



## Plaintiffs' Misdirected Demand for Documents Fails, and Their Claim for ERISA Civil Penalties Is Dismissed: *Boyd v. Sysco Corporation*

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A federal court dismissed the plaintiffs' claim to recover civil penalties for failure to provide plan documents requested by the plaintiffs. *Boyd v. Sysco Corporation*, No. 4:13-cv-00599 (D. S. C. September 3, 2015), provides a succinct explanation of the law governing the award of civil penalties against an ERISA plan administrator under ERISA section 502(c), and underscores the limits on a demand for such penalties.

Background. The plaintiff-participant (Boyd) was employed by defendant Sysco Corporation (Sysco) in South Carolina, and, with his dependent son, was insured under a group health plan sponsored by Sysco. Another defendant, United Behavioral Health ("UBH"), was the plan's insurer and claims administrator for the mental health benefits provided by the plan. Following a denial in 2011 of the claim of Boyd and his son for mental health benefits under the plan, the Boyds pursued an administrative appeal, but in May 2012 that also was denied. Likewise, the Boyds' subsequent request for independent external review was denied.

In his letter requesting that external review in late 2012, the Boyds' attorney asked UBH, as claims administrator, for certain information, namely, "a full copy of the administrative record," specifically including "all documentation or other information in the possession of the company relevant to the claim, including specifically any information that was not used, not considered, or rejected." The Boyds did not receive any response to that information request.

Following the final administrative denial, Boyd and his son filed suit, alleging a cause of action for failure to pay benefits and a separate cause of action seeking a civil penalty under ERISA section 502(c) for failure to provide the requested information. This decision in *Boyd* arose from opposing summary judgment motions on that second claim.

The Court's Ruling. The district court denied Boyd's motion, and granted the defendants' motion for judgment against the second cause of action. In doing so, the court reviewed the background and

purpose of ERISA civil enforcement section 502(c), as well as ERISA's disclosure provisions. For purposes of this alert, the following discussion is most pertinent.

The court noted that the purpose of the civil penalty under section 502(c) "is not to compensate participants for injuries but to punish noncompliance with ERISA." The statute sets out important disclosure requirements, among them the obligation of the plan administrator, upon written request from any participant or beneficiary, to furnish a copy of the latest updated summary plan description (SPD), latest annual report, any trust agreement, and other instruments under which the plan is established or operated. See ERISA section 104(b) (29 U. S. Code § 1024(b)). Failure to furnish the requested documents to participants or beneficiaries within 30 days of such written request could subject the plan administrator, in the court's discretion, to a civil penalty of up to \$110 a day. See 29 C.F.R. § 2575.502c-1.

However, the statutory requirements of ERISA section 502(c) are clearly imposed upon the *plan administrator*, not upon other plan fiduciaries or entities.

The *Boyd* court held that the plaintiffs' cause of action failed in two ways.

First, their request for "a full copy of the administrative record" did not ask specifically for the documents that a plan administrator was required to produce under ERISA section 104(b). The *Boyd* plaintiffs' request was sufficiently clear to ask for the claims file, but the claims file is not covered by the ERISA disclosure statute. The contents of the claims file and other documents could demonstrate compliance with the claims processes, but the plaintiffs' request did not provide clear notice that they also sought the SPD and plan documents under which the plan was established or operated, which are the object of section 104(b) requirements.

Second, the *Boyd* plaintiffs did not ask the correct entity for the documents. Sysco was the plan administrator of the plan, UBH was the claims administrator for the mental health benefits, and nothing in the plan defined the "plan administrator" as the "claims administrator." Neither did the plan's SPD define the "plan administrator" to be the plan insurer or claims administrator. As a result, the plaintiffs' counsel sent the written request for information to the wrong entity. UBH was not required to comply with ERISA section 502(c), and the plaintiffs' request did not give them any right under ERISA section 502(c) to ask for imposition of a civil penalty on either defendant.

Accordingly, the court granted summary judgment as to the Boyds' second cause of action for civil penalties.

The Significant Lesson: *Boyd* is a straightforward reminder of the scope and requirements of ERISA's disclosure provisions and the related enforcement provisions of ERISA Section 502(c), which do have teeth. However, *Boyd* likewise reminds us of the limitations on those disclosure and enforcement provisions, and the necessity of reading them closely and accurately.

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