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# THIS APPEAL IS TAKING FOREVER

A Look at "Special Circumstances" Justifying  
Extensions in ERISA Appeal Decisions

One of the most vexing issues for ERISA benefits claimants is the insurance company "dragging its feet" when making its decision. Claimants often ask whether there is any way to prevent the insurance company from taking more time to decide their claim. Similarly, claimants often tell me that the insurance company took what seems like too much time to decide their claim, taking multiple extensions, but that they did not know if there was anything they could do about it.

The good news for claimants is that there are limits to the insurance company's right to extend their time to make a benefit determination under the Department of Labor's regulations. The regulations provide that administrators must make a determination within 45 days, but may have one additional extension if special circumstances outside their control require additional time. Unfortunately, the regulations do not provide an exhaustive list of what constitutes "special circumstances." This

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Although the regulations do not provide an exhaustive description of “special circumstances,” the courts in each Circuit have started to provide some guidance on the scope of “special circumstances,” giving ERISA benefits attorneys a basis to challenge the insurance companies’ claims. This article summarizes the courts within the Sixth Circuit’s position on what circumstances are special enough to justify an extension under ERISA. Future articles in this series will discuss the views of other Circuits, including the Seventh and Eighth Circuits.

By [Kaci Garrabrant](#)

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claimant examined before rejecting a treating doctor's opinion or making credibility determinations. LINA was unreasonable in telling the claimant to file for social security but then failed to get a copy of the decision and ignored the finding by SSA. LINA was also unreasonable to deny benefits for someone they found disabled without meaningful evidence of improvement. [Read legal summary.](#)

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