

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Plaintiff,

v.

CIVIL NO.

Defendants.

DEADLINE SUMMARY

Administrative Record (filed under seal) due:

Procedural Challenges due:

Cross motions for judgment:

Responses:

Hearing date to be set after motions are filed.

**RULE 16 CASE MANAGEMENT SCHEDULING ORDER
FOR REVIEW OF E.R.I.S.A. ADMINISTRATIVE DENIAL OF BENEFITS**

Carefully read the information contained in this Order. It will govern the progress of this case and the presentation of motions.

Upon review the court has determined that this appears to be claim for benefits under E.R.I.S.A. An answer has been filed by the defendant in the above matter on _____, therefore,

IT IS HEREBY ORDERED:

1. ERISA ADMINISTRATIVE DENIAL OF BENEFITS REVIEW REQUIREMENTS:

Proceedings in this case must be conducted in accordance with the guidelines set forth by the Sixth Circuit in *Wilkins v. Baptist Healthcare Sys., Inc.*, 150 F.3d 609, 619 (6th Cir. 1998):

1. As to the merits of the action, the district court should conduct a de novo [or arbitrary and capricious, as appropriate] review based solely upon the administrative record, and render findings of fact and conclusions of law accordingly. The district court may consider the parties' arguments concerning the proper analysis of the evidentiary materials contained in the administrative record, but may not admit or consider any evidence not presented to the administrator.
2. The district court may consider evidence outside of the administrative record only if that evidence is offered in support of a procedural challenge to the administrator's decision, such as an alleged lack of due process afforded by the administrator or alleged bias on its part. This also means that any prehearing discovery at the district court level should be limited to such procedural challenges.
3. The summary judgment procedures set forth in Rule 56 are inapposite to ERISA actions and thus should not be utilized in their disposition.

2. AGREEMENT TO RESOLVE CASE PROCESSING ISSUES:

Plaintiff's counsel must convene a meeting of all attorneys, as soon as can practically be done, to discuss and attempt to resolve the various case processing issues noted herein. Such meeting may, in the discretion of counsel, be by telephone if all purposes of this order can be effectively dealt with thereby

3. ERISA REVIEW MOTION PRACTICE:

In the event that neither party asserts a procedural challenge, motion practice will consist of the following **four steps**:

1) Defendant shall file for the parties an agreed-upon joint appendix consisting of all pertinent plan documents and the administrative record, under seal, and provide an electronic (disc) Judge's Copy **by** _____.

2) Procedural challenges due on or before _____.

3) Plaintiff and Defendant, **on or before** _____, will file a **“Motion for Judgment”** including a brief, arguing to either to reverse or affirm the administrator's decision as the case may be. The brief must analyze the evidentiary materials contained in the plan documents and the administrative record. Parties must also attach to the brief a document *to be produced both on paper and on computer diskette*¹ containing proposed findings of fact and proposed conclusions of law in separately numbered paragraphs.

4) Plaintiff and Defendant, **on or before** _____, will file **“Response to Motion for Judgment”** including a brief that responds to the motion for judgment argument(s). The brief must analyze the evidentiary materials contained in the plan documents and the administrative record.

Hearings: The parties will be advised by the court of a hearing date.

IT IS SO ORDERED.

Dated:

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

¹ Please write with WordPerfect™ 8.0 or compatible software.

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on this date by electronic and/or ordinary mail.

S/Marcia Beauchemin
Deputy Clerk