

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

THOMAS R. SIMOKONIS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	06-40263-FDS
)	
ST. GOBAIN CORPORATION and AETNA)	
LIFE INSURANCE COMPANY,)	
)	
Defendants.)	
)	

**MEMORANDUM AND ORDER ON PLAINTIFF’S MOTION
TO ADD MEDICAL EVIDENCE TO THE ADMINISTRATIVE RECORD**

SAYLOR, J.

This is a dispute arising from the denial of continued long-term disability benefits. The plan at issue was provided to plaintiff, Thomas R. Simokonis, as a benefit of his employment with defendant St. Gobain Corporation. Defendant Aetna Life Insurance Company is the claims administrator. The matter arises under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001, *et seq.* Pending before the Court is plaintiff’s motion to supplement the administrative record with additional medical evidence. For the reasons stated below, the motion will be denied.

I. Background

Plaintiff was employed by St. Gobain Corporation. Through a plan administered by Aetna Life Insurance Company, he received disability benefits beginning on October 27, 1997. Based upon plaintiff’s medical records, Aetna determined that plaintiff was no longer eligible for benefits as of June 30, 2003. Plaintiff submitted additional records to Aetna, but in March 2004, Aetna

determined that its decision to deny benefits was appropriate. Plaintiff appealed. On November 19, 2004, after reviewing all of the medical and other evidence provided by plaintiff, St. Gobain Corporation's Benefits Committee made a final determination that plaintiff was not eligible for disability benefits beyond June 30, 2003.

On December 6, 2006, plaintiff filed a complaint in this Court against St. Gobain Corporation and Aetna challenging the 2004 final determination. In March 2007, St. Gobain produced the Administrative Record to plaintiff, which includes all documents and medical evidence before the Benefits Committee at the time of its final determination in 2004.

On May 17, 2007, plaintiff filed a motion requesting that it be permitted to add additional medical evidence to the administrative record. Specifically, plaintiff seeks to add to the record medical evidence demonstrating his impairments beyond June 30, 2003.

II. Analysis

Plaintiff's motion to supplement the record with additional medical records requires the Court to determine the scope of the evidence it may consider. Ordinarily, review is limited to the record before the administrative decision-maker. *Brilmyer v. University of Chicago*, 431 F. Supp. 2d 154, 159 (D. Mass. 2006). Plaintiff contends, however, that the Court should consider evidence outside of that record.

Supplementation of the administrative record is generally disallowed: "[i]t would offend interests in finality and exhaustion of administrative procedures required by ERISA to shift the focus from [the final administrative decision] to a moving target by presenting extra-administrative record evidence going to the substance of the decision." *Orndorf v. Paul Revere Life Ins. Co.*, 404 F.3d 510, 519 (1st Cir. 2005); *see generally* PAUL J. SCHNEIDER & BARBARA

W. FREEDMAN, ERISA: A COMPREHENSIVE GUIDE § 8.03[F] (2d ed. 2003) (exhaustion requirement promotes administrative consistency and benefits judicial economy by providing the court with a fully developed record).¹ The First Circuit has acknowledged, however, that supplementation may be appropriate where certain types of claims are raised that, by “their nature or timing[,] take a reviewing court to materials outside the administrative record.” *Liston v. Unum Corp. Officer Severance Plan*, 330 F.3d 19, 23 (1st Cir. 2003). Even then, “some very good reason is needed to overcome the strong presumption that the record on review is limited to the record before the administrator.” *Id.* For example, supplementation may be appropriate where the plaintiff claims that the administrator had an improper motive rising to the level of a conflict of interest. *See Denmark v. Liberty Life Assurance Co. of Boston*, 2005 WL 3008684, at *9 (D. Mass. Nov. 10, 2005). Likewise, supplementation may be required when the decisional process is too informal to provide a record. *See generally Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 415-16 (1971).

Neither of those circumstances are present here. Plaintiff contends that because this claim involves long-term disability benefits, he should be permitted to present medical records subsequent to the date from which defendants determined he was no longer eligible for benefits. Plaintiff suggests that this will provide the Court with “a clearer understanding of the plaintiff’s longitudinal medical history.” While this may be true, such an understanding is not relevant to the determination the Court is required to make: whether defendants’ decision to deny benefits *as of June 30, 2003*, was “arbitrary, capricious, or an abuse of discretion.” *Buffonge v. Prudential Ins.*

¹ Plaintiffs are generally required first to exhaust the internal claims procedures under the plan before seeking judicial review of the administrator’s decision. *Madera v. Marsh USA, Inc.*, 426 F.3d 56, 62-63 (1st Cir. 2005).

Co. of Am., 426 F.3d 20, 27 (1st Cir. 2005). Records that defendants did not possess at the time the denial decision was made cannot help the Court determine whether they acted unreasonably. *Liston*, 330 F.3d at 23 (1st Cir. 2003)(asking “how could an administrator act unreasonably by ignoring information never presented to it?”).

In summary, plaintiff has failed to overcome the “strong presumption that the record on review is limited to the record before the administrator.” *Liston*, 330 F.3d at 23 (1st Cir. 2003). The Court will therefore decide the matter on the record, without additional medical records after June 30, 2003.

III. Conclusion

For the foregoing reasons, plaintiff’s Motion to Add Medical Evidence to the Administrative Record is DENIED.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: July 31, 2007