

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

)	
)	
CHRISTINA NIELSEN,)	
)	
Plaintiff,)	No. 4:12-CV-1698-JAR
)	
v.)	
)	
UNION SECURITY INSURANCE CO.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

The parties participated in a telephone conference with the Court on December 13, 2013, at which time the Court took up Defendant Union Security Insurance Company (USIC)'s motion to stay this action and remand the benefit decision to USIC for exhaustion of administrative remedies. (Doc. No. 44) Plaintiff opposes the motion. (Doc. No. 47) USIC's motion is wholly inconsistent with its earlier position that remand is not proper since Plaintiff filed suit before the benefit decision was made. In opposing remand, USIC argued that because the benefit decision was not made within the time allowed under 29 C.F.R. 2560.503-1(g)(3), Plaintiff was entitled to proceed directly to court without exhausting administrative remedies. Indeed, USIC emphasized it was not raising failure to exhaust as a defense. Now, USIC argues that because the Court has permitted Plaintiff to supplement the record, the appropriate remedy is for the Court to remand the matter to the claims administrator for exhaustion of administrative remedies. The Court notes that USIC caused the delay in making the benefit decision. Further, USIC had to anticipate some supplementation of the record given that Plaintiff had no opportunity to respond to the claims denial, issued after her complaint was filed in this matter. The motion will be denied.

Alternatively, USIC seeks to supplement the administrative record. Following the telephone conference with the Court, the parties have agreed on how the record will be supplemented. Supplementation of the record is to be completed in advance of the deadline for filing dispositive motions.

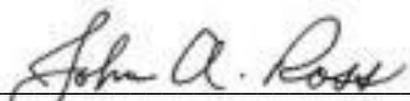
Accordingly,

IT IS HEREBY ORDERED that Defendant Union Security Insurance Company's Motion to Stay Proceedings for Administrative Review [44] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiffs' request for attorney's fees is denied as moot.

IT IS FURTHER ORDERED that the deadline for filing dispositive motions is extended to **January 10, 2014**.

Dated this 18th day of December, 2013.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE