

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CHESTERFIELD SPINE CENTER, LLC, )  
)  
Plaintiff, )  
)  
vs. )  
)  
HEALTHLINK HMO, INC., )  
)  
Defendant. )

Case No. 4:15 CV 1169 RWS

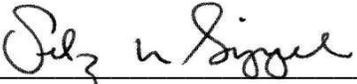
**MEMORANDUM AND ORDER**

This matter is before me on plaintiff’s motion to withdraw its motion for remand. Plaintiff now apparently concedes that this Court has subject matter jurisdiction under ERISA. For this reason, I will grant plaintiff’s motion to withdraw the motion for remand. However, defendant also has a pending motion to dismiss based on plaintiff’s failure to plead claims under ERISA. Plaintiff’s response to that motion is due October 2, 2015. In light of plaintiff’s concession regarding jurisdiction, I would expect plaintiff to seek leave to assert claims under ERISA. Any such motion, including a proposed amended complaint, should be filed on October 2, 2015, in lieu of a response to the motion to dismiss. If plaintiff chooses to oppose dismissal instead of filing an amended complaint, plaintiff’s opposition shall explain how this Court has subject matter jurisdiction if plaintiff’s claims are not governed by ERISA.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to withdraw [25] is granted, and plaintiff's motion for remand [12] is withdrawn.

**IT IS FURTHER ORDERED** that plaintiff may file a motion for leave to amend its complaint, together with a proposed amended complaint, in lieu of opposing dismissal by **October 2, 2015**; however, if plaintiff chooses to file a memorandum in opposition to dismissal it must comply with the requirements set out above.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 28th day of September, 2015.