

11th Circuit Court of Appeals Mandates Proactive Gathering and Review of Social Security Administration (SSA) Information in Long-term Disability (LTD) Benefit Review

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Not long ago, the United States Supreme Court in [*MetLife v. Glenn*, 128 S. Ct. 2343 \(2008\)](#) gave a stern warning to plan fiduciaries who required a claimant to apply for disability benefits with the **Social Security Administration (SSA)**, benefited from an SSA approval due to the benefit offset, and then failed to adequately distinguish its benefit denial from the SSA's approval: This, the Court declared, not only "suggested procedural unreasonableness," but also could be important in weighing the factors related to the inherent conflict of interest when the fiduciary was also the payer of benefits. *Id.* at 2352.

The 11th Circuit Court of Appeals has now taken it a step further, requiring the fiduciary to not only acknowledge and reconcile the SSA decision if contrary to its own, but to proactively gather the information upon which the SSA decision was made. In [*Melech v. Life Ins. Co. of N.A.*, 739 F.3d 663 \(11th Cir. 2014\)](#), the plaintiff, an employee of Hertz, submitted a claim for LTD benefits with LINA, the claims administrator and insurer of the LTD benefits for Hertz's employee benefit plan. As required under the Policy terms, Plaintiff also submitted an application for disability benefits with the SSA. After its initial review, LINA denied Plaintiff's LTD benefits, and notified her of the right to appeal, along with the opportunity to provide "any medical evidence which supports your disability." At that time of LINA's initial denial, the SSA had not yet made its determination. Plaintiff appealed.

While the appeal was still pending, the SSA approved Plaintiff's claim for disability benefits. Plaintiff notified LINA of the SSA's approval, and gave LINA information about the SSA investigation. LINA upheld its denial, but provided Plaintiff with an opportunity for a second appeal, and the opportunity to provide additional information, including "office notes, test results, physical examination reports... or any other pertinent medical information." In her second appeal, Plaintiff provided the names of two examining physicians who had provided new information in the SSA case, and she inquired as to why LINA had reached a different decision than the SSA. Without asking Plaintiff for the information generated during the SSA investigation, LINA upheld its denial on the second appeal, explaining in the letter that the SSA decision was independent of its decision.

The United States District Court for the Southern District of Alabama granted LINA's summary judgment motion, affirming LINA's denial. The Eleventh Circuit Court of Appeals reversed. It found

that LINA, who required and assisted Plaintiff in applying for SSD benefits, and who benefitted from any offset in benefit payment resulting from the SSA approval, could not ignore the information relevant to the SSA's decision. While the Court recognized that Plaintiff had the burden of establishing her entitlement to benefits, and that LINA was not required to "ferret out evidence in [Plaintiff's] or the SSA's possession," it found it "troubling" that LINA "treated the SSA process and the evidence generated by it as irrelevant and unavailable" once it had denied Plaintiff's claim at the initial level. The Court vacated and remanded the case back to the District Court, with instructions to remand to LINA for a new review, "with the full benefit of the results generated by the SSA process that it helped set in motion."

The Honorable Orinda Evans (sitting by designation) dissented, finding that LINA had given Plaintiff ample opportunity to provide the information from the SSA investigation, and that it was her burden to do so. Judge Evans characterized the majority's decision as indeed requiring fiduciaries to "ferret out the evidence," even though the majority claimed otherwise.

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National Law Review, Volume IV, Number 43

Source URL: <https://natlawreview.com/article/11th-circuit-court-appeals-mandates-proactive-gathering-and-review-social-security-a>