

## FORM 13: Sample Post-Appeal Claim File Request

Date

CERTIFIED MAIL ( )

### RETURN RECEIPT REQUESTED

XYZ Insurer

Re: Client

SSN:

Claim No.

Policy No.

Policy Holder:

Dear XYZ Insurer :

We are the attorneys for CLIENT. I annex copies of authorizations authorizing me to request documents on his behalf.

CLIENT hereby requests copies of the following documents **(in order to save paper please send all requested documents in the form of an Adobe PDF):**

(1) All documents:

- (i) relied on in making the benefit determination, including without limitation, all reports, notes, records, test results, correspondence and curriculum vitae of any independent medical examiner/reviewer, functional capacity evaluator, transferable skills expert, and/or vocational expert. See 29 C.F.R. §2560.503-1(i)(5); 29 C.F.R. §2560.503-1(j)(3) and 29 C.F.R. §2560.503-1(m)(8)(i);
- (ii) submitted, considered, or generated in the course of making the benefit determination, without regard to whether such document, record, or other information was relied upon in making the benefit determination. See 29 C.F.R. §2560.503-1(i)(5); 29 C.F.R. §2560.503-1(j)(3) and 29 C.F.R. §2560.503-1(m)(8)(ii);
- (iii) at demonstrate compliance with administrative processes and safeguards designed to ensure and to verify that benefit claims determinations are made in accordance with governing plan documents and that, where appropriate, the plan provisions have been applied consistently with respect to similarly situated claimants. See 29 C.F.R. §2560.503-1(i)(5); 29 C.F.R. §2560.503-1(j)(3); 29 C.F.R. §2560.503-1(m)(8)(iii) and 29 C.F.R. §2560.503-1(b)(5);
- (iv) that constitute a statement of policy or guidance with respect to the plan concerning the denied benefit, without regard to whether such advice or statement was relied upon in making the benefit determination. See 29 C.F.R. §2560.503-1(j)(5); 29 C.F.R. §2560.503-1(j)(3); 29 C.F.R. §2560.503-1(m)(8) (iv); and 29 C.F.R. §2560.503-1(g)(1)(v)(A);

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- (v) that contain either (A) an explanation of the scientific or clinical judgment for the denial of benefits; or (B) that apply the terms of the plan to the 's medical circumstances. See 29 C.F.R. §2560.503-1(i)(5); 29 C.F.R. §2560.503-1(j)(5)(ii); or
  - (vi) that constitute an internal rule, guideline, protocol, or other similar criterion relied upon in making the benefit determination. See 29 C.F.R. §2560.503-1(i)(5); 29 C.F.R. §2560.503-1(j)(5)(i).
- (2) All notes of telephone conversations with CLIENT or any treating physician. CLIENT would like to have the opportunity to correct any inaccuracies or otherwise respond.
- (3) All video and audio tapes of CLIENT, and the reports and notes of all investigators.

Please consider this letter as a preservation demand letter, asking you to preserve for potential litigation regarding this claim all “electronically stored information (ESI)” regarding this claim, my client, or the issues involved in his claim. This would include, but certainly not be limited to, information sent to others, information received from others, all internal emails or other electronic communications, and all emails or other electronic communications sent to or received from external sources. This request applies to all ESI whether in your regular system, or in any backup system whether maintained by you or maintained by others.

Please address all additional correspondence and inquiries to the undersigned.

Sincerely yours,

Scott M. Riemer

cc. Client

This form originally appeared in *An Attorney's Guide to ERISA Disability Claims*.