes used by a plan administrator to excuse a failure to comply perfectly with ERISA's notice requirements, could not be used by the plaintiff to excuse her late filing because such an expansion of the doctrine would render it "effectively impossible" for plan administrators to enforce administrative deadlines. The Court also concluded that the plaintiff could not invoke the state's common law notice-prejudice rule, which requires an insurer to show that it was prejudiced by an untimely notice of appeal in order to deny certain types of claims, because doing so would undercut the policy purposes behind the exhaustion requirement. The case is Fortier v. Hartford Life & Accident Ins. Co., No. 18-1752, 2019 WL 697989 (1st Cir. Feb. 20, 2019).

National Law Review, Volume IX, Number 71