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Categorical Conflict of Interest Does Not Alter Standard of Review of Benefit Denials

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The Second Circuit held that plaintiffs' allegations that the defendant suffered from a "categorical potential conflict of interest"—because it both funded the plan and was the claim's decision-maker—did not affect the application of the arbitrary and capricious standard of review in the absence of a showing by the plaintiffs that the conflict actually affected the plan administrator's decision-making. The dispute involved whether plan participants could "grow into" early retirement eligibility for benefits they accrued before the plan sponsor sold their employer's business. The plan's benefits committee determined that participants could not earn service credit after the sale because they were no longer employed by an entity related to the plan sponsor. Plaintiffs, a group of participants who continued with the business after the sale and eventually reached the required early retirement age, argued that their service after the sale should count because they continued working for the same business. Applying the arbitrary and capricious standard of review, the Second Circuit concluded that it could not overturn the benefits committee's decision denying the claim, even though the Court believed the plaintiffs' reading of the plan language was "more reasonable." To overturn the committee's decision, plaintiffs would have had to show that it was without reason, unsupported by substantial evidence, or erroneous as a matter of law, a standard the plaintiffs were unable to meet.

The decision illustrates the significance that the standard of review can have on the outcome of a benefit denial challenge. Had the standard been *de novo* (where the court takes a fresh look) or the alleged conflict taken into account in determining whether the plaintiffs' claims were correctly denied, the outcome might have been different. To preserve the deferential standard of review, plan sponsors should ensure that the governing plan document affords the individual or body that resolves benefit claims interpretive discretion, and that the reviewing body adheres to the procedural requirements that apply to administrative claims and appeals. The case is *Kirkendall v. Halliburton, Inc.*, No. 17-3487, 2019 WL 325649 (2d Cir. Jan. 24, 2019).

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