UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAMELA LINTON-HOOKER,

Plaintiff, Case No. 1:11-cv-101

v. HON. JANET T. NEFF

AIG LIFE INSURANCE CO.,

Defendant.
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OPINION AND ORDER

This case arises from the October 26, 2010 denial of Plaintiff's claim for accidental death benefits under the Employment Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq*. (ERISA). The administrative record was filed with this Court on June 10, 2011. Now pending before the Court is Plaintiff's Objection to Administrative Record (Dkt 16), to which Defendant filed a Response in opposition (Dkt 17).

The scope of this Court's review of the denial of benefits is "limited to the administrative record available to the plan administrators when the final decision was made." *Marks v. Newcourt Credit Group*, 342 F.3d 444, 457 (6th Cir. 2003). Plaintiff seeks to have stricken from the administrative record a September 1, 2010 opinion of Dr. Andrew Baker, a forensic pathologist from whom Defendant sought a second opinion after Plaintiff filed her appeal from Defendant's adverse determination to the ERISA Appeal Committee. Plaintiff argues that this Court should strike Dr. Baker's opinion from the record because the opinion "was not relied upon by the ERISA Appeal Committee as a 'reason or reasons for the adverse determination'" (Dkt 16 at 6). Plaintiff opines

that it would constitute "mere speculation for this Court to even review Dr. Baker's second opinion" (*id.* at 7).

Plaintiff's objection is properly denied. While ERISA requires a plan administrator to notify a claimant in writing of the "specific reasons" for its denial of the claim, 29 U.S.C. § 1133(1), there is no requirement that either the administrator's or the benefits committee's decision specifically list every piece of evidence considered. *Marks*, 342 F.3d at 461. Hence, as Defendant points out (Dkt 17 at 11), the fact that Dr. Baker's September 1, 2010 opinion was not expressly mentioned in the October 26, 2010 appeal denial is not a sufficient basis from which Plaintiff may properly conclude that the ERISA Appeal Committee did not review or consider the opinion such that it should be stricken. *See, e.g., Pankiw v. Federal Ins. Co.*, 316 F. App'x 458, 460 (6th Cir. 2009) (letter that was not mentioned in the final denial letter was properly considered by the district court "[b]ecause the record shows … that [the plan administrator] received the key documents before it denied her claim"). Therefore,

IT IS HEREBY ORDERED that Plaintiff's Objection to Administrative Record (Dkt 16) is DENIED.

DATED: August 1, 2011

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge