

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CAROLYN B. HIDY,)
)
 Plaintiff,)
)
 v.) Civil Action No. 01-450-SLR
)
 TIAA GROUP LONG TERM)
 DISABILITY BENEFITS INSURANCE)
 POLICY, an employee benefit)
 plan, TEACHERS INSURANCE AND)
 ANNUITY ASSOCIATION, claims)
 Administrator of LTD Plan, and)
 BUCKMAN AND VAN BUREN, Plan)
 Administrator of LTD plan,)
)
 Defendants.)

John M. Stull, Esquire, Wilmington, Delaware. Counsel for Plaintiff.

Richard G. Elliott, Jr., Esquire and Jennifer C. Bebko, Esquire of Richards, Layton & Finger, Wilmington, Delaware. Counsel for Defendants TIAA Group Long Term Disability Benefits Insurance Policy and Teachers Insurance and Annuity Association.

Robert K. Beste, Jr., Esquire of Biggs & Battaglia, Wilmington, Delaware. Counsel for Defendant Buckman & Van Buren. Of counsel: Marc B. Zingarini, Esquire of Weber Goldstein Greenberg & Gallagher, Philadelphia, Pennsylvania.

MEMORANDUM OPINION

Dated: March 19, 2002
Wilmington, Delaware

ROBINSON, Chief Judge

I. INTRODUCTION

Plaintiff Carolyn Hidy filed this action on June 29, 2001 under the Employee Retirement Income Security Act ("ERISA") § 502(a)(1)(B), 29 U.S.C. § 1132. Plaintiff claims that defendants TIAA Group Long Term Disability Benefits Insurance Policy, Teachers Insurance and Annuity Association, and Buckman and Van Buren improperly denied her long term disability benefits. (D.I. 1) Currently before the court are defendants' motions to dismiss the complaint based on the statute of limitations codified in 10 Del. C. § 8111 and for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6). (D.I. 9, 10; D.I. 11, 12) For the reasons stated below, defendants' motions to dismiss are granted.

II. BACKGROUND

Plaintiff is a former employee of the Wilmington Friends School in Wilmington, Delaware. (D.I. 1 ¶ 4) Defendant Teachers Insurance Annuity Association ("TIAA") is a Delaware corporation that processes long term disability claims for Wilmington Friends School. (Id. at ¶ 6) TIAA Group Long Term Disability Benefits Insurance Policy ("LTD Plan") is a plan or program of Wilmington Friends School relating to benefits described in ERISA.¹ (Id.

¹There is argument whether the LTD Plan is in fact a plan of the Wilmington Friends School (D.I. 1 ¶ 5) or if it is only the name of the policy held between Wilmington Friends School and TIAA. (D.I. 10 at 3)

at ¶ 5) Defendant Buckman and Van Buren is the plan administrator for the LTD Plan. (Id. at ¶ 7)

Plaintiff was a former full-time employee of Wilmington Friends School. (D.I. 1 ¶ 8) Plaintiff suffered a heel injury in August 1996 that resulted in a disabling condition requiring continuous medical care. (Id. at ¶ 9) Plaintiff was terminated from employment on July 2, 1997. (Id. at ¶ 8) At the time of her termination, plaintiff was eligible to participate and did qualify for long term disability benefits under the LTD Plan. (Id.) TIAA paid plaintiff long term disability benefits for a two year period, from January 1998, through December 1999. (Id. at ¶ 10)

Plaintiff believed that she still qualified for continued benefits beyond December 1999, and made a claim for such. (Id. at ¶ 13) Plaintiff's claim was denied.² (Id.; D.I. 10 at Ex. A) In March 2000, plaintiff appealed TIAA's decision to deny long term benefits beyond December 1999. (D.I. 1 ¶ 13) After reconsideration, plaintiff's appeal was again denied.³ (Id.; D.I. 10 at Ex. B)

²TIAA spells out the reasons for the denial of plaintiff's claim in a letter addressed to the plaintiff and dated October 14, 1999. (D.I. 10 Ex. A)

³TIAA provides the reasons for the denial of plaintiff's appeal in a letter addressed to plaintiff's counsel and dated June 16, 2000. (D.I. 10 Ex. B)

Plaintiff alleges that she is disabled under the terms of the LTD Plan and qualifies for continued benefits. (D.I. 1 ¶¶ 14-17) Consequently, plaintiff filed this action on June 29, 2001. (D.I. 1)

III. STANDARD OF REVIEW

Because the parties have referred to matters outside the pleadings, defendants' motions to dismiss shall be treated as motions for summary judgment. See Fed. R. Civ. P. 12(b)(6). A court shall grant summary judgment only if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The moving party bears the burden of proving that no genuine issue of material fact exists. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986). "Facts that could alter the outcome are 'material,' and disputes are 'genuine' if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct." Horowitz v. Fed. Kemper Life Assurance Co., 57 F.3d 300, 302 n.1 (3d Cir. 1995) (internal citations omitted). If the moving party has demonstrated an absence of material fact, the nonmoving party then "must come forward with 'specific facts showing that there is a genuine

issue for trial.'" Matsushita, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(e)). The court will "view the underlying facts and all reasonable inferences therefrom in the light most favorable to the party opposing the motion." Pa. Coal Ass'n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995). The mere existence of some evidence in support of the nonmoving party, however, will not be sufficient for denial of a motion for summary judgment; there must be enough evidence to enable a jury reasonably to find for the nonmoving party on that issue. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986). If the nonmoving party fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof, the moving party is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

IV. DISCUSSION

The paramount issue in this case concerns the statute of limitations that is applicable to plaintiff's claim for benefits under ERISA § 502(a)(1)(B). The ERISA statute does not provide for a statute of limitations for suits brought under § 502(a)(1)(B). Syed v. Hercules Inc., 214 F.3d 155 (3d Cir. 2000), cert. denied, 531 U.S. 1148 (2001), and appeal filed 2001 U.S. App. LEXIS 24653, No. 01-1450 (3d Cir. Del. Oct. 22, 2001). The general federal statute of limitations as provided in 28 U.S.C. § 1658 does not apply because the prescribed four-year

period of limitations only applies to "claims arising under acts of Congress enacted after December 1, 1990."⁴ Id. at 159 n.3. In such situations it is "generally concluded that Congress intended that the courts apply the most closely analogous statute of limitations under state law." DelCostello v. Int'l Bhd. Of Teamsters, 462 U.S. 151, 158 (1983). Courts have decided that the applicable statute of limitations to a ERISA § 502(a)(1)(B) claim is that for a state contract action. See, e.g., Dameron v. Sinai Hosp., 815 F.2d 975, 981 (4th Cir. 1987); Hogan v. Kraft Foods, 969 F.2d 142, 145 (5th Cir. 1992). Delaware, however, has two statutes of limitation that concern contract claims. See 10 Del. C. § 8106 (2001) (establishing a three-year statute of limitations for general contract actions); 10 Del. C. § 8111 (2001) (establishing a one-year statute of limitations for employment disputes including claims based on wages, salary, labor, and personal service performed, as well as any benefits that may arise from such work or labor).

The Court in Syed opined that 10 Del. C. § 8111 is more analogous because it applies to claims by employees for wages and benefits. 214 F.3d at 160 (quoting Sorensen v. Overland Corp., 142 F. Supp. 354, 360 (D. Del. 1956) ("The one year statute . . . was intended to bar all claims arising out of the employer-employee relationship. The Act bars claims for 'wages', 'salary'

⁴ERISA was enacted in 1974. See 29 U.S.C. § 1132.

. . . 'overtime' and . . . any other 'benefits' arising from the corporate-officer employment relationship. The word 'benefits' . . . covers all advantages growing out of the employment.")). The Third Circuit also noted that "ERISA benefits are often termed 'fringe benefits'". Id. at 161 (citing Bricklayers and Allied Craftsmen Int'l Union Local 33 Benefit Funds v. America's Marble Source, Inc., 950 F.2d 114, 118 (3d Cir. 1991)). See also Wage Payment and Collection Act, 19 Del. C. §§ 1101 - 1115 (2001) (defining "benefits" as "compensation for employment other than wages, including, but not limited to, reimbursement for expenses, health, welfare or retirement benefits." § 1109(b)). The Third Circuit concluded that while "the one-year limitations period of [10 Del. C.] § 8111 is not optimal," it is "the most analogous Delaware statute of limitations" and is to be applied in ERISA § 502(a)(1)(B) cases. Syed, 214 F.3d at 161.

Plaintiff argues that application of the statute of limitations should be tolled until "the federal common law proposition of exhaustion of remedies" has been met or, in other words, until the claim's appeal process has been exhausted. (D.I. 13 at 5) However, plaintiff was notified of the final appeal decision by letter dated June 16, 2000. (D.I. 10 Ex. B) This action was filed on June 29, 2001, more than one year from the completion of the administrative process. Furthermore, plaintiff states in her complaint that she "has followed claims

procedures of LTD Plan and otherwise has exhausted her administrative remedies as to her rights to benefits under LTD plan and related welfare plans.” (D.I. 1 ¶ 25) Thus, plaintiff has admitted that she has exhausted her administrative remedies.

Plaintiff further argues, relying on Kahn v. Seaboard Corp., 625 A.2d 269 (Del. Ch. 1993), that fraud or fraudulent concealment can result in the tolling of the start of a period of limitations.⁵ (D.I. 13 at 7) Plaintiff alleges that the statement “no suit for benefits under this policy can be brought more than four years after the disability commenced” is a misstatement that may constitute fraud or fraudulent concealment when contrasted with TIAA’s position that a one-year statute of limitations period applies. (Id.) The court concludes that the policy statement is not inaccurate. Under the policy limitations, the plaintiff has four years to file suit from the time she is disabled. This period results from the sum of the one year period to prove disability and three years to file suit. (D.I. 13 Ex. A at 7.1 - 7.2) This period was calculated and expressly stated for plaintiff. “The expiration date of this period is June 16, 2001.” (D.I. 15 Ex. B at 4) Plaintiff filed this action on June 29, 2001, clearly past the expiration date of

⁵Neither fraud nor fraudulent concealment was pled in the complaint and are only raised in plaintiff’s answering brief in response to defendants’ TIAA Insurance Policy and Teachers Insurance and Annuity Association’s opening brief in support of their motion to dismiss. (D.I. 13)

the policy limitations. The court finds that plaintiff knew or should have known of the expiration date of the policy limitations.

The policy's limitations period operates differently from the legal one-year statute of limitations period. Whereas the policy's limitations period begins when the plaintiff suffers injury (D.I. 13 Ex. A at 7.1), the one-year legal limitations period begins to run on the date that disability benefits are denied. See 10 Del. C. § 8111. Plaintiff's complaint, filed on June 29, 2001, was filed more than one year from the decision to terminate her disability benefits (Oct. 14, 1999), and more than one year from the appeal decision reaffirming the decision to terminate her disability benefits (June 16, 2000). As such, both the policy's period of limitations and the legal one-year statute of limitations applying to ERISA § 502(a)(1)(B) cases work to bar plaintiff's claim.

Having concluded that plaintiff's claims against defendants are time barred, the court need not address the remaining arguments offered by the defendants.

V. CONCLUSION

For the reasons stated, defendants' motions to dismiss (D.I. 9, 11) are granted.

An order shall issue.