

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**United States District Court
Central District of California**

NERSES MEGUERDITCHIAN,

Plaintiff,

v.

AETNA LIFE INSURANCE
COMPANY, FEDERAL EXPRESS
CORPORATION SHORT TERM
DISABILITY PLAN and DOES 1–10,
inclusive,

Defendants.

Case No. 2:12-cv-10999-ODW(JCx)

**ORDER REVERSING
ADMINSTRATOR’S DECISION
AND REMANDING FOR DECISION
ON THE MERITS [36]**

I. INTRODUCTION

This case presents a dispute concerning a short-term disability benefit plan offered by Nerses Meguerditchian’s employer, Federal Express Corporation (“FedEx”). When Meguerditchian was injured at work, Aetna Life Insurance—the claims-paying administrator of the policy—denied Meguerditchian’s claim as untimely. As a result Meguerditchian brought his action seeking recovery of benefits under Employee Retirement Income Security Act (ERISA) §502(a)(1)(B). For the

1 reasons discussed below, the Court **REVERSES** the administrator’s denial of
2 Meguerditchian’s STD benefits claim as untimely and **REMANDS** this case to the
3 claims-paying administrator for a decision on the merits.

4 **II. FACTUAL BACKGROUND**

5 FedEx sponsors a Short-Term-Disability Plan (“STD Plan”) for the benefit of
6 its employees. (AR 168.) FedEx is the STD Plan Administrator—it funds and
7 administers the plan but does not make benefit- eligibility determinations. (AR 169,
8 AR 201-02.) Instead, Aetna Life Insurance Company acts as the claims-paying
9 administrator for the STD Plan. (AR 169.) Aetna makes eligibility determinations and
10 pays claims on behalf of the STD Plan. (*Id.*) The STD Plan provides Aetna with full
11 discretion and authority to determine eligibility for benefits and to construe and
12 interpret all of the Plan’s terms and provisions.

13 Meguerditchian was hired by FedEx on February 25, 1991, as a Senior Global
14 Vehicle Technician. (AR 27–28, 35). Meguerditchian provided full-time field
15 operation and maintenance work for FedEx’s field vehicle fleet and ground
16 equipment. (AR 28). As a covered employee, Meguerditchian was entitled to
17 disability benefits if he became disabled as that term is defined by the STD Plan.
18 (AR 179). The STD Plan provides a weekly disability benefit equal to 70% of the
19 employee’s weekly income, subject to reduction by any other income. (AR 179, AR
20 184-188.)

21 **A. Pertinent Plan Provisions**

22 To be eligible for STD Benefits, an employee must meet the requirements for
23 an Occupational Disability—“the inability of a Covered Employee, because of a
24 medically-determinable physical impairment or Mental Impairment, to perform the
25 duties of his regular occupation.” (AR 170-171.)

26 The STD Plan states that notice of claim for Disability be timely submitted to
27 receive to receive STD benefits. The plan provides, in relevant part,

28 ///

1 Notice of a claim for Disability Benefits under the Plan must be given to
2 the Claims Paying Administrator by the Covered Employee or his
3 representative in the manner determined by the Administrator within 60
4 days . . . of [] the date of the commencement of the Covered Employee’s
5 Disability or recurring Disability (as described in Section 3.5).

6 (AR 191-192.) The Plan also provides that an employee is responsible for filing a
7 claim for short-term disability benefits from the STD Plan by calling Aetna “as soon
8 as you know you will be *unable to work* for more than your medical absence or
9 elimination period.” (AR 104) (emphasis added).

10 **B. FedEx’s Temporary Return to Work Program**

11 FedEx also maintains a Temporary Return to Work Program (TRW Program)
12 which it describes as follows,

13 Temporary Return to Work (TRW) enables you to return to work
14 temporarily if you cannot perform the full range of your regular job
15 duties, but your health care professional has said you may return to work
16 with limitations and restrictions. You can work in a TRW position for up
17 to 90 calendar days while you are disabled; you must work at least 15
18 hours a week but no more than: . . . 28 hours a week if you are on STD

19 (AR 106). FedEx’s TRW Program does not just enable employees to return to work;
20 FedEx requires that eligible employees do so in order to maintain their STD Benefits.
21 The TRW Program explicitly states that employees “must participate or [their] STD or
22 LTD benefits will stop.” (*Id.*) Meguerditchian worked under the TRW program until
23 April 17, 2011, when he completed the maximum 90 days of work under the program
24 (AR 38).

25 **C. Meguerditchian’s Claim for Benefits**

26 Meguerditchian injured his back on January 10, 2011, while working on a FedEx
27 vehicle. (AR 34.) Soon after, Meguerditchian began experiencing severe back pain

28 ///

1 and numbness in his left leg. (*Id.*) He visited his primary care physician and was
2 instructed to stop working based upon MRI Results.¹ (AR 8). It is unclear from the
3 administrative record whether Meguerditchian's doctor permitted him to return to
4 work with limitations, but Meguerditchian continued to work under FedEx's TRW
5 program until April 18, 2011. (*Id.*)

6 Eight days later, Meguerditchian contacted Aetna to initiate a claim for STD
7 Benefits. (AR 38). In a letter dated May 10, 2011, Aetna denied Plaintiff's claim for
8 STD Benefits as untimely—Aetna received notice of his claim on April 25, 2011, 99
9 days after the date Meguerditchian reported disability began. (AR 4). In the letter,
10 Aetna noted that the STD Plan required employees to notify the claims-paying
11 administrator within 60 days of the commencement of a disability. Aetna also
12 informed Meguerditchian that he must file any appeal of the denial of his claim within
13 180 days. (AR 4-5).

14 **D. Meguerditchian's Appeal**

15 On October 7, 2011, Meguerditchian appealed the denial of his claim for STD
16 Plan benefits. (AR 6). On October 10, 2011 Aetna confirmed the appeal request and
17 contacted Meguerditchian via telephone to inform him that he would need to send
18 evidence he was physically unable to timely call in and report his claim. (AR 7, 10,
19 25, 49-51). On October 12, 2011, Aetna received Meguerditchian's response. (AR
20 29, 52). In his response, Meguerditchian outlined several personal matters that had
21 affected his ability to manage his affairs at the time of the injury. (AR 8–9, 11–12).
22 He also informed Aetna that FedEx had required that he return to work under the
23 TRW Program, and placed him on light duty assignment and changed his shift to
24 accommodate his physical condition. (AR 8–9).

25 Aetna submitted the appeal brief for supervisory review on October 13, 2011,
26 and the supervisor returned it on October 27, 2011. (AR 52–54). Again, Aetna denied

27
28 ¹ The MRI report is not part of the Administrative Record because Meguerditchian's STD benefits claim was denied before he provided Aetna with any medical records.

1 Meguerditchian’s claim as untimely, noting that the documentation submitted did not
2 indicate any “inability to report the claim on or before the March 17, 2011 deadline.”
3 (AR 1).

4 III. LEGAL STANDARD

5 The standard of review of a plan administrator’s denial of ERISA benefits
6 depends upon the terms of the benefit plan. Absent contrary language in the plan, the
7 denial is reviewed *de novo*. *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101, 115
8 (1989). But if the benefit plan “expressly gives the plan administrator or fiduciary
9 discretionary authority to determine eligibility for benefits or to construe the plan’s
10 terms,” the administrator’s decision is reviewed for abuse of discretion. *Id.* at 102;
11 *Abatie v. ALTA Health & Life Ins. Co.*, 458 F.3d 955 (9th Cir. 2006). The parties here
12 agree that the Plan gives Aetna discretionary authority to interpret the plan’s
13 provisions and determine factual matters of eligibility. Accordingly, the Court
14 reviews Aetna’s decision to deny Meguerditchian’s claim as untimely for abuse of
15 discretion.

16 Under abuse-of-discretion review, the administrator’s decision will generally be
17 upheld if it is reasonable and supported by substantial evidence in the administrative
18 record as a whole. *McKenzie v. Gen. Tel. Co. of Cal.*, 41 F.3d 1310, 1316–17 (9th
19 Cir.1994). The Court does not substitute its own judgment for that of the
20 administrator unless the administrator (1) renders a decision without explanation, (2)
21 relies on clearly erroneous findings of fact, or (3) construes provisions of the plan in a
22 way that conflicts with the plain language of the plan. *Boyd v. Bert Bell/Pete Rozelle*
23 *NFL Players Ret. Fund*, 410 F.3d 1173 (9th Cir. 2005); *Eley v. Boeing Co.*, 945 F.2d
24 276, 279 (9th Cir. 1991). But if the plan administrator is also the plan funder, then the
25 court must take account of this conflict of interest and “review the administrator’s
26 stated bases for its decision with enhanced skepticism.” *Montour v. Hartford Life &*
27 *Acc. Ins. Co.*, 588 F.3d 623, 631 (9th Cir.2009). In those circumstances, abuse-of-

28 ///

1 discretion review must be “tempered by skepticism commensurate with the plan
2 administrator’s conflict of interest.” *Abatie*, 458 F.3d at 959.

3 The Ninth Circuit has explained,

4 The level of skepticism with which a court views a conflicted
5 administrator's decision may be low if a structural conflict of interest is
6 unaccompanied, for example, by any evidence of malice, of self-dealing,
7 or of a parsimonious claims-granting history. A court may weigh a
8 conflict more heavily if, for example, the administrator provides
9 inconsistent reasons for denial, fails adequately to investigate a claim or
10 ask the plaintiff for necessary evidence, fails to credit a claimant's
11 reliable evidence, or has repeatedly denied benefits to deserving
12 participants by interpreting plan terms incorrectly or by making decisions
13 against the weight of evidence in the record.

14 *Id.* at 968–69. The Supreme Court relied on similar logic in *Metropolitan Life*
15 *Insurance Co. v. Glenn*, holding that a plan administrator’s conflict of interest should
16 be “weighed as a factor in determining whether there is an abuse of discretion.” 554
17 U.S. 105, 115 (2008) (internal quotation marks omitted); *see also* *Burke v. Pitney*
18 *Bowes Inc. Long–Term Disability Plan*, 544 F.3d 1016, 1024 (9th Cir.2008) (noting
19 that the Glenn framework is “similar to the one provided in *Abatie*”).

20 **IV. DISCUSSION**

21 Meguerditchian argues that the defendants failed to provide him with
22 sufficiently clear and comprehensive guidance regarding when his disability was
23 considered to have commenced under the STD Benefits Plan. Consequently,
24 Meguerditchian asserts, Defendants’ denial of his STD Benefit claim was an abuse of
25 discretion because they failed to comply with ERISA’s notice requirements. For the
26 reasons discussed below, the Court agrees.

27 ///

28 ///

1 **A. Proper Defendants**

2 At the outset, Aetna argues that it has been misjoined and should be dismissed
3 from this action. Aetna maintains that ERISA actions are only permitted against the
4 Plan itself, and as the claims-paying administrator it bears no liability. The Court
5 disagrees.

6 ERISA specifically provides for the maintenance of civil causes of action by
7 beneficiaries to challenge benefit claim denials by plan administrators. Specifically,
8 § 1132(a)(1)(B) provides,

9 A civil action may be brought . . . by a participant or beneficiary . . . to
10 recover benefits due to him under the terms of his plan, to enforce his
11 rights under the terms of the plan, or to clarify his rights to future benefits
12 under the terms of the plan.

13 Section 1132(a)(3) authorizes a beneficiary to enjoin “any act or practice which
14 violates [ERISA],” or to “obtain other appropriate equitable relief (i) to redress such
15 violations or (ii) to enforce any provisions of [ERISA].” Thus, by its terms, §1132
16 “does not “appear to limit which parties may be proper defendants in that civil
17 action.” *Cry v. Reliance Std. Life Ins. Co.*, 642 F.3d. 1202, 1205, (9th Cir. 2011).

18 Indeed, in *Harris Trust & Savings Bank v. Salomon Smith Barney, Inc.*, 530
19 U.S. 238 (2000), the Supreme Court rejected the suggestion that there was a limitation
20 contained within § 1132(a)(3) itself on who a plaintiff could sue. The Court found
21 that instead the focus is on “redressing the act or practice which violates any provision
22 of ERISA.” *Id.* at 246. The Ninth Circuit later expanded, definitively holding that
23 that potential liability under § 1132(a)(1)(B) is not limited to a benefits plan or the
24 plan administrator. *Cry*, 642 F.3d at 1207.

25 As the Ninth Circuit noted in *Cry*, “it is not enough to identify a plan
26 administrator as a potential defendant . . . the plan administrator can be an entity that
27 has no authority to resolve benefit claims or any responsibility to pay them.” *Cry*, 642
28 F.3d at 1207. Here, FedEx is identified as the plan administrator, but it had nothing to

1 do with denying Meguerditchian's claim. Rather Aetna denied Meguerditchian's
2 benefit claim. Aetna is, therefore, a logical and proper defendant for an action by
3 Meguerditchian to recover benefits due to him under the terms of the STD Plan.

4 **A. Conflict of Interest**

5 Meguerditchian urges the Court to review Aetna's decision with enhanced
6 skepticism, arguing that Aetna has a conflict of interest in claims administration.
7 Defendants urge that there is no conflict of interest because although FedEx is the plan
8 administrator, Aetna is the claims-paying administrator, which has the discretionary
9 authority to made benefit eligibility determinations. Similarly, FedEx urges that
10 because Aetna, as the claims-paying administrator, does not fund the STD plan it also
11 has no conflict of interest. The Court does not agree.

12 When the same entity that funds an ERISA benefits plan also evaluates claims,
13 the plan administrator faces a structural conflict of interest. *Metro. Life v. Glenn*, 554
14 U.S. 105, 112 (2008). The fact that FedEx funds the Plan but delegates claims-
15 administration responsibilities to Aetna does not negate a structural conflict outright.
16 In such a situation, the symbiotic relationship between FedEx and Aetna creates an
17 incentive for Aetna to reach results that are favorable to FedEx to foster and sustain
18 their business relationship. *See Black & Decker Disability Plan v. Nord*, 538 U.S.
19 822, 832 (2003) (citing with approval the lower court's observation that "physicians
20 repeatedly retained by benefits plans may have an incentive to make a finding of 'not
21 disabled' in order to save their employers money and to preserve their own consulting
22 arrangements"); *see also Kurth v. Hartford Life and Accident Ins. Co.*, 845 F. Supp.
23 2d. 1087, 1096 (C.D. Cal. 2012) (describing the incentive in the context of insurers
24 and vendor's reviewing physicians to reach results favorable to the insurer to maintain
25 the business relationship). The fact that FedEx utilizes a company with strong
26 incentive to reach a result favorable to FedEx raises legitimate questions concerning
27 the thoroughness and accuracy of Aenta's benefits determination.

28 ///

1 But there is no evidence in the record that the potential conflict in any way
2 motivated or influenced Aetna’s decision to deny Meguerditchian’s STD benefits as
3 untimely. The plan by its terms creates a uniform 60-day reporting requirement. Any
4 administrator—conflicted or not—would be obligated to enforce the limitation. There
5 is also no evidence of procedural irregularities or biased claims administration, and
6 Aetna’s stated reason for denial has always remained the same. Because
7 Meguerditchian has failed to connect this conflict and a uniform 60-day window in a
8 causal or meaningful way, the Court does not discount the deference accorded to the
9 administrator decision. Accordingly, the Court applies the abuse-of-discretion
10 standard without enhanced skepticism.

11 **B. Application of Abuse of Discretion**

12 Even without enhanced skepticism, deference to the plan administrator’s
13 judgment does not mandate that the plan prevails. *Salomaa v. Honda Long Term*
14 *Disability Plan*, 642 F.3d 666, 675 (9th Cir. 2011) (“‘Deference’ is not a talismanic
15 word [] that can avoid the process of judgment.”). For the reasons explained below,
16 the Court finds that Aetna has abused its discretion in denying Meguerditchian’s STD
17 benefits claim.

18 ERISA’s central policy goal is to protect benefit-plan participants. *Scharff v.*
19 *Raytheon Co. Short Term Disability Plan*, 581 F.3d 899, 904 (9th Cir. 2009); 29
20 U.S.C. § 1001(b). To that end, ERISA “established extensive reporting, disclosure,
21 and fiduciary duty requirements to insure against the possibility that the employee’s
22 expectation of the benefit would be defeated through poor management by the plan
23 administrator.” *Massachusetts v. Morash*, 490 US 107 (1989).” Employee benefit
24 plans are required to provide plan participants with a Summary Plan Description
25 (SPD)—which is the beneficiary’s primary source of information regarding the plan
26 terms and its benefits. *Scharff*, 581 F.3d at 904; 29 U.S.C. § 1022(a). The SPD “must
27 not have the effect [of] misleading, misinforming or failing to inform participants and
28

///

1 beneficiaries.” *Stahl v. Tony’s Bldg. Materials, Inc.*, 875 F.2d 1404, 1406 (9th Cir.
2 1989) (internal quotation marks omitted).

3 Section 1022(a) mandates that plan disclosures be “written in a manner
4 calculated to be understood by the average plan participant, and [] be sufficiently
5 accurate and comprehensive to reasonably apprise such participants and beneficiaries
6 of their rights and obligations under the plan.” Section 1022(b) lists the specific
7 information that the SPD is required to contain. One of the required pieces of
8 information is any “circumstances which may result in disqualification, ineligibility,
9 or denial or loss of benefits.” § 1022(b).

10 Regulations further provide,

11 Any description of exception, limitations, reductions, and other
12 restrictions of plan benefits shall not be minimized, rendered obscure or
13 otherwise made to appear unimportant. Such exceptions, limitations,
14 reductions, or restrictions of plan benefits shall be described or
15 summarized in a manner not less prominent than the style, captions,
16 printing type, and prominence used to describe or summarize plan
17 benefits.

18 29 C.F.R. § 2520.102-2(b). The SPD must also disclose limitations in close
19 conjunction to benefits provisions, or refer the participant to the page numbers on
20 which the relevant restrictions appear. *Id.*

21 A time limitation in which a beneficiary must report a claim qualifies as a
22 circumstance “which may result in disqualification, ineligibility, or denial or loss of
23 benefits.” § 1022(b); *see Dodson v. Woodmen of World Life Ins. Soc’y*, 109 F.3d 436,
24 439 (8th Cir.1997) (noting that the omission from the SPD of a time limit for filing
25 suit violated § 1022(b) because the time limit was a circumstance that might result in
26 loss of benefits); *see also Scharff*, 581 F.3d at 906. Therefore, the placement and
27 display of the deadline must meet the statutory and regulatory standards.

28 ///

1 Federal courts have also developed a body of ERISA federal common law
2 relating to the SPD. *See Scharff*, 581 F3d at 904 (“The courts are directed to
3 formulate a nationally uniform federal common law to supplement the explicit
4 provisions and general policies set out in ERISA, referring to and guided by principles
5 of state law when appropriate, but governed by the federal policies at issue.”) (citing
6 *Menhorn v. Firestone Tire & Rubber Co.*, 738 F.2d 1496, 1500 (9th Cir.1984). One
7 of those common-law principles—the doctrine of reasonable expectations—is at issue
8 in this case.

9 The Ninth Circuit applies the doctrine of reasonable expectations to interpret
10 ERISA-governed insurance contracts. *Scharff*, 581 F.3d at 904–06. The doctrine
11 applies when a provision in an insurance policy is not a “clear, plain, and conspicuous
12 statement” excluding coverage under the relevant circumstances of the case. *Id.* at
13 911; *Saltarelli v. Bob Baker Grp. Med. Trust*, 35 F.3d 382, 386 (9th Cir.1994). The
14 plan language is construed in an ordinary and popular sense as a person of average
15 intelligence and experience would do. *Scharff*, 581 F.3d at 906. When the plan terms
16 are ambiguous they are construed against the drafter. *Id.*

17 In this case, it is not clear from the Plan documents when a beneficiary’s
18 disability is considered to have “commenced” for purposes of reporting a claim to
19 Aetna. While an average beneficiary might think that ‘disability’ refers to the time he
20 or she is injured, it is important to note that FedEx’s plan defines ‘disability’ in terms
21 of timing.

22 Section 4.2 of the SPD provides that notice of a claim for disability benefits
23 must be given to Aetna—the claims-paying administrator—60 days of the
24 commencement of the employee’s disability. (AR 192). The SPD clarifies that “You
25 are considered disabled if a physical or mental illness prevents you from doing your
26 job.” (AR 104.) The SPD does not specify that commencement of a disability occurs
27 on the specific date of the incident that renders the beneficiary disabled, but rather

28 ///

1 couches its definition of disability as the employee’s inability to perform his or her
2 job.

3 Similarly, the SPD’s information regarding the “elimination period,” during
4 which employees are not eligible to receive benefits, describes disability in terms of
5 the beneficiaries’ inability to work. Section 1.1 (m) provides, “Elimination Period
6 shall mean the period during which a Covered Employee is absent from work on
7 account of Disability . . . but shall in no event be less than seven (7) days, *beginning*
8 *with the first day a Covered Employee is absent from work on account of Disability.*”
9 (AR 171) (emphasis added). Thus the STD Plan suggests that an employee need not
10 contact Aetna until he knows that he will be unable to work.

11 FedEx’s timing rules are inherently unclear due to the mandatory TRW
12 Program. Because the SPD plan defines ‘disability’ in terms of absence from work,
13 but FedEx mandates that employees participate in the 90-day TRW Program, an
14 average beneficiary is not able to come to a reasonable consensus on when she is
15 ‘disabled’ within the meaning of the Plan. Nowhere does the SPD explain that notice
16 of a claim must be given within the first 60 days of working under the 90-day TRW
17 program. Thus, although language in the STD plan provides a 60-day window in
18 which beneficiaries must file a claim after commencement of the disability, other
19 language creates confusion and ambiguity on when a disability begins for plan
20 purposes.

21 Accordingly, FedEx has violated ERISA’s disclosure and fiduciary
22 requirements, specifically section 1022(a)’s mandate that plan disclosures be “written
23 in a manner calculated to be understood by the average plan participant, and [] be
24 sufficiently accurate and comprehensive to reasonably apprise such participants and
25 beneficiaries of their rights and obligations under the plan.” Because Aetna had no
26 discretion² to allow Meguerditchian’s benefit claim in contravention of the plan’s

27 ² 29 U.S.C. §1104(a)(1)(D) states that the plan must be administered “in accordance with the
28 documents and instruments governing the plan insofar as such documents and instruments are
consistent with the provisions of [ERISA].”

1 plain terms, Aenta's decision to deny benefits in this case was made in the course of,
2 and was tainted by, the ERISA violations. Consequently, Aetna's decision to deny
3 Meguerditchian's claim based on the 60-day notice requirement was arbitrary and
4 capricious as a matter of law. *Accord, White v. Jacobs Eng'g Grp. Long Term*
5 *Disability Benefit Plan*, 896 F.2d 344, 350 (9th Cir. 1989) (holding that a plan's
6 noncompliance with ERISA's notice provisions prevented a contractual limitations
7 period from beginning to run). This finding appropriately serves the federal policies
8 underlying ERISA, including provision of adequate information to plan participants
9 and protecting their interests.

10 **V. CONCLUSION**

11 For the reasons discussed above, the Court **REVERSES** the administrator's
12 denial of Meguerditchian's STD benefits claim as untimely and **REMANDS** this case
13 to the claims-paying administrator for a decision on the merits. A judgment will
14 issue.

15 **IT IS SO ORDERED.**

16
17 February 21, 2014

18
19 

20 **OTIS D. WRIGHT, II**
21 **UNITED STATES DISTRICT JUDGE**