

APPENDIX A

Order

Michigan Supreme Court
Lansing, Michigan

June 12, 2019

Bridget M. McCormack,
Chief Justice

158953

David F. Viviano,
Chief Justice Pro Tem

RACHEL C. BROWN,
Plaintiff-Appellant,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 158953
COA: 342616
Ingham CC: 17-000185-AA

CIVIL SERVICE COMMISSION,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the October 10, 2018 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 12, 2019

s0605

A handwritten signature of Larry S. Royster.

Clerk

APPENDIX B

Court of Appeals, State of Michigan

ORDER

Rachel C. Brown v Civil Service Commission

Amy Ronayne Krause
Presiding Judge

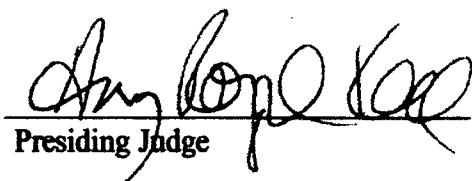
Docket No. 342616

Patrick M. Meter

LC No. 17-000185-AA

Michael F. Gadola
Judges

The Court orders that the motion for reconsideration is DENIED.



Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on



DEC - 3 2018

Date



Chief Clerk

APPENDIX C

Court of Appeals, State of Michigan

ORDER

Rachel C. Brown v Civil Service Commission

Amy Ronayne Krause
Presiding Judge

Docket No. 342616

Patrick M. Meter

LC No. 17-000185-AA

Michael F. Gadola
Judges

The Court orders that the motion to waive fees is GRANTED for this case only.

The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.


Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on



OCT 10 2018

Date


Chief Clerk

APPENDIX D

STATE OF MICHIGAN
IN THE 30TH CIRCUIT COURT FOR THE COUNTY OF INGHAM

RACHEL C. BROWN.

Appellant.

ORDER

HON. CLINTON CANADY III

v

MICHIGAN CIVIL SERVICE
COMMISSION.

Docket No.: 17-185-AA

Appellee.

At a session of said Court held in the City of
Lansing, County of Ingham, State of Michigan,
on August 31, 2017.

PRESENT: The Honorable Clinton Canady III
30th Circuit Court Judge

This matter is before the Court on Appellant's Motion for Reconsideration and Reinstatement. On August 3, 2017, this Court issued an Opinion and Order affirming the Civil Service Commission's decision denying Appellant's Long-Term Disability (LTD) benefits through the State of Michigan.

Appellant first seeks a specific ruling on Appellant's Motion to Strike Appellee Brief, Amended Brief & New Evidence, and Deny Request for Oral Argument. Oral argument was not held in this matter upon mutual agreement of the parties, which rendered this issue moot. Appellant also sought to prevent Appellee from introducing evidence that was intended to deny Appellant the right to appeal on the basis that her appeal was untimely filed in this Court. But the Court permitted Appellant to proceed with her appeal, which likewise rendered this issue moot. Finally, Appellant's motion sought to strike Appellee's response brief given that it was filed one day after the deadline. However, it is the Court's prerogative to accept or order any

briefing by the parties that aids the Court in rendering a decision. Accordingly, Appellant's motion is denied.

With respect to Appellant's Motion for Reconsideration and Reinforcement, Appellant first requests this Court reconsider its Order denying Appellant's Motion to Allow Additional Evidence, specifically W-2 tax forms evidencing income Appellant earned during her claimed period of disability with a local small business and a letter dated May 2, 2017, from Dr. Melinda J. Simon. Even if said documents were admitted, their import does not change the outcome of this case. The W-2 in no way addresses Appellant's inability to perform work as a Departmental Specialist and, thus, is irrelevant. Dr. Simon's May 2, 2017 letter merely reiterates her opinion that Appellant is incapable of performing her job; however, Dr. Simon's opinion was squarely contradicted by Dr. Miller's opinion that Appellant was capable of performing her job. As previously explained in the Court's August 3, 2017 Opinion and Order, the administrative decision to discontinue Appellant's LTD benefits need only reflect an "adequate determining principle."¹ The professional opinion of a licensed psychiatrist, in this case Dr. Miller, suffices as a determining principle. Accordingly, Appellant's Motion for Reconsideration of Appellant's Motion to Allow Additional Evidence lacks merit.

Appellant next argues that this Court failed to address whether sufficient procedural due process was provided to Appellant. As this Court explained, due process generally requires notice and an "opportunity to be heard."² Due process "is flexible and calls for such procedural protections as the particular situation demands."³ Michigan courts have explicitly held that neither an oral hearing nor "trial-like proceeding" are necessary in all cases to provide an

¹ *Wescon v Civil Serv Comm'n*, 298 Mich App 158, 162; 825 NW2d 674, 677 (2012).

² *Id.*

³ *English v Blue Cross Blue Shield of Michigan*, 263 Mich App 449, 459; 683 NW2d 523, 530-31 (2004).

individual with a meaningful opportunity to be heard.⁴ Appellant received adequate due process in this matter. Appellant was afforded the opportunity to substantiate her medical condition and inability to perform her job duties by submitting documentary evidence in the first three levels of appeal.

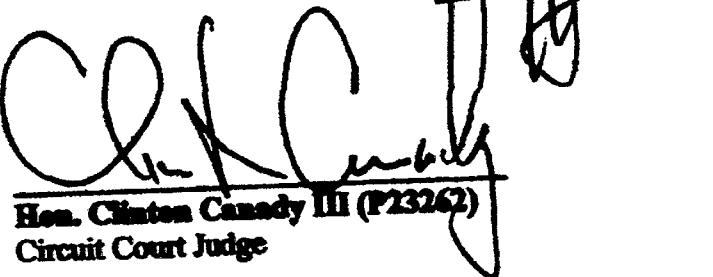
The balance of Appellant's arguments are substantively indistinguishable from those set forth in Appellant's original Appeal and accompanying motions and, thus, lack merit.⁵

THEREFORE, IT IS ORDERED that Appellant's Motion for Reconsideration and Reinstatement is **DENIED**.

IT IS FURTHER ORDERED that Appellant's Motion to Strike Appellee Brief, Amended Brief & New Evidence, and Deny Request for Oral Argument is **DENIED**.

IT IS FURTHER ORDERED that in compliance with MCR 2.602(A)(3), this Court finds that this decision resolves the last pending claim and closes the case.

IT IS SO ORDERED.



Hon. Clinton Canady III (P23262)
Circuit Court Judge

⁴ See *York v Civil Serv Comm'n*, *supra* at 702; and *English v Blue Cross Blue Shield of Michigan*, 263 Mich App 449, 459; 688 NW2d 523, 530-531 (2004).

⁵ MCR 2.119(F)(3) states, "Generally, and without restricting the discretion of the court, a motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error."

APPENDIX E

STATE OF MICHIGAN

IN THE 30TH CIRCUIT COURT FOR THE COUNTY OF INGHAM

RACHEL C. BROWN,

Appellant,

v

MICHIGAN CIVIL SERVICE
COMMISSION,

Appellee.

OPINION AND ORDER

HON. CLINTON CANADY III

Docket No.: 17-185-AA

At a session of said Court held in the City of
Lansing, County of Ingham, State of Michigan,
this 3 day of August, 2017

PRESENT: The Honorable Clinton Canady III
30th Circuit Court Judge

This matter is before the Court on Appellant's *Administrative Appeal* of the final agency decision of the Michigan Civil Service Commission, dated December 12, 2016.

Factual and Procedural Background

In 2014, Appellant was employed through the State of Michigan as a Departmental Specialist. On December 2, 2014, Appellant began a claim for Long-Term Disability (LTD) benefits. The Michigan LTD program provides income protection to individuals who lose wages as a result of a medical injury or illness that results in a "total disability"¹ for at least 14 days. The LTD benefits plan is administered by the Michigan Civil Service Commission (the Commission) through a third party administrator (TPA). On December 26, 2014, Appellant

¹ The State of Michigan Long-Term Disability Income Protection Plan defines "total disability" as follows: "To become considered 'totally disabled' during the first 24 months of any period of total disability, you must be under the care of a legally qualified physician and be unable solely because of the disease, accidental bodily injury or pregnancy, to work at your usual occupation. Your usual occupation means the type of work in which you usually engage and is not limited to the actual job you were performing prior to the start of total disability."

submitted a report to the TPA from her treating psychologist, Melinda J. Simon. Dr. Simon diagnosed Appellant with major depressive disorder (recurrent and severe) and opined that Appellant was disabled from work until April 1, 2015. The TPA approved LTD benefits for Appellant from December 16, 2014, through March 31, 2015, pending an independent medical examination (IME). On March 26, 2015, Appellant attended an IME with psychiatrist Norman Miller. On March 27, 2015, Appellant submitted an updated report from Dr. Simon which included an added diagnosis of post-traumatic stress disorder and recommended Appellant's disability from work extend through September 24, 2015. On April 1, 2015, the TPA received Dr. Miller's IME report. In the report, Dr. Miller opined that Appellant was capable of performing her job as a Departmental Specialist. In this regard, Dr. Miller stated:

I do not see a psychiatric diagnosis that would interfere with her being able to work as a Departmental Specialist. She will need treatment for her alcohol problem in order to abstain from alcohol to improve her mood and decrease her stress. I think her prognosis is good.²

In a letter dated April 22, 2015, the TPA informed Appellant that it had determined she was "not totally disabled" based on the IME report by Dr. Miller and denied Appellant's application for continuing LTD benefits.³ The April 22, 2015 letter informed Appellant of her right to appeal the decision and included a one-page summary of the LTD appeal process, titled "State of Michigan Long-Term Disability (LTD) Appeal Plan Process Overview."⁴ The summary explained that the appeals process entailed five different "levels" of appeals, specified the time deadlines for filing at each level, and informed Appellant that she could submit additional clinical information from her attending providers to support her disability claim.

² Certified Civil Service Record, p 137.

³ *Id.* at 79.

⁴ *Id.* at 81.

On April 27, 2015, Appellant timely filed her Level 1 appeal. In her appeal letter, Appellant referenced the medical report from Dr. Simon, which she had previously submitted to the TPA on March 27, 2015, but did not include additional medical documentation. Appellant requested a second IME with a different practitioner as she believed Dr. Miller's examination was not "thorough, fair, practical, or competent."⁵ Appellant claimed the examination lasted no more than 20 minutes and that Dr. Miller regularly interrupted her while she attempted to answer his questions.⁶

In an April 29, 2015 letter to Appellant, the TPA acknowledged receipt of Appellant's appeal. The letter explained that the appeal decision would be based on "the contents of your disability claim file, including any new medical information provided to [the TPA] by you, and or your attending provider."⁷ Further, the letter advised Appellant that she "may provide additional medical information within fifteen (15) calendar days of the date of this letter."⁸

In a written decision dated June 9, 2015, the TPA upheld its decision to deny Appellant's LTD benefits finding that Appellant did not meet the definition of "totally disabled". In this regard, the TPA stated:

Following the claim denial, you submitted a letter of appeal. No additional medical documentation was submitted to support disability.

Based on the information provided during your claim and the Independent Medical Evaluation completed by Dr. Norman Miller, MD ... it is the opinion of the Level I Appeals Committee to uphold the denial of benefits after 3-31-15.⁹

The June 9, 2015 decision letter informed Appellant that any appeal of the decision "must be received within ninety (90) calendar days from the date of this letter."¹⁰

⁵ *Id.* at 77.

⁶ *Id.*

⁷ *Id.* at 74.

⁸ *Id.*

⁹ *Id.* at 72.

Under the 90-day appeal period, Appellant's Level 2 appeal was due September 7, 2015. Appellant did not mail her appeal until October 6, 2015 (29 days after the deadline) and the appeal was apparently not received by the TPA until October 13, 2015¹¹ (36 days after the deadline). In her Level 2 letter of appeal, Appellant reiterated her objections regarding Dr. Miller's IME. In addition, Appellant attached copies of prescriptions for Amitriptyline ordered by her primary care physician, Joseph Kozlowski, D.O., which Appellant noted was for treatment of "depression and associated symptoms."¹² Appellant also included copies of prescriptions for Celexa and Ativan prescribed by Arthur Ronan, D.O., and a letter from Appellant's treating counselor, Kelly Roberson, MA-LLPC, which stated:

Ms. Brown has been receiving counseling since December 5, 2014 at Delta Waverly Psychology and Counseling Associates. Progress has been made in coping with the anxiety and depression; however, it has been a slow incline as she suffers from associated effects such as insomnia, restless sleep, agitation, and is isolating herself to avoid undo stress. She has difficulty asserting herself, making eye contact, resolving conflict, indecisiveness and setting clear boundaries which are attributed to her lack of confidence and self-esteem.

We continue to work on coping mechanisms for these issues through individual counseling and she is also now attending group counseling for issues of grief and loss.¹³

The copies of the prescriptions from Dr. Kozlowski and Dr. Ronan, as well as the letter from Ms. Roberson, did not provide any information or opinion on whether Appellant was totally disabled from work. Finally, Appellant's letter of appeal included an "attending physician statement" from Dr. Simon dated September 17, 2015, wherein Dr. Simon reiterated her opinion that Appellant was disabled from work until September 24, 2015.

¹⁰ *Id.* at 73 (emphasis in original).

¹¹ Appellant disputes this date, arguing that the TPA received the appeal on October 8, 2017. Regardless, either date falls after the 90-day deadline of September 7, 2015.

¹² Certified Civil Service Record, p 60-61.

¹³ *Id.* at 44.

In a letter dated October 30, 2015, the TPA denied Appellant's Level 2 appeal because it was filed after the deadline.¹⁴ The letter instructed Appellant of her right to appeal the decision within 28 days.

On November 17, 2015, Appellant timely filed her Level 3 appeal with the Office of the State Employer. Appellant explained that her untimely filing of her Level 2 appeal was in part due to the TPA's slow response to Appellant's request for a copy of her claim file. Additionally, Appellant once more attacked the credibility of Dr. Miller's IME opinion.

In a letter dated June 2, 2016, the Office of State Employer denied Appellant's Level 3 appeal by first noting Appellant's untimely Level 2 appeal. However, the Office of State Employer went on to state that, even if the Level 2 appeal had been timely filed, Appellant's appeal would still have failed because she did not submit medical documentation that would contradict Dr. Miller's IME findings. In this regard, the letter stated:

Further, had your Level 2 appeal been received timely, a review of your file shows an absence of treatment records or medical evidence that would contradict the findings of Dr. Miller. Dr. Miller's conclusion that you were capable of returning to full-time work as a Departmental Specialist without restrictions on March 26, 2015 was consistent with Dr. Simon's original estimate that you would be capable of returning to work on April 1, 2015.¹⁵

On June 30, 2016, Appellant filed her Level 4 appeal with the Office of Technical Complaints. In a decision issued August 8, 2016, the Office of Technical Complaints affirmed the denial of Appellant's LTD benefits finding that Appellant had not established "special extenuating circumstances to justify her failure to submit her Level 2 appeal timely to the TPA,

¹⁴ *Id.* at 52.

¹⁵ *Id.* at 14.

and has not demonstrated that the [Office of State Employer] or TPA committed reversible error in the determinations as to timeliness.”¹⁶

On September 6, 2016, Appellant filed leave to appeal the Office of Technical Complaints’ decision. The Employment Relations Board recommended leave to appeal be denied because Appellant had “not shown grounds for granting leave to appeal.”¹⁷ On December 12, 2016, the Commission issued a final decision adopting the Employment Relations Board recommendation to deny Appellant leave to appeal.¹⁸

On February 13, 2017, Appellant filed her claim of appeal of the Commission’s decision with the Michigan Court of Appeals. On February 22, 2017, the Michigan Court of Appeals dismissed Appellant’s appeal indicating that the proper forum for appeal of an administrative decision was the circuit court.¹⁹ On March 7, 2017, Appellant filed her claim of appeal in this Court. Appellant asked this Court to permit her appeal to proceed despite initially filing in the wrong court. The issue was briefed by the parties and on April 20, 2017, this Court issued an Order allowing Appellant’s appeal to proceed due to the fact that the appeal was filed by the deadline, albeit in the incorrect court.

Law and Discussion

On appeal, Appellant first argues that the Commission violated her due process rights under the Michigan Constitution²⁰ as she was not afforded an “evidentiary hearing prior to cancellation” of her LTD benefits. The Commission is a constitutional body possessing broad

¹⁶ *Id.* at Tab 7.

¹⁷ *Id.* at Tab 2.

¹⁸ *Id.* at Tab 1.

¹⁹ *Rachel Brown v Civil Service Commission*, unpublished Michigan Court of Appeals opinion (docket no. 336953, February 22, 2017).

²⁰ Const. 1963, art 1, § 17.

authority to regulate the state classified service.²¹ Pursuant to its constitutional mandate, the Commission “is free to adopt any grievance or appellate procedure it finds appropriate as long as it does so consistently with the requirements of due process since it has full and absolute power over civil service employees.”²² Procedural due process imposes constraints on governmental decisions which deprive individuals of protected²³ liberty or property interests.²⁴ Generally speaking, due process requires the “opportunity to be heard at a meaningful time and in a meaningful manner.”²⁵ However, due process “is flexible and calls for such procedural protections as the particular situation demands.”²⁶ Michigan courts have explicitly held that neither an oral hearing nor “trial-like proceeding” are necessary in every case to provide an individual with a meaningful opportunity to be heard.²⁷

Neither party in the instant appeal cites to any case that directly answers the question of whether due process requires an evidentiary hearing before a state employee’s LTD benefits can be discontinued. Relying on the United States Supreme Court’s decision in *Mathews v Eldridge*²⁸, the Michigan Supreme Court set out three factors to consider when determining the requirements of due process in a particular setting: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;

²¹ *Hanlon v Civil Serv Comm'n*, 253 Mich App 710, 718; 660 NW2d 74, 79 (2002).

²² *Id.*

²³ To have a protected property interest for purposes of due process, “one must possess more than a unilateral expectation to the claimed interest; the claimant must have a legitimate claim of entitlement.”

York v Civil Serv. Comm'n, 263 Mich App 694, 702-703; 688 NW2d 533, 539 (2004).

²⁴ *Id.* at 702.

²⁵ *Id.*

²⁶ *English v Blue Cross Blue Shield of Michigan*, 263 Mich App 449, 459; 688 NW2d 523, 530-31 (2004).

²⁷ See *York v Civil Serv Comm'n*, *supra* at 702; and *English v Blue Cross Blue Shield of Michigan*, 263 Mich App 449, 459; 688 NW2d 523, 530-531 (2004).

²⁸ 424 US 319; 96 S Ct 893 (1976).

and (3) the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.²⁹

Applying the three factors to the case, the Court finds that due process does not require a hearing to terminate Appellant's LTD benefits. The risk of an erroneous deprivation of LTD benefits is low given that the appeal process entails five levels of appeal – two levels of appeal with the TPA, a third appeal with the Office of State Employer, a forth appeal with the Office of Technical Complaints, and the final level of appeal with the Employment Relations Board and the Commission.³⁰ In the first three appeals, Appellant was afforded the opportunity to submit documentary evidence demonstrating how her medical condition prevented her from performing her job duties, including medical records from attending physicians.³¹ With respect to the government's interest, the State of Michigan has a significant interest in conserving scarce fiscal and administrative resources that would be expended if each appellant was afforded such a hearing.

This Court's holding that no hearing is required is consistent with Article 6, § 28 of the Michigan Constitution, which dictates the standard of review of administrative decisions. Section 28 states:

All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record.

²⁹ *In re Brock*, 442 Mich 101, 111; 499 NW2d 752, 757 (1993).

³⁰ Civ Serv Reg 5.18(4)(A).

³¹ No additional medical documentation may be submitted for appeals at the fourth and fifth levels. Civ Serv Reg 5.18(4)(A).

Thus, §28 expressly contemplates situations in which an administrative appellant is not afforded a hearing.

Because no hearing is required in this matter, this Court's review is limited to whether the administrative decision was "authorized by law."³² "Authorized by law" means "allowed, permitted, or empowered by law."³³ Under this standard, the administrative decision must be affirmed "unless it is in violation of statute, in excess of the statutory authority or jurisdiction of the agency, made upon unlawful procedures resulting in material prejudice, or is arbitrary and capricious."³⁴ A decision is "arbitrary and capricious" when it "lacks an adequate determining principle, when it reflects an absence of consideration or adjustment with reference to principles, circumstances, or significance, or when it is freakish or whimsical."³⁵

Appellant next argues that the administrative decision to discontinue her LTD benefits was arbitrary and capricious in that the TPA gave more weight to Dr. Miller's IME findings than Appellant's treating psychologist, Dr. Simon. To reiterate, the standard of review on appeal is not which evidence preponderates but whether the administrative decision was authorized by law, i.e., possesses an "adequate determining principle."³⁶ Throughout the appeal process, the administrative officers' denials of Appellant's claim were based on (1) the professional opinion of a licensed psychiatrist, in this case Dr. Miller, and/or (2) the enforcement of the administrative rules governing timeliness of appeals. These bases serve as adequate determining principles for the administrative decisions and are not error.

³² Const 1963, art 6, §28.

³³ *Northwestern Nat Cas Co v Ins Com'r*, 231 Mich App 483, 488; 586 NW2d 563, 566 (1998).

³⁴ *Brandon Sch Dist v Michigan Educ Special Servs Ass'n*, 191 Mich App 257, 263; 477 NW2d 138, 141 (1991).

³⁵ *Wescott v Civil Serv Comm'n*, 298 Mich App 158, 162; 825 NW2d 674, 677 (2012).

³⁶ *Wescott v Civil Serv Comm'n*, 298 Mich App 158, 162; 825 NW2d 674, 677 (2012).

Appellant next argues that her Levels 3 and 4 appeals were arbitrarily and capriciously decided because they were based solely on Appellant's failure to timely file her Level 2 appeal. Furthermore, Appellant argues that if her Level 2 appeal was late, she should have received a "deficiency notice" soliciting an explanation for the tardiness per Civil Service Regulation 8.05(4)(G)(3), which states:

Late filing. Any late appeal, motion, or other document must be accompanied by a written explanation for the lateness. If no explanation is provided, the administrative officer must send a deficiency notice. If the party fails to establish the required good cause or special extenuating circumstances or does not timely correct the deficiency, the appeal is dismissed as late or for failure to respond.

First, Appellant's characterization of the Level 3 decision is inaccurate: the Director of Employee Health Management decided the appeal on the dual bases of timeliness and the "absence of treatment records or medical evidence that would contradict the findings of Dr. Miller."³⁷ Second, although it appears from the record that no deficiency notice was sent to Appellant, she submitted explanations for the untimely filing, which the Level 3 and 4 administrative officers specifically addressed and rejected because Appellant had not demonstrated good cause or special extenuating circumstances. According to Appellant, the main reason for her untimely filing of the Level 2 appeal was the TPA's delay in providing her a copy of her claim file. The TPA sent Appellant the claim file on July 23, 2015.³⁸ The deadline for filing the Level 2 appeal was September 7, 2015, providing Appellant sufficient time – over one month – to file her appeal.³⁹ As noted previously, the Commission "is free to adopt any grievance or appellate procedure it finds appropriate as long as it does so consistently with the

³⁷ Certified Civil Service Record, p 14.

³⁸ *Id.* at 69.

³⁹ Appellant dated her submission for the Level 2 appeal September 30, 2015. However, it appears the appeal was not postmarked until October 6, 2015.

requirements of due process.”⁴⁰ The Commission’s enforcement of reasonable time requirements for the filing of appeals is not arbitrary and capricious but rather is necessary to the orderly processing of such appeals, and thus not error.

Appellant next argues that the discontinuation of her LTD benefits resulted in the loss of her health insurance, which according to Appellant, was necessary to cover treatment with her attending providers so as to substantiate her claim for benefits. Appellant cites no authority for the proposition that the Commission is legally responsible for providing medical insurance to individuals so that the individual can better substantiate their claims for LTD benefits. Appellant’s failure to develop the argument results in abandonment of this issue.⁴¹

Appellant’s last argument on appeal is that the TPA failed to provide her at least 14 days advance written notice of the denial of the LTD benefits per Civil Service Regulation 5.19(4)(B)(2), which states:

Denial or Cancellation of Eligibility. If an employee cannot document or verify eligibility for a group insurance benefit to the satisfaction of Civil Service, Civil Service shall deny or cancel the group insurance benefit. Civil Service must give the employee at least 14 calendar days advance written notice of the cancellation of any existing group insurance benefit.

In a letter dated March 11, 2015, the TPA informed Appellant that her LTD benefits would be extended from February 28, 2015 to March 31, 2015. This provided Appellant at least 20 days advance notice of the discontinuation of her benefits and was not error.

In addition to her brief on appeal, Appellant filed a Motion to Allow Additional Evidence. Appellant seeks to introduce a letter dated May 2, 2017, from Dr. Simon and a 2016 W-2 tax form showing her wages for 2016. The letter from Dr. Simon merely reiterates her

⁴⁰ *Hanlon v Civil Serv Comm'n*, 253 Mich App 710, 718; 660 NW2d 74, 79 (2002).

⁴¹ *DeGeorge v Warheit*, 276 Mich App 587, 594–595; 741 NW2d 384, 390 (2007) (“It is not enough for an appellant to simply announce a position or assert an error in his or her brief and then leave it up to this Court to discover and rationalize the basis for the claims, or unravel and elaborate the appellant’s arguments, and then search for authority either to sustain or reject the appellant’s position.”)

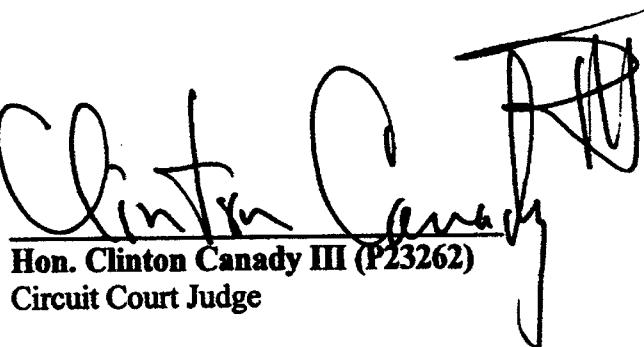
opinion that Appellant is unable to work. Dr. Simon's opinion was at odds with Dr. Miller's IME opinion, and it was this "battle of experts" that served as the TPA's original reason for denying Appellant's LTD benefits. In other words, the May 2, 2017 letter Appellant seeks to introduce fails to change the calculus of the underlying decision. With respect to Appellant's W-2, it is unclear how such documentation would serve to prove that Appellant is disabled from work. In fact, it would seem to support the opposite conclusion – that Appellant is capable of some productive work. Accordingly, Appellant's Motion To Allow Additional Evidence is denied.

THEREFORE, IT IS ORDERED that the decision of the Michigan Civil Service Commission is **AFFIRMED**;

IT IS FURTHER ORDERED that Appellant's Motion To Allow Additional Evidence is **DENIED**; and

IT IS FURTHER ORDERED that in compliance with MCR 2.602(A)(3), this Court finds that this decision resolves the last pending claim and closes the case.

IT IS SO ORDERED.



Hon. Clinton Canady III (P23262)
Circuit Court Judge

APPENDIX F

STATE OF MICHIGAN
CIVIL SERVICE COMMISSION

IN RE BENEFITS COMPLAINT OF R. BROWN

CSC 2016-022

APPELLANT: R. BROWN

ERB 2016-026

BRD 2016-010

Ref. No. 2016-00199

A Decision of the Michigan Civil Service Commission

Thomas M. Wardrop, Commissioner and Chair

James Barrett, Commissioner

Janet McClelland, Commissioner

Robert W. Swanson, Commissioner

ISSUED DECEMBER 12, 2016

FINAL DECISION

As provided in civil service rule 1-15.5, the civil service commission has reviewed the recommended decision of the employment relations board in ERB 2016-026. The commission **approves** the recommendation of the employment relations board and adopts ERB 2016-026 as the final decision of the civil service commission in this matter.

Notice: This final decision of the civil service commission is subject to review in the Michigan circuit court. A claim of appeal must be filed within 60 calendar days after the date this decision was issued. A claim of appeal must *name* the Michigan civil service commission as an appellee and must be *served* on the Michigan civil service commission at its main office, located at 400 South Pine Street, Lansing, Michigan 48913.
(SEE MICHIGAN COURT RULE 7.117 AND MICHIGAN COMPILED LAWS §§ 24.301-24.306.)

APPENDIX G

STATE OF MICHIGAN
CIVIL SERVICE COMMISSION

EMPLOYMENT RELATIONS BOARD

A BOARD DECISION

**IN RE BENEFITS COMPLAINT OF R.
BROWN**

Appellant:
R. BROWN

MAILING DATE

NOVEMBER 2, 2016

ERB 2016-026
BRD 2016-010
Reference No. 2016-00199
Long Term Disability Plan

MEMBERS PRESENT

Ms. Susan Zurvalec
Honorable William C. Whitbeck

Chair
Member

A matter decided during a Board conference on November 1, 2016.

NOTICE

This is a recommended decision of the Employment Relations Board. The Board will file the decision with the Civil Service Commission for its review and final action. Parties need not file additional documents requesting Commission review. The Commission's final decision may approve, reject, or modify, in whole or in part, the Board's recommendations. See Civil Service Commission Rule 1-15.5.

RECOMMENDED BENEFITS DECISION

The Board considered Appellant R. Brown's application for leave to appeal from the decision of Benefits Review Officer Matthew C. Wyman upholding the Office of the State Employer's decision affirming the state's third party administrator's decision to terminate Brown's LTD Plan benefits.

The Board recommends that the Commission deny leave to appeal, because the Board concludes Brown has not shown grounds for granting leave to appeal; see Civil Service Commission Rule 8-7.5, *Grounds for Granting an Application for Leave to Appeal*.

APPENDIX H

STATE OF MICHIGAN
CIVIL SERVICE COMMISSION

RACHEL BROWN

and

OFFICE OF TECHNICAL COMPLAINTS

DATE MAILED
OCTOBER 5, 2016

BRIEF IN REPLY TO THE
APPLICATION FOR
LEAVE TO APPEAL
BRD 2016-010
REF. NO. 2016-00199

BACKGROUND OF THE COMPLAINT AND THE APPEAL

The Office of Technical Complaints (OTC) is the State Personnel Director's designee for long-term-disability (LTD) appeals. There were four appellate stages before this LTD appeal reached the Employment Relations Board: Levels 1 and 2, decided by the State's third-party administrator (TPA); Level 3, decided by the Office of the State Employer (OSE); and Level 4, decided by the OTC. Ms. Brown is seeking leave to appeal the OTC's decision in BRD 2016-010.¹

The TPA denied the appellant's Level-2 appeal because it was not filed timely. The OSE denied her Level-3 appeal and upheld the decision of the TPA. The appellant timely filed her Level-4 appeal with the OTC. On August 8, 2016, the Level-4 appeal was denied on the basis of the late filing at Level 2.

GROUNDS AND MERITORIOUS BASIS FOR APPEAL

CSC Regulation 8.05, § 4.D.2.c, establishes the standards and procedures for appealing a decision to the CSC through the Employment Relations Board. The would-be appellant must provide:

Grounds for appeal. A sufficient explanation establishing one or more of the following grounds for appeal:

- (1) The decision of the adjudicating officer is erroneous.
- (2) The decision violates article 11, section 5 of the Michigan Constitution or is otherwise contrary to law, including Civil Service rules and regulations.
- (3) The question presented is of major significance to the classified service.

¹ In re Long Term Disability Eligibility Appeal of Rachel Brown, BRD 2016-010, issued August 8, 2016, which is adopted into this brief by incorporation.

The appellant contends that the TRO erred in upholding the Level-3 decision, and that the decision violates article 11, section 5 of the Michigan Constitution or is otherwise contrary to law, including Civil Service rules and regulations. To do so the appellant is required to identify the specific rule, regulation, or other provision violated by the TRO's decision and explain how the decision violates that provision. The appellant has not cited any specific rule, regulation, or other provision violated by the TRO's decision, and therefore has not established proper grounds for appeal.

DISCUSSION AND ARGUMENT

Untimeliness was the sole basis for the OTC's denial at Level 4, concluding that the OSE decision specific to the deadline to appeal was correct, appropriate and consistent with the provisions of the State's LTD and Income Protection Plan. As such, no consideration of the underlying merits was needed, or proper. The appellant incorrectly assumed that she could take an additional 45 days to file her Level-2 appeal, but never requested an extension of the filing deadline. She filed that appeal over a month after the September 7, 2015 deadline. Her Level-3 and Level-4 appeals were denied on that basis.

In her application for leave to appeal, the appellant again addresses the reasons she believes she was justified in filing late, which can be summarized as communication issues with the TPA. The appellant states "... the TPA failure to provide follow-up to Appellant prevented knowledge of Appellant's right to request an extension." The record from the TPA contains descriptions of every call from the appellant, as well as the action taken by the staff of the TPA. Included in the record are the date and times of return calls made by the TPA to the appellant that were unsuccessful because the appellant's phone was not working. The TPA has documented the attempts to contact the appellant. The responsibility for obtaining needed information rests with the appellant; there was no misleading or erroneous action by the TPA.

The appellant's application for leave to appeal does not contain any discussion establishing acceptable grounds for leave to appeal as required by Regulation 8.05 and should therefore be dismissed.

CONCLUSION

For the reasons stated in BRD 2016-010, and adopted herein, the decision of the TRO was correct and supported by the evidence. The appellant has failed to satisfy the burden of proof needed for the Board to grant her application. The appellant's application should therefore be denied.

Respectfully submitted,



Katie Garner
Benefits Review Officer
Office of Technical Complaints

APPENDIX I

RICK SNYDER
GOVERNOR



STATE OF MICHIGAN
CIVIL SERVICE COMMISSION

COMMISSIONERS
THOMAS M. WARDROP, CHAIR
JAMES BARRETT
JANET McCLELLAND
ROBERT W. SWANSON
STATE PERSONNEL DIRECTOR
JANINE M. WINTERS

OFFICE OF TECHNICAL COMPLAINTS
BENEFITS REVIEW DECISION

**IN RE LONG TERM DISABILITY BENEFIT ELIGIBILITY
APPEAL**

DATE MAILED
AUGUST 8, 2016

of

RACHEL BROWN

BRD 2016-010
Ref. No. 2016-00199

KEY WORD(s)
Long Term Disability Plan

BASIS OF APPEAL AND BACKGROUND

Rachel Brown is appealing the Level-3 decision of the Office of the State Employer (OSE) and of the state's third-party administrator (TPA) regarding her claim under the Long Term Disability (LTD) and Income Protection Plan. The OSE denied her Level-3 appeal and upheld the TPA's decision that the Level-2 appeal was filed untimely.

Under Civil Service Commission (CSC) Regulation 5.18, § 4.A.3.d.(2), a Level-4 LTD appeal must demonstrate why the Level-3 or lower decisions were incorrect. In other words, the appellant must prove that these decisions were clearly erroneous. In this case, the clear-error standard is used to examine whether the OSE erred in its procedural determination as to timeliness.

DISCUSSION

In all CSC proceedings, a claimant must file an action by the applicable deadline. With LTD appeals, a Level-2 appeal is filed when the TPA receives it. CSC Regulation 8.06, § 3.C.4, states that an appeal filed more than 28-calendar days but less than a year late shall be dismissed as untimely unless accompanied by a written explanation for the late filing establishing *special extenuating circumstances*, defined as a compelling excuse for the failure to file a matter timely that arises out of one of the following: (a) an intentionally or fraudulently misleading action by an appointing authority or party that prevented the filing; (b) serious physical or mental incapacity of the person that prevented the filing; or

(c) extraordinary unforeseen circumstances outside the control of the person that prevented the filing.

As discussed in the Level-3 decision, the TPA's Level-1 decision dated June 9, 2015, notified the appellant of her 90-day deadline (September 9, 2015) to file an appeal. The TPA indicates that the appellant's Level-2 appeal was received on October 13, 2015, 126 days after the issuance of the Level-1 denial (36 days after the deadline). On that basis, the Level-2 appeal was denied on October 30, 2015. The appellant states that the TPA received it on October 8, 2015, and provided corroborating evidence; however, the fact remains that the appeal was not submitted by the September 9, 2015 deadline (or 28 days thereafter).

On November 17, 2015, the OSE received the appellant's Level-3 appeal. On June 3, 2016, the OSE denied the Level-3 appeal, upholding the TPA determination that the Level-2 appeal was untimely. The OSE also noted that even if the appeal had been timely, it would have been denied based on the absence of treatment records or medical evidence that would contradict the findings of the independent medical examination.

In her Level 4 appeal, the appellant states:

... the staff decision failed to accurately address the issue of timeliness of filing of the Level II appeal in full. Despite the CMI/York decision that the Level II appeal was submitted outside the deadline and the OSE staff decision concurring, that appeal was submitted in a timely manner factoring for delay in receiving medical documentation from CMI/York, as well as establishment of appropriate healthcare coverage to permit a visit with my attending provider in order through which to obtain the required medical documentation - an updated attending provider statement and letter from my treating therapist to accompany the appeal.

The Level III appeal clearly outlined the events leading to filing outside of 90 days from the June 9, 2015 notification, yet within the 135 days allotted (90 days plus a 45 day extension) due to "delay in receiving medical documentation" as addressed in the State of Michigan Long-Term Disability (LTD) Appeal Plan Process Overview document received with the original denial/discontinuation of benefits . . .

The appellant cites the LTD Appeal Plan Process Overview as justification for her late filing. That document indicates that the TPA has 90-calendar days to review a file and make a determination, but that the TPA is allowed an additional 45-calendar days to issue the decision if there is a delay in receiving the claimant's documentation. The appellant has interpreted this statement to mean that she could take an additional 45-calendar days to file an appeal, but that is an incorrect assumption. Appellants do have the right to request an extension, but if one is not requested the appeal is due by the deadline stated in the denial letter. The appellant did not request an extension for

filings her Level-2 appeal. It was therefore due within 90-calendar days of the issuance of the Level-1 appeal denial.

The appellant has not established special extenuating circumstances to justify her failure to submit her Level-2 appeal timely to the TPA, and has not demonstrated that the OSE or TPA committed reversible error in the determinations as to timeliness.

DECISION

The OSE's Level-3 decision to deny the appellant's LTD appeal was supported by sufficient evidence and was appropriate and consistent with the provisions of CSC Regulation 5.18 and of the LTD Plan. The appellant has not convincingly demonstrated that the OSE clearly erred. The Level-4 appeal and relief requested therein are denied.



Katie Garner
Benefits Review Officer
Civil Service Commission
Office of Technical Complaints

This decision may be appealed if received by the Civil Service Commission. Any appeal must be received at MCSC-ERB@mi.gov within 28 calendar days of the mailing date on the first page of this decision. Instructions, forms, and regulations for filing appeals can be found at www.mi.gov/erb. You must serve a copy of any application for leave to appeal on the Office of Technical Complaints, either at MCSC-OTC@mi.gov or at the address listed on the bottom of the first page of this decision.

APPENDIX J



STATE OF MICHIGAN
OFFICE OF THE STATE EMPLOYER
LANSING

RICK SNYDER
GOVERNOR

MARIE L. WAALKES
DIRECTOR

June 2, 2016

CERTIFIED MAIL # 7015 1660 0000 4981 3443

Rachel Brown
533 W Hodge Ave
Lansing, MI 48910

Re: Long-Term Disability Level 3 Appeal Decision, Claim # 3000-DI14-00512

Dear Ms. Brown:

On November 17, 2015, the Office of the State Employer (OSE) received your letter, dated November 12, 2015, containing a Level 3 appeal of the denial of your State of Michigan Long-Term Disability (LTD) Income Protection Plan benefits.

A copy of your LTD file was obtained from York Risk Services Group, (York, formerly CMI), for review and evaluation. York is the third-party administrator (TPA) for the State of Michigan LTD Income Protection Plan.

You are an LTD Plan 1 enrollee. The initial date of your disability for this claim was December 2, 2014, provided by Melinda J. Simon, PsyD (psychology) citing severe emotional distress and depression. Dr. Simon originally estimated that you would be able to return to work by April 1, 2015.

York scheduled you for an Independent Medical Examination (IME). On March 26, 2015, you underwent a psychological IME with Norman Miller, MD (psychiatry and neurology). Dr. Miller recommended you receive treatment for alcohol dependency but found that condition was treatable and would not prevent you from returning to work. Accordingly, Dr. Miller determined that you were capable of returning to full-time work as a Departmental Specialist without restrictions. You were paid LTD benefits from December 16, 2014 through March 31, 2015.

Your LTD benefits were terminated effective March 31, 2015, with a formal denial letter being issued on April 22, 2015. You submitted a Level 1 appeal dated April 4, 2015 which was received on April 29, 2015. You also submitted an attending physician's statement from Dr. Simon in which she estimated that you would be able to return to work on September 24, 2015. You did not submit records of treatment to substantiate a continued disability after March 31, 2015.

On June 9, 2015, York denied your Level 1 appeal based on the information provided during your claim and the findings contained in the IME report by Dr. Miller. York's denial notified you that "[i]f you wish to make an appeal, your written request must be received within ninety (90) calendar days from the date of this letter . . ." (emphasis in original).

You did not submit a Level 2 appeal within 90 days of June 9, 2015. Your appeal dated September 30, 2015 was received by York on October 13, 2015. Your Level 2 appeal was denied on October 30, 2015 because it was not timely received.

Ms. Rachel Brown
June 2, 2016
Page 2

Your Level 3 appeal is denied and the denial of your claim for LTD benefits is upheld. In relevant part, the State of Michigan LTD Income Protection Plan provides the following in the "Appeals" section (page 13 of 15):

If an LTD claim is terminated or denied, the LTD Plan TPA will send the claimant a written decision and explanation of the reasons for the termination or denial. A claimant may appeal the LTD Plan TPA's termination or denial of a claim only as provided in the LTD Plan TPA's appeal process. An appeal must be submitted in writing to the LTD Plan TPA within the time frame specified in the LTD Plan TPA's decision. An appeal must be sent to the LTD Plan TPA at the address indicated in the TPA's decision.

You did not submit an appeal at Level 2 within the time frame specified in York's Level 1 decision, that being 90 days from the date of its June 9, 2015 letter. You stated in your Level 3 appeal that you were prevented from timely submitting a Level 2 appeal because you had to request your file from York. York's records show it received your file request on July 23, 2015, and sent you a copy of your file same day. You acknowledge receiving this copy in your Level 3 appeal letter "after that date," without specifying when you received it. There is no basis on which to conclude York's decision to deny your Level 2 appeal was in error. Accordingly, your Level 3 appeal is denied.

Further, had your Level 2 appeal been received timely, a review of your file shows an absence of treatment records or medical evidence that would contradict the findings of Dr. Miller. Dr. Miller's conclusion that you were capable of returning to full-time work as a Departmental Specialist without restrictions on March 26, 2015 was consistent with Dr. Simon's original estimate that you would be capable of returning to work on April 1, 2015.

Pursuant to Michigan Civil Service Commission Regulation 5.18, Complaints About Benefits, you may appeal this decision by requesting a full review by the State Personnel Director.
A written appeal must be received by the Office of the State Employer within twenty-eight (28) calendar days from the date of this letter, and must demonstrate why the OSE staff decision was incorrect (June 30, 2016.) The written appeal must explain why you believe the OSE staff decision is in error. No additional medical documentation may be submitted.

You may send an appeal via email to:

DTMB-OSE@michigan.gov

Or you may send an appeal via certified mail with the U.S. Postal Service or other delivery service to:

Office of the State Employer
Capitol Commons Center, 4th Floor
400 South Pine Street
P.O. Box 30026
Lansing, Michigan 48909

Sincerely,



Bethany C. Beauchine
Director, Employee Health Management

cc: State Personnel Director
York Risk Services Group

000014

APPENDIX K



October 30, 2015

Rachel Brown
533 W Hodge Ave
Lansing, MI 48910

Dear Ms. Brown:

CMI is the Third Party Administrator (TPA) for the State of Michigan Long Term Disability Income Protection Plan. CMI received your request for an appeal review of the denial of your LTD benefits.

The claim was reviewed under the definition of disability found in the section entitled "Appeals" in the State of Michigan Long-Term Disability Income Protection Plan. This section states:

"If an LTD claim is terminated or denied, the LTD Plan TPA will send the claimant a written decision and explanation of the reasons for the termination or denial. A claimant may appeal the LTD Plan TPA's termination or denial of a claim only as provided in the LTD Plan TPA's appeal process. An appeal must be submitted in writing to the LTD Plan TPA within the time frame specified in the LTD Plan TPA's decision. An appeal must be sent to the LTD Plan TPA at the address indicated in the TPA's decision."

A copy of the LTD Plan can be obtained from the Employee Health Management website (www.michigan.gov/ehm) under Booklets.

Your Long-Term Disability (LTD) Level 1 appeal was denied on June 9, 2015 based on the information provided during your claim and the Independent Medical Evaluation completed by Dr. Norman Miller, MD. In the Level 1 appeal denial letter, dated June 9, 2015, it states "you have the right to appeal this determination. If you wish to make an appeal, your written request must be received within ninety (90) calendar days from the date of this letter." Your letter for a request for a Level 2 appeal was received by CMI on 10-13-15, which is one hundred twenty-six (126) days from June 9, 2015.

Based on the above, your Level 2 appeal is denied.

Under the Appeal guidelines, you have the right to appeal this determination. Pursuant to Civil Service Regulation 5.18: 4.A.3.a.(1)(b) states,

"After exhausting the TPA's complaint and appeal processes, an employee who disagrees with the TPA's final decision may file a written appeal, as follows: An appeal under the LTD plan must be filed with the Office of the State Employer

(OSE). The appeal must be received by the appropriate division within 28 calendar days after the date of the TPA's final decision. "

Your written appeal should include a complete explanation how it is that your medical condition(s) prevent you from performing the duties of your usual occupation as a Departmental Specialist. You should include with your appeal, current clinical information from your attending provider which support the reason(s) that you are unable to work. The clinical information must be legible and should include: diagnoses, copies of all assessments (tests), progress/office notes, treatment plans, and response to treatment, recommendations for further treatment, and recommendations for return to work. The written appeal request and additional information should be sent to:

OSE- Employee Health Management
Capital Commons Center
400 S. Pine St. 4th Floor
Lansing, MI 48933

Please contact our Customer Service Department at (800)324-9901, Monday through Friday, 8:00 a.m. to 5:00 p.m., if you have any questions regarding this correspondence.

Sincerely,

Nurse Appeal Coordinator
State of Michigan Long-Term Disability Plan

APPENDIX L



June 09, 2015

Rachel Brown
533 W Hodge Ave
Lansing, MI 48910

Dear Ms. Brown:

CMI is the Third Party Administrator (TPA) for the State of Michigan Long-Term Disability Income Protection Plan (LTD Plan). CMI has received your Level I appeal letter requesting an appeal of the denial of your Long-Term Disability (LTD) benefits under the LTD Plan.

A review has been completed of the available information in your file. The records indicate you are a 35 year old female Departmental Specialist reporting depression and anxiety. Your treating and disabling provider is Dr. Melinda Simon, Psy.D.

The Level I Appeals Committee has completed their review of the medical documentation in your file. Medical documentation from Dr. Melinda Simon, Psy.D certified you off work for your condition with an estimated return to work date of 9-24-15.

Your claim was approved and Long Term Disability (LTD) benefits were paid from 12-16-14 through 3-31-15.

On 3-26-15, you attended an Independent Medical Evaluation with Dr. Norman Miller, MD, JD, Psychiatry, Neurology, Addiction Psychiatry, Forensic Psychiatry which found you capable of returning back to work without restrictions, and capable of meeting the occupational demands of your role as a Departmental Specialist.

Following the claim denial, you submitted a letter of appeal. No additional medical documentation was submitted to support disability.

Based on the information provided during your claim and the Independent Medical Evaluation completed by Dr. Norman Miller, MD, JD, Psychiatry, Neurology, Addiction Psychiatry, Forensic Psychiatry, it is the opinion of the Level I Appeals Committee to uphold the denial of benefits after 3-31-15.

The claim was reviewed under the definition of disability found in the 'State of Michigan Long-Term Disability Income Protection Plan' section entitled "General Definitions." This section states:

"To become considered 'totally disabled' during the first 24 months of any period of total disability, you must be under the care of a legally qualified physician and be unable solely because of the disease, accidental bodily injury or pregnancy, to work at your usual occupation. Your usual occupation means the type of work in which you usually

engage and is not limited to the actual job you were performing prior to the start of total disability."

A copy of the LTD Plan can be obtained from the Employee Health Management website (www.michigan.gov/ehm) under Booklets.

Under the Appeal guidelines, you have the right to appeal this determination. If you wish to make an appeal, your written request must be received within **ninety (90) calendar days** from the date of this letter. Your appeal should include a complete explanation how it is that your medical condition(s) prevent you from performing the duties of your usual occupation as a **DEPARTMENTAL SPECIALIST**. You should include with your appeal, current clinical information from your attending provider which support the reason(s) that you are unable to work. The clinical information must be legible and should include: diagnoses, copies of all assessments (tests), progress/office notes, treatment plans, response to treatment, recommendations for further treatment, and recommendations for return to work.

CMI
Attn: Appeals Department
State of Michigan LTD
PO Box 620
Howell, MI 48844-0620

Please contact our Customer Service Department at (800)324-9901, Monday through Friday, 8:00 a.m. to 5:00 p.m., if you have any questions regarding this correspondence.

Sincerely,

Nurse Appeals Coordinator
State of Michigan Long-Term Disability Income Protection Plan

000073

APPENDIX M



April 22, 2015

Rachel Brown
533 W Hodge Ave
Lansing, MI 48910

Dear Ms. Brown:

CMI is the Third Party Administrator (TPA) for the State of Michigan Long Term Disability Income Protection Plan (LTD Plan). CMI has been unable to process your request for Long-Term Disability (LTD) benefits for the following reason(s):

Not totally disabled per the Independent Medical Evaluation with Dr Miller. Your benefits were paid through March 31, 2015.

Please see the LTD Plan for additional information. You can find further information on the State of Michigan's website at, [<u>www.michigan.gov/ehm</u>](http://www.michigan.gov/ehm) >>> About Us >>> Employee Health Management >>> Booklets >>> "Long-Term Disability Income Protection Plan".

Under the appeal guidelines (please see attachment entitled, "State of Michigan Long-Term Disability Income Protection (LTD) Appeal Plan Process Overview"), you have the right to appeal this determination within one hundred eighty (180) calendar days from the date of this letter. If you wish to appeal this denial, you must submit a letter requesting an appeal which includes a complete explanation how it is that your medical condition(s) make you unable to work at your usual occupation as a DEPARTMENTAL SPECIALIST at this time. You should include with your appeal current clinical information from your attending provider which supports the reason(s) that you are unable to work. The clinical information must be legible and may include: diagnoses, copies of all assessments (tests), progress/office notes, treatment plans, response to treatment plans, recommendations for further treatment, and recommendations for return to work. This information should be submitted directly to:

CMI
Attn: Appeals Department
State of Michigan LTD
PO Box 620
Howell, MI 48844-0620

Please contact our Customer Service Department at (800)324-9901, Monday through Friday, 8:00 a.m. to 5:00 p.m., if you have any questions regarding this correspondence.

Sincerely,

Jerry Storer