

SDNY/NYNY
01-cv-9182
Hon. Hought

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the 14th day of April, two thousand and six.

PRESENT:

JOSÉ A. CABRANES
SONIA SOTOMAYOR
REENA RAGGI

Circuit Judges



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JAMES C. SHEEHAN,

Plaintiff-Appellant-Cross-Appellee,

v.

Nos. 05-2647-cv, 05-2892-cv

METROPOLITAN LIFE INSURANCE COMPANY,

Defendant-Appellee-Cross-Appellant.

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APPEARING FOR PLAINTIFF-APPELLANT:

THOMAS J. FELLIG (Jennifer E. Temchine, *on the brief*), Fellig, Feingold, Edelbaum & Schwartz, LLC, Garden City, NY.

APPEARING FOR DEFENDANT-APPELLEE:

CARL J. SCHAEFER, (Allan M. Marcus, *on the brief*), Lester, Schwab, Katz & Dwyer, LLP, New York, NY.

Appeal from a judgment of the United States District Court for the Southern District of New York (Charles S. Haight, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of said District Court be and hereby is AFFIRMED.

Plaintiff-Appellant-Cross-Appellee James C. Sheehan appeals from an April 29, 2005 judgment of the District Court awarding him certain long-term disability benefits but denying him others sought under his insurance plan on the basis of an opinion filed March 17, 2005. See *Sheehan v. Metro. Life Ins. Co.*, 368 F. Supp. 2d 228 (S.D.N.Y. 2005). Defendant-Appellee-Cross-Appellant Metropolitan Life Insurance Company ("MetLife") challenges the partial relief awarded by the District Court. We affirm the judgment of the District Court in its entirety but do so for reasons different than those stated by the District Court.

I. Background

We assume the parties' familiarity with the underlying facts and procedural history and recite them only as necessary to explain our conclusions. A detailed discussion of the facts appears in the thoughtful and comprehensive opinion of the District Court.

Sheehan worked for Bear Stearns & Co. ("Bear Stearns") as a Senior Managing Director. *Sheehan*, 368 F. Supp. 2d at 232. On November 25, 1994, Sheehan suffered cardiac symptoms (including a heart attack) and was hospitalized. *Id.* He currently complains of cardiac and psychiatric conditions. Subsequent to his heart attack, Sheehan applied for and received benefits under his Policy and Disability Plan ("the Plan"), which was issued to Bear Stearns by MetLife. *Id.* MetLife terminated Sheehan's benefits on March 31, 2001 upon a finding that he was no longer disabled according to the terms of the Plan. *Id.* at 230. After exhausting his administrative remedies, Sheehan sued in New York State court for unpaid benefits and for a judicial declaration of his entitlement to future benefits. *Id.*

MetLife removed to the District Court pursuant to the Court's federal question jurisdiction. The District Court tried the case without a jury, as is provided by the Employment Retirement Income Security Act, 29 U.S.C. § 1001 *et seq.* ("ERISA"), see *Sheehan*, 368 F. Supp. 2d at 230, and made the following findings of fact and conclusions of law:

(1) Two documents, which have different language, purport to describe the terms of the Plan. The District Court found that a document described as the "Certificate," "contains the relevant governing provisions of the Policy or the Plan, words that are sometimes used interchangeably." *Id.* at 233. The District Court found that a second document, called the "Booklet," was a "summary plan description" or "SPD," *id.* at 239, issued by MetLife to Bear Stearns employees to inform them of their rights under the Plan.

(2) Under ERISA, a policyholder may sometimes—but not always—benefit when an

SPD contains terms more favorable than the official Plan document.¹ This is because employees often rely upon SPDs, the insurers create the SPDs, and ERISA "contemplates that the summary will be an employee's primary source of information regarding employment benefits." *Heidgerd v. Olin Corp.*, 906 F.2d 903, 907 (2d Cir. 1990) (citing 29 U.S.C. § 1022).

(3) Sheehan's current medical condition renders him unable to work, and he therefore qualifies as "Totally Disabled" under both the Certificate and the SPD. *Sheehan*, 368 F. Supp. 2d at 259.

(4) The Certificate and the Plan contain different language, however, concerning whether Sheehan's entitlement to benefits is limited by his having a mental illness. *Id.* at 260. According to the Certificate, benefits are cut off after twenty-four months if the policyholder is "not confined as an inpatient in a Hospital, if [his] Total Disability in any way results from, or is caused or contributed to by a mental or nervous disorder." *Id.* at 234-35. Under the SPD, benefits will be cut off after twenty-four months if the policyholder "is not hospitalized" and his "disability is the result of a mental or nervous condition." *Id.* at 242.

(5) Sheehan suffers from physical cardiac symptoms (e.g., shortness of breath, chest pains) that hinder his ability to work. He also suffers from a mental condition called "cardiac neurosis," which occasionally accompanies heart disease. This condition exacerbates his disability and, by causing Sheehan stress, contributes to his physical ailment. Because Sheehan has a "comorbid condition," meaning two conditions that collectively cause his symptoms, the District Court rejected MetLife's argument that Sheehan's "disability is the result of a mental or nervous condition," which would allow a denial of coverage under the SPD. The District Court reasoned that because Sheehan has real physical symptoms, it is not accurate to say that his disability is "the result of" mental illness. The District Court agreed with MetLife, however, that Sheehan's disability "in [some] way results from, or is caused or contributed to by a mental or nervous disorder," which under the language of the Certificate would deny Sheehan coverage after twenty-four months. Therefore, the District Court concluded that Sheehan would be entitled to benefits beyond twenty-four months if the SPD controls but not if the Certificate controls. *Id.* at 260-61.

II. Analysis

We affirm the judgment of the District Court but do so for reasons different from those articulated by the District Court.

First, we review the factual findings of the District Court for clear error. The District Court engaged in a comprehensive review of the record, and we conclude that the District Court did not err, much less clearly err, in reaching its various findings.

¹ Our leading case discussing when a policyholder may benefit from a discrepant SPD is *Burke v. Kodak Retirement Income Plan*, 336 F.3d 103 (2d Cir. 2003).

Second, we review the District Court's evidentiary rulings for abuse of discretion. The District Court did not abuse its discretion in admitting the Certificate because there was significant testimony that the Certificate was the relevant plan document and was in force when Sheehan became disabled. Nor did the District Court abuse its discretion in declining to draw an adverse inference from MetLife's failure to produce a written long term disability policy because there was ample, uncontradicted testimony that the policy would not have contained any information different from that in the Certificate.

Third, we disagree with the District Court's legal conclusion that the SPD contains language materially different from that of the Certificate with regard to the effect of Sheehan's mental illness on his ability to recover from MetLife.

The District Court found that Sheehan's physical symptoms, "standing alone," rendered him totally disabled "up to and including June 12, 2003." *Id.* at 264. Therefore, his mental illness did not disqualify him from coverage at that time regardless of whether the SPD or the Certificate controlled. We agree with this conclusion and affirm the award of benefits accrued up to and including June 12, 2003.

In addition, the District Court found that after June 12, 2003, Sheehan's physical condition had improved sufficiently that, *but for the contribution of his mental illness*, he would not be totally disabled. *Id.* (finding that "Sheehan has not proved that subsequent to . . . June 2003 . . . , his cardiac condition in and of itself is totally disabling"). Sheehan argued before the District Court, as he does here, that the terms of the SPD should control and that under those terms, he is entitled to coverage even after June 2003. The District Court concluded, however, that this Court's decision in *Burke v. Kodak Retirement Income Plan*, 336 F.3d 103 (2d Cir. 2003), precludes Sheehan from taking advantage of the SPD's more generous language, deciding that the language of the Certificate prevails even if Sheehan would have benefited from the SPD's provision. *Sheehan*, 368 F. Supp. 2d at 262-63. Finding that under the terms of the Certificate (which denies a policyholder benefits "if [his] Total Disability in any way results from, or is caused or contributed to by a mental or nervous disorder") Sheehan was not eligible for coverage after June 12, 2003, the District Court accordingly denied Sheehan's request for benefits that would have accrued after that date.² *Id.* at 265.

Unlike the District Court, we do not rely on *Burke* in concluding that Sheehan is not entitled to benefits accruing after June 12, 2003. We hold instead that because Sheehan would have been able to work after June 12, 2003 *but for his mental illness*, his total disability "is the result of a mental or nervous condition," which precludes him from benefits even under the language of the SPD. *See id.* at 240 (quoting SPD). He therefore is not entitled to payments regardless of whether the SPD supersedes the more onerous provisions of the Certificate.

² In its April 29, 2005 order, the District Court stated that the benefits owed to Sheehan totaled \$218,235.24.

Because we find that the difference in language between the Certificate and the SPD is not material in this case, we need not, and do not, decide whether Sheehan suffered "likely prejudice" as described in *Burke* nor whether the rule of *Burke* applies to facts such as those presented here.

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For the foregoing reasons, the judgment of the District Court is **AFFIRMED**.

FOR THE COURT,

Roseann B. MacKechnie, Clerk of Court

By Olivia M. George

Olivia M. George, Deputy Clerk