

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

RUTH ANN HARE

PLAINTIFF

v.

No. 4:13-cv-87-DPM

**LIBERTY LIFE ASSURANCE CO. OF
BOSTON; L'OREAL USA INC.; and
L'OREAL USA LONG TERM DISABILITY
PLAN**

DEFENDANTS

ORDER

This Court granted in part and held in abeyance in part Liberty's motion to dismiss Hare's breach-of-fiduciary-duty claim, *No. 10*, awaiting a reply on the viability of the health-insurance portion of that claim. Liberty has replied. It says Hare's claim for health-insurance benefits rises or falls with her claim for disability benefits under 29 U.S.C. § 1132(a)(1)(B). The Court agrees. No breach-of-fiduciary-duty claim for denied health benefits exists. *Varity Corp. v. Howe*, 516 U.S. 489, 515 (1996); *see also Pichoff v. QHG of Springdale, Inc.*, 556 F.3d 728, 731 (8th Cir. 2009). The Defendants' motion to dismiss, *No. 7*, is therefore granted in full. Hare's breach-of-fiduciary-duty claim is dismissed with prejudice.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

18 April 2013