

CASE LAW

Election Periods And Time Frames

Lifecare Hospitals v. Health Plus of Louisiana v. Custom-Bilt Cabinet & Supply

(United States Court of Appeals for the Fifth Circuit, 2005 U.S. App. LEXIS 14640 (5th Cir. 2005))

In April 2000, Custom-Bilt, the employer, and Health Plus entered into an agreement whereby Custom-Bilt established a group health plan for which Health Plus was the carrier. On July 16, 2001, James Sloan, a Custom-Bilt employee, became seriously ill and was hospitalized due to Guillain-Barre Syndrome, a life-threatening disorder in which the body's immune system attacks part of the peripheral nervous system. At one point he was put on a breathing machine. He stayed at Lifecare Hospital from July 31, 2001, to December 12, 2001.

In the meantime, Custom-Bilt decided to terminate Sloan's employment. On July 24, 2001, a Custom-Bilt employee gave Sloan's wife a COBRA election form. On August 13, 2001, Custom-Bilt officially terminated Sloan's employment and notified Health Plus, which terminated his coverage as of August 31, 2001.

In November 2001, Lifecare contacted Custom-Bilt about Sloan's health coverage, and on December 17, 2001, Sloan mailed his completed election form to Health Plus in addition to his retroactive premiums. Health Plus denied all claims after August 31, 2001, because Sloan did not have coverage. **Over \$250,000 in claims were at stake.**

Neither Custom-Bilt's SPD nor the election form indicated that the election period was 60 days. The COBRA statute defines an election period as "*at least 60 days' duration.*" The Court held that election was timely and that Health Plus was liable for the medical bills. Health Plus had argued it was entitled to indemnification from Custom-Bilt – which would have required Custom-Bilt to pay the medical bills – but the Court disagreed.

This case underscores the significance of proper notices and SPDs in administering COBRA. While the employer did not pay the large medical claim this time, it incurred considerable legal expenses at the trial and appellate levels to avoid liability. And when its insurance comes up for renewal, it can likely expect a considerable rate increase.