

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

DERETHA O. MILLER

PLAINTIFF

v.

4:09CV00895-WRW

PULASKI COUNTY MEDICAL EXCHANGE

DEFENDANT

ORDER

Pending is Defendant's Motion to Dismiss Plaintiff's Amended Complaint (Doc. No. 12). Plaintiff has responded¹ and Defendant has replied.²

A January 15, 2010, Order directed Plaintiff "to file an amended complaint -- with plain, simple language -- setting out, among other things, whether she was a member of the Employer-Sponsored Group Health Plan with Arkansas Blue Cross-Blue Shield, whether she participated in Defendant's supplemental insurance reimbursement program, the 'certain benefits' of which she was deprived, *etc.*."

Plaintiff filed an Amended Complaint on January 29, 2010.³ Plaintiff's Amended Complaint is as elusive as her original Complaint. Rather than specify if Plaintiff ever actually participated in the Employer-Sponsored Group Health Plan with Arkansas Blue Cross-Blue Shield, Plaintiff's Amended Complaint reads: "[Plaintiff] became a full-time employee and became eligible for benefits under Defendant's health care plan"⁴

¹Doc. No. 14.

²Doc. No. 16.

³Doc. No. 11.

⁴*Id.*

Plaintiff's Amended Complaint alleges that she was "entitled to be a plan participant in a plan governed by ERISA" and that Defendant "terminated Plaintiff in retaliation for demanding benefits under an ERISA benefit plan," but Plaintiff does not identify which plan.⁵ It is also unclear whether Plaintiff alleges that Defendant led her to believe she could not participate in the Employer-Sponsored Group Health Plan with Arkansas Blue Cross-Blue Shield, or some other plan. Further, it is unclear if Plaintiff alleges that Defendant offered a separate supplemental insurance plan or maintained a supplemental insurance policy. Plaintiff's Amended Complaint should have, but did not, clarify just what Plaintiff's claims are.

Defendant's Motion to Dismiss is well taken, but DENIED without prejudice. Plaintiff is directed to file an amended complaint that complies with the January 15, 2009, Order, by 5:00 p.m., Friday, March 12, 2010. If it does not pass muster, Plaintiff's case will likely be dismissed with prejudice.

IT IS SO ORDERED this 5th day of March, 2010.

/s/ Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

⁵*Id.*