



3 Takeaways From 6th Circ. ERISA Disability Benefits Revival

By [Kellie Mejdrich](#)

Law360 (November 22, 2024, 4:07 PM EST) -- A recent Sixth Circuit ruling that handed a worker a new shot at long-term disability benefits gives a boost to plaintiffs battling caps on coverage for mental health conditions, attorneys say.

The Nov. 13 panel decision in the Employee Retirement Income Security Act suit grants Annette McEachin, who worked as a [Perceptron Inc.](#) human resources manager for two years before she was totally disabled in a car accident in 2017, another chance to access long-term disability benefits under her plan.

[Reliance Standard Life Insurance Co.](#), which administered McEachin's employer-provided disability insurance policy, stopped her benefits in 2021 after finding she was no longer totally physically disabled. Chief U.S. Circuit Judge Jeffrey S. Sutton authored the panel's [10-page published opinion](#).

The panel [reopened the case](#) and kicked it back to a Michigan federal court, so a trial judge can take a second look at how to apply a 24-month limitation on total disability benefits for mental health in McEachin's Reliance policy. According to the policy, totally disabled workers are entitled to a monthly payment until retirement age, but a two-year cap applies if a "mental or nervous disorder" caused or contributed to the condition.

Benefits attorneys from both sides of the bar said the decision could help support disability benefits claims under the Employee Retirement Income Security Act in cases where a mental health condition is a factor in why someone can't return to work.

"This decision suggests that courts are going to look with some skepticism at overly aggressive arguments that attempt to limit disability benefits because a person has a mental health condition," said Katie Barrett Wiik, an employer-side partner and co-chair of the appellate practice at [Saul Ewing LLP](#).

Here are three takeaways from the appeals court's decision.

Panel Opts For "Fresh Review"

Attorneys said one important part of the decision was that the panel applied the de novo standard of review to McEachin's claim, meaning the court interpreted the ERISA policy in the first instance instead of reviewing the insurer's decision for an abuse of discretion.

The panel said under ERISA, if an insurance plan gives discretion to an administrator, the appellate court would apply a more deferential standard of review and only overturn a decision



interpreting the plan for an abuse of discretion. But the panel said it would apply "fresh review" to Reliance's decision because Michigan law bans the use of discretionary clauses in insurance policies.

Michigan is not the only state that does this, with more than half of states having taken action to ban discretionary clauses in insurance contracts in some form including Minnesota, California, Texas and others.

Some members of Congress have even attempted to advance federal policy to require the more plaintiff-friendly *de novo* standard to apply to all ERISA benefit claims involving plan administrators, including Rep. Mark DeSaulnier, D-Calif., and Sen. Tina Smith, D-Minn., who both introduced legislation to ban discretionary clauses in 2022 and reintroduced the legislation in September (H.R. 9820, S. 5169).

J.J. Conway, a longtime ERISA practitioner who focuses on worker-side health and welfare benefit claims at his firm [J.J. Conway Law](#), said under the *de novo* review standard applied by the Sixth Circuit, "The insurer is no longer able to put a binding interpretation on its own contract, which ultimately may prove a good thing for disability claimants."

On its reexamination of the policy, the panel partially vacated the district court's summary judgment ruling from 2023, which was granted in part to both McEachin and Reliance and which both sides appealed. The panel agreed with the lower court's decision to uphold Reliance's determination that McEachin was no longer totally physically disabled in April 2021. The panel also agreed that McEachin was entitled to two more years' worth of benefits beyond that date because of the 24-month cap.

But the panel vacated the court's determination on when the additional benefits should end and remanded the issue so that McEachin could raise arguments about whether the severity of her physical conditions after April 2021 entitled her to more coverage.

24-Month Cap Common For Mental Health Issues

Attorneys said the decision highlighted how common it is for employer-provided disability plans to have a 24-month limitation on total disability benefits for individuals suffering from mental health conditions but nonetheless offer that same person total physical disability coverage until retirement.

The exclusion remains common despite the fact that Congress has pushed insurers to broaden coverage of mental health benefits for employees under the Mental Health Parity and Addiction Equity Act. But that law only places restrictions on how insurance companies can limit healthcare coverage for mental health and substance use disorder treatments compared to physical healthcare coverage, and doesn't apply to disability insurance.

Peter Sessions, a plaintiff-side attorney at [Kantor & Kantor](#), said of workers claiming disability



benefits who encounter a mental health disability exclusion: "a lot of people are surprised by that. They figure that their disability plan will cover them for as long as they're disabled."

Sessions also noted how the appellate court applied a previous decision in a similar case in 2016 in *Okuno v. Reliance Standard Life Ins.* when it interpreted how the 24-month cap under the policy exclusion applied.

"I think a lot of this decision was already predetermined by the Sixth Circuit's previous case," Sessions said.

The federal ERISA Advisory Council, which advises the [U.S. Department of Labor](#) on employee benefits policy, decried the prevalent mental health cap as a "ubiquitous lack of mental health parity regarding duration limits in disability benefit plans" in a 2023 report. The report said only the state of Vermont mandates mental health parity in disability benefit insurance.

Court Outlines Coverage "Loop"

Another important aspect of the decision for benefits attorneys has to do with how the appellate court gave McEachin renewed access to her disability policy despite a 24-month cap on benefits, and suggested that the clock might be able to start and stop depending on physical symptoms.

The panel said it was "worth noting" that the policy required disability benefits for individuals it covered for as long as a total disability existed. The panel also pointed out that "nothing in the policy prohibits applicants from showing physical disabilities create a total disability at any point that the total disability exists."

That's a potentially important distinction, Conway said.

"The interesting part of the decision is that the court outlined a loop of disability insurance coverage that would theoretically bypass any 24-month mental health limitation — a physical disability, can be followed by a mental disability, and then there is the possibility for a return or a relapse of a physically disabling condition," Conway said.

The panel said its approach to interpreting how a 24-month total disability cap applied when both mental and physically disabling conditions aligned with authority in other appellate courts to reach the issue, including the Third, Fifth, Eighth and Ninth circuits.

Barrett Wiik, at Saul Ewing, took note of how the panel remanded debate on application of the 24-month cap even though McEachin didn't raise the argument about tolling the disability clock in the lower court, because the defense had not raised the contention that the argument had been forfeited.

"This would have been a more difficult decision to arrive at if the insurance company had



made a forfeiture argument," she said.

--Editing by Amy Rowe and Nick Petrucio.