

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KAREN RUSSELL,

Plaintiff

v.

Case No. 1:11-cv-188-HJW

CATHOLIC HEALTHCARE
PARTNERS EMPLOYEE LONG
TERM DISABILITY PLAN, *et al.*,

Defendants

This matter is before the Court upon the Magistrate Judge's "Report and Recommendation" (doc. no. 35), plaintiff's "Objections" (doc. no. 37), and the defendants' "Response" (doc. no. 38). The Magistrate Judge recommended that the defendants' "Motion to Uphold the Administrative Decision" (doc. no. 25) be granted, that plaintiff's "Motion to Reverse the Administrative Decision" (doc. no. 23) be denied, and that this case be dismissed.

Plaintiff objects to the Magistrate Judge's recommendations on the grounds that his proposed findings are contrary to law.

Upon a *de novo* review of the record, and in light of plaintiff's objections, the Court finds that the issues have been adequately addressed and properly resolved by the Magistrate Judge. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Magistrate Judge.

In a thorough and well-written analysis, the Magistrate Judge explained that after Unum denied plaintiff's administrative appeal on July 20, 2010, plaintiff had more than six months to seek judicial review before the three-year contractual limitations period expired on February 10, 2011 (doc. no. 35 at 9-10). As plaintiff filed this complaint for judicial review on March 30, 2011, this action is time-barred.

The Court further observes that even if not time-barred, plaintiff's action would fail on the merits. The record does not indicate that the administrative decision to discontinue benefits was "arbitrary and capricious." Based upon the evidence of record, including the functional capacity assessment and medical opinions indicating that plaintiff could perform at least sedentary work on a full-time basis (and

thus, engage in “alternative gainful occupations”), Unum had a reasonable explanation for discontinuing plaintiff’s long-term disability benefits.

Accordingly, the Court hereby **ADOPTS** the Report and Recommendation (doc. no. 35). The defendants’ Motion to Uphold the Administrative Decision (doc. no. 25) is **GRANTED**, and the plaintiff’s Motion to Reverse the Administrative Decision (doc. no. 23) is **DENIED**.

This case is **DISMISSED** and **TERMINATED** on the docket of this Court.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court