INSURANCE -PRECEDENTIAL THIRD CIRCUIT OPINION - ERISA

On June 11, 2011, the Third Circuit Court of Appeals issued its opinion in Hetty A. Viera v. Life Insurance Company of North America. The Court ruled that the phrase "satisfactory to us" in ERISA insurance plans does not give the plan administrator discretion when making eligibility decisions. This ruling is significant because a denial of benefit claim will be subject to "de novo" review rather than review under an "arbitrary and capricious" standard.

In Firestone Tire & Rubber Co. v. Bruch, 489 U.S. 101, 115 (1989), the United States Supreme Court ruled that denial of benefits claims under ERISA must be reviewed under the "de novo" standard unless the policy/plan language grants discretion to the administrator to make eligibility decisions. Under the "de novo" standard, the court determines whether the administrator made the correct decision; under the "abuse of discretion" standard the administrator's decision can be overturned only if it is "without reason, unsupported by substantial evidence or erroneous as a matter of law." Miller v. am. Airlines, Inc. 632 F. 3d 837, 845 (3d Cir. 2011); Hoover v. Provident Life & Accident Ins. Co., 290 F. 3d 801 (6th Cir. 2002).

There is a split among the Circuits as to the review of administrator's decisions when the policy uses the "satisfactory to us" language. The Third Circuit followed the Second, Seventh and Ninth Circuits. The First, Fourth, Sixth, Eighth, Tenth and Eleventh Circuits have held that the phrase 'satisfactory to us" confers discretion to the plan administrator.