

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOSEPH REINWAND,

Plaintiff,

OPINION AND ORDER

14-cv-845-bbc

v.

NATIONAL ELECTRICAL BENEFIT FUND
and LAWRENCE J. BRADLEY,

Defendants.

Plaintiff Joseph Reinwand filed this pro se lawsuit challenging the decision by defendant National Electrical Benefit Fund and defendant Lawrence J. Bradley to deny him disability benefits he claims he is entitled to under his benefit plan. On June 24, 2016, I entered an order granting plaintiff's motion for summary judgment on his claim that defendant's decision to deny him benefits violated 29 U.S.C. § 1132(a)(1)(B) and remanding plaintiff's claim to the plan administrator for further proceedings. Plaintiff has since filed a motion requesting that I amend my judgment to award plaintiff "costs and damages as laid out in the complaint and by the law," including reinstatement and "retroactive back pay of disability benefits[.]" Defendants have opposed plaintiff's motion. After reviewing the parties' submissions, I am granting plaintiff's request for costs, but am denying his request for reinstatement of his benefits. I am also denying plaintiff's request that I stay proceedings while he exhausts the administrative claims procedure on remand.

OPINION

Under Rule 54(d), “[u]nless a federal statute, [the Federal Rules of Civil Procedure], or a court order provides otherwise, costs—other than attorney’s fees—should be allowed to the prevailing party.” This rule gives rise to a “strong presumption that the prevailing party will recover costs.” Mother & Father v. Cassidy, 338 F.3d 704, 708 (7th Cir. 2003). I disagree with defendants’ contention that plaintiff has not achieved “success on the merits” and that therefore he is not a “prevailing party” for purposes of Rule 54(d). Although plaintiff failed to establish that he is ultimately entitled to benefits under the plan, he succeeded in establishing that defendants failed to comply with the Employee Retirement Income Security Act’s requirement that plan participants be afforded “full and fair review” of their benefit claims. Plaintiff’s right to full and fair review under ERISA is as much a “merits issue” as his ultimate right to benefits under the plan. Accordingly, I conclude that plaintiff has achieved adequate success on the merits and is a “prevailing party” entitled to recover his costs under Rule 54(d).

However, I agree with defendants that plaintiff is not entitled to an outright award or reinstatement of benefits. As I explained in the June 24 order, a court will not enter an order simply awarding benefits in the wake of an arbitrary or capricious administrative decision unless it is “so clear cut that it would be unreasonable for the plan administrator to deny the application for benefits on any ground.” Order, dkt. #66 at 9 (quoting Quinn v. Blue Cross and Blue Shield Association, 161 F.3d 472, 477 (7th Cir. 1998)). The fact that defendants have violated plaintiff’s right to full and fair review of his benefit claim does not

mean that plaintiff was or is entitled to benefits under the terms of the plan. Whether plaintiff was or is entitled to benefits is a question for the plan administrator to decide on remand.

Finally, I am denying plaintiff's request that I stay proceedings while his claim is remanded to the plan administrator. Keeping this case open so that plaintiff can return to this court after a decision is rendered by the plan administrator makes sense only if one assumes that the plan administrator intends to either improperly deny plaintiff's claim for benefits or otherwise violate his rights under ERISA. Such an assumption is sheer speculation at this point. If on remand defendants fail to afford plaintiff full and fair review of his claim or arbitrarily or capriciously deny his benefit claim, he can file suit again and seek reimbursement of any costs if he prevails.

ORDER

IT IS ORDERED that plaintiff Joseph Reinwand's motion to amend or for additional findings, dkt. #68, is GRANTED in part and DENIED in part. Plaintiff shall file an affidavit identifying all of the costs incurred in connection with this litigation on or before

September 3, 2016. Plaintiff's requests for an award of benefits and for stay of this litigation are DENIED.

Entered this 18th day of August, 2016.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge