

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

MARLEE DALTON,)
)
 Plaintiff,)
)
 vs.)
)
 CHS/COMMUNITY HEALTH)
 SYSTEMS, INC., TOOELE CLINIC)
 CORP., and CHS/COMMUNITY)
 HEALTH SYSTEMS, INC. 04 –)
 LIGE/ADPL/DEPENDENT LIFE PLAN,)
)
 Defendants.)

FILED
CLERK, U.S. DISTRICT COURT
August 14, 2014 (3:55pm)
DISTRICT OF UTAH

Civil No. 2:12-CV-0412-BSJ

**MEMORANDUM DECISION &
ORDER**

This matter came on for rehearing on the 31st day of July, 2014, on Plaintiff's Motion for Partial Summary Judgment Against Defendant CHS/Community Health Systems, Inc. (CM/ECF No. 54) and Defendants CHS/Community Health Systems, Inc., Tooele Clinic Corp., and CHS/Community Health Systems, Inc. Welfare Benefit Plan's Motion for Summary Judgment (CM/ECF No. 53).

Appearances were as follows: Brian S. King appeared on behalf of Plaintiff and Curtis J. Drake appeared on behalf of Defendants.

The question before the court is the failure of the Plan Administrator to supply complete information to Plaintiff and her counsel concerning ERISA plan coverage.

The facts are essentially uncontested and appear in the record.

Plaintiff seeks an imposition of penalty pursuant to the applicable statutes and related regulations. *See* 29 U.S.C. § 1024(b)(4); 29 U.S.C. § 1132(c)(1).

The court, pursuant to statute may impose a penalty up to \$110 per day.

Plaintiff asks for \$47,520, computed as follows:

Marlee is entitled to an award of statutory penalties of \$100 per day from January 2, 2012, thirty days after her December 2, 2011 request, to September 8, 2012, a period of 251 days. In addition, she is entitled to an award of statutory penalties of \$110 per day from March 11, 2012 through September 8, 2012, a period of 181 days. The total award of penalties at \$110 per day is \$47,520.00

The statute is punitive and is designed to get the attention of a non-responding plan administrator and thus, among other things, provide incentive for future compliant conduct when requests are made.

Plan Administrator, Defendant and its associated Defendants comprise a very large national company. The appropriate entity needs to put into place a method for reasonably prompt response to requests for information required by statute.

Thus, in the courts considered opinion, a penalty of \$85.00 per day for each request is appropriate and reasonable for a total of \$36,720 by way of penalty and computed as follows:

\$85 per day for a period of 251 days:	\$21,335
\$85 per day for a period of 181 days:	<u>\$15,385</u>
TOTAL	\$36,720

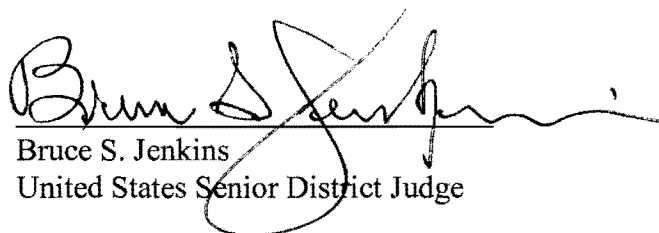
While the requested penalty was reasonable, it was reduced by the court because of the partial response to Plaintiff's requests when she was unrepresented.

Plaintiff's Motion for Partial Summary Judgment is GRANTED and Defendants' Motion for Summary Judgment is DENIED. Plaintiff is to submit an appropriate form of Judgment within 10 days.

SO ORDERED.

DATED this 14th day of August, 2014.

BY THE COURT:


Bruce S. Jenkins
United States Senior District Judge