

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

VERSEL ROY FINGERS,)
)
 Plaintiff,)
)
 vs.)
)
 STANDARD INSURANCE COMPANY)
 and WAINWRIGHT INDUSTRIES, INC.,)
)
 Defendants.)

Case No. 4:08CV1519MLM

SECOND AMENDED MEMORANDUM OPINION

On April 30, 2009, the Eighth Circuit issued its opinion in Chronister v. UNUM Life Insurance Company of America, 2009 WL 1150325 (8th Cir. Apr. 30, 2009), in which it clarified the application of the Supreme Court’s decision in Metropolitan Life Insurance Co. v. Glenn, 128 S.Ct. 2343 (2008), to situations, such as the matter under consideration, where the entity administering an ERISA plan “both determines whether an employee is eligible for benefits and pays benefits out of its own pocket.” According to Chronister, 2009 WL 1150325, at *2, Glenn holds that, while there is a conflict of interest in such cases and while a plaintiff need not establish a causal connection between the conflict and the decision to deny benefits, a less differential standard of review is *not* applicable. Rather, where there is a conflict of interest, a court reviewing the decision to deny benefits under an ERISA plan should review the administrator’s decision for an abuse of discretion and “consider[] the conflict as one factor to determine whether the administrator abused its discretion.” Id. at *2.

The court finds that there are genuine issues of material fact as to whether Standard abused its discretion upon denying Plaintiff benefits. As such, the court will deny Defendant’s Motion for

Summary Judgment.

Accordingly,

IT IS HEREBY ORDERED that the Amended Memorandum Opinion is **VACATED**, in part; Doc. 26

IT IS FURTHER ORDERED that the Amended Memorandum Opinion is **VACATED** only in regard to the proper standard of review applicable to the administrator's denial of benefits; Doc. 26

IT IS FURTHER ORDERED that, in all other respects, the court's Amended Memorandum Opinion remains in effect; Doc. 26

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment is **DENIED**; Doc. 21.

/s/Mary Ann L. Medler
MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE

Dated this 20th day of May, 2009.