

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 14-6922 PA (SHx) Date December 3, 2014

Title Julie Harder v. Bristol-Myers Squibb Co. Long Term Disability Plan

Present: The Honorable PERCY ANDERSON, UNITED STATES DISTRICT JUDGE

R. Neal for Julieta Lozano

Not Reported

N/A

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

Proceedings: IN CHAMBERS - COURT ORDER

The parties' Federal Rule of Civil Procedure 26(f) Joint Report states that Aetna, as the ERISA administrator for defendant Bristol-Myers Squibb Co. Long Term Disability Plan ("Defendant"), terminated the long term disability ("LTD") benefits of plaintiff Julie Harder ("Plaintiff") in a letter dated March 7, 2013. Plaintiff appealed that denial on September 18, 2013. Aetna upheld the termination on October 30, 2013. Pursuant to the terms of the ERISA plan at issue, Aetna provided Plaintiff with a final opportunity to appeal. Plaintiff submitted her second appeal on April 24, 2014, challenging Aetna's conclusion that Plaintiff no longer satisfied the policy's definition of "disabled" after April 1, 2013. In July 2014, Aetna concluded that Plaintiff had supplied sufficient evidence that she was "disabled" from "April 01, 2013 through May 01, 2014." Aetna therefore "partially overturned" the denial of Plaintiff's first appeal. Aetna concluded, however, that "there is a a [sic] lack of medical information . . . supporting a functional impairment that would have prevented her from performing work at any reasonable occupation as of May 02, 2014. Therefore, Ms. Harder's LTD benefits will be authorized from April 01, 2013 through May 01, 2014 only. LTD benefits will remain terminated effective May 02, 2014." Aetna further stated that "this decision is final and is not subject to further review."

In the Rule 26(f) Joint Report, Plaintiff has requested that this matter be remanded to Aetna, so that Plaintiff can appeal Aetna's July 2014 decision that "partially overturned" the denial of Plaintiff's first appeal. Because Aetna's July 2014 decision, which terminated benefits beginning May 1, 2014, is based on different facts and conclusions, than the initial March 2013 termination, which terminated benefits beginning April 1, 2013, it does not appear that Plaintiff has had an opportunity to appeal this new determination. "It is not the court's function ab initio to apply the correct standard to [the participant's] claim. That function, under the Plan, is reserved to the Plan administrator. Accordingly, this matter must be remanded to the Plain administrator for a redetermination of [the participant's] claim, in a manner consistent with this opinion." Saffle v. Sierra Pac. Power Co. Bargaining Unit Long Term Disability Income Plan, 85 F.3d 455, 461 (9th Cir. 1996).

The Court therefore orders Defendant to show cause in writing why this matter should not be remanded to the ERISA administrator to allow Plaintiff to appeal Aetna's July 2014 decision. Defendant's response to this order to show cause shall be filed no later than December 11, 2014.

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Plaintiff's reply, if any, shall be filed no later than December 18, 2014. Once the Court receives the parties' responses to this order to show cause, the Court will either remand the action, set a new date for the Scheduling Conference, or issue a Scheduling Order. The Scheduling Conference currently calendared for December 8, 2014, is vacated.

IT IS SO ORDERED.