IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

TINA WYNN, Plaintiff, v. AETNA LIFE INSURANCE COMPANY, Defendant.	)))))))))	No. 2:16-cv-03016-TLP-dkv

ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Before the Court are two conflicting Motions for Summary Judgment. Plaintiff asserts that she is entitled to summary judgment in her favor because her claim for short term and long term disability payments were wrongfully denied pursuant to her employer's disability plans. Defendant argues that it is entitled to summary judgment because the decision to deny Plaintiff's claim was reasonable and "its decision therefore was not arbitrary and capricious." (ECF No. 23 at PageID 793.) For the following reasons, this Court grants Defendant's Motion for Summary Judgment and denies Plaintiff's.

BACKGROUND

On July 10, 2013, Plaintiff slipped and fell in a puddle of water at a Walmart, hitting her head and right side of her body. (ECF No. 20-2 at PageID 234, 286.) She was treated at Methodist Germantown Hospital Emergency Department on the same day. (*Id.*) The hospital conducted x-rays, which were negative, and she was sent home. (*Id.*) A few days later, she

was seen in the Baptist Memorial Hospital Emergency Room where she underwent two CT scans and one brain MRI.[1] (*Id.*) None of these tests revealed acute injury or intracranial abnormalities. (ECF No. 20-2 at PageID 286.)

A. Plaintiff's Employment and FedEx TechConnect's Disability Plans

At the time of her injury, Plaintiff worked for FedEx TechConnect as a Senior Customer Support Representative. According to the administrative record, a Senior Customer Support Representative's job duties are as follows:

> To provide assistance to customers on delivery information and resolution to services complaints; to communicate with customers experience service or delivery problems and to resolve the problems to the customer's satisfactions through researching, monitoring package movement through to delivery, and/or providing the necessary remedy to the customer's complaint.
>
> (ECF No. 20-2 at PageID 353.)

For the pertinent time period—the period surrounding Plaintiff's injury—Plaintiff was covered under FedEx's Short-Term Disability ("STD") and Long-Term Disability ("LTD") Plans. (ECF No. 23-1 at PageID 796.) The STD Plan pays short-term disability benefits to qualified eligible employees equal to 70% of an employee's weekly income subject to conditional reductions. (ECF No. 20-5 at PageID 611–12.) STD benefits expire after 26 weeks, after which an employee is eligible to receive benefits under the LTD Plan. (ECF No. 20-5 at PageID 617, 621.)[2] For qualified claimants, the LTD Plan pays long-term disability benefits

[1] Of note, Plaintiff did not submit the records or the results of the radiological tests (x-rays, CT scans and MRI) that were conducted at the emergency rooms at Methodist Healthcare or at Baptist Healthcare shortly after her fall. Not surprisingly, those radiological tests did not provide any objective findings of injury.

[2] The STD Plan defines disability to mean:

> Occupational Disability; provided, however, that a Covered Employee shall not be deemed to be Disabled or under a Disability unless . . . such Disability is substantiated by significant objective finding which are defined as signs which are noted on a test or medical exam and which are considered significant anatomical, physiological or psychological abnormalities which can be observed apart from the individual's symptoms.

equal to 60% of an employee's monthly income up to $10,000 subject to conditional reductions at the conclusion of the payment of STD Benefits. (ECF No. 20 at PageID 618–19.)

B. Plaintiff's Initial Filing

Plaintiff filed her claim for STD benefits on July 17, 2013.[3] (ECF. No. 20-2 at PageID 229). Defendant, the Claims Paying Administrator ("Plan Administrator") for the STD Plan, is charged with reviewing STD applications and determining an applicant's eligibility for disability benefits. (ECF No. 20-6 at PageID 701.) In support of her claim for benefits, Plaintiff supplemented her application with medical evaluations from a physical therapist (Carl Henderson), a chiropractor (Dr. Allen Aristaikatis), a licensed professional counselor (Mrs. Elizabeth Storey, LPC), a neurologist (Dr. Thirukandesswarmam Swaminathan, MD), an orthopedic surgeon (Ashley Park, MD), and a nurse practitioner (Cindy Katz, DNP). (ECF. No. 20-2 at PageID 229; PageID 234–35.) Prior to the initial decision regarding Plaintiff's claim, Defendant arranged to have Plaintiff examined by a board-certified neuropsychologist, Brian Thomas, PsyD, ABPP (ECF. No. 20-2 at PageID 302–314.) Also, prior to rendering a decision on Plaintiff's claim, Defendant had the medical records from the aforementioned health care providers reviewed by independent practitioners. The records were reviewed by a second neuropsychologist, Elana Mendelssohn, PsyD, and an internal medicine physician, Tamara Bowman, MD. (ECF. No. 20-2 at PageID 322–330.)

Dr. Thomas's report is noteworthy. He met with Plaintiff and conducted his independent evaluation of her on September 13, 2013. (ECF. No. 20-2 at PageID 302–314.) Dr. Thomas concluded that the tests he conducted which measured "psychiatric complaints were within the

(ECF No. 20-6 at PageID 745–46) (underlining added).

[3] Plaintiff claimed that her slip and fall at Walmart caused the following pathologies: a hurt neck and back, a concussion, depression, headaches, dizziness and anxiety.

valid range." (ECF. No. 20-2 at PageID 306.) However, he also noted that "[f]ormalized performance validity indicators on neuropsychological evaluation shows failure on multiple measures suggesting the obtained result of cognitive functioning are likely not reflective of the claimant's true level of functioning. The obtained results that are [included in the report] are likely an underrepresentation of the claimant's true level of functioning and should be viewed only as such. . . . Again, overall, the claimant's performance is felt to under-represent her true level of functioning." (*Id.*) Based on Plaintiff's poor effort and performance, Dr. Thomas could not render a fully informed opinion on Plaintiff's cognitive abilities. (*Id.*) However, he was able to opine that Plaintiff did not suffer from any thought disorder or reality testing impairment. (ECF. No. 20-2 at PageID 307.) The two other independent practitioners both concluded that Plaintiff was not functionally disabled. (ECF No. 20-2 at PageID 326, 330.) Dr. Mendelssohn noted that "[t]aken together, the clinical documentation does not reveal a functional impairment that would preclude the claimant from performing the essential duties of her own occupation." (ECF No. 20-2 at PageID 326.) Dr. Bowman further noted that Plaintiff's file was "insufficient . . . from an internal medicine standpoint, to support a level of functional impairment that would preclude the claimant from performing the sedentary physical demand duties of her own occupation." (ECF No. 20-2 at PageID 330.)

On October, 23, 2013, citing its analysis of the medical records submitted by Plaintiff and the reviews by the independent practitioners, Defendant denied Plaintiff's application for STD benefits. (ECF No. 20-2 at PageID 229–231.) For example, the letter noted:

> The treatment notes and evaluations from Dr. Arstikaitis indicated subjective complaints of back pain, neck pain and headaches. The visit notes from Dr. Arstikaitis stated that you had complaints of dizziness without any significant loss of range of motion and normal muscle strength. The x-ray findings did not indicate any fracture or acute abnormalities. The evaluation from Dr. Park notes that you have normal range of motion of the neck without any

> muscle weakness or neurological abnormalities . . . The physical examination findings from Dr. Swiminathan noted normal gait, strength, and reflex resting. Dr. Swiminathan noted that you had complaints for dizziness and memory problems, however; no testing such as mental status evaluations or abnormal neurological testing to preclude sedentary work was received.
>
> (ECF No. 20-2 at PageID 229.)

C. Plaintiff's Appeal

Plaintiff timely appealed on November 8, 2013. (ECF No. 20-2 at PageID 233.)[4] Defendant then submitted Plaintiff's file to two additional doctors for peer review—Dr. Leonard Schnur, a board-certified psychologist, and Dr. Robert Cirincione, a board-certified orthopedic surgeon. (ECF No. 20-2 at PageID 331-39, 340-43, 344-48.) Upon review, both doctors concluded that Plaintiff was not functionally disabled. (*Id.*) Dr. Schnur noted that Plaintiff's file contained a "lack of examination findings to substantiate the presence of a functional impairment across cognitive, emotional, and behavioral spheres." (ECF No. 20-2 at PageID 333.) Dr. Cirincione concluded that Plaintiff's records were suggestive of cervical sprain which results in "a patient maximally being off a sedentary occupation for seven days." (ECF No. 20-2 at PageID 338.) Dr. Cirincione's report concludes as follows:

> Based on the history of the records, [Plaintiff] has a soft-tissue strain.
>
> There has been no evidence of a neuralgic deficit. . . . [T]he one examination that reveals a complete neurologic examination is entirely normal. . . .
>
> The neurologic examination recorded by Dr. Swaminathan confirms there were no neurologic deficits accompanying this injury. The diagnosis, therefore, would be [a] cervical sprain. The findings [on Plaintiff's MRI] were not correlated to any specific functional impairment. I believe, therefore, that the claimant could

[4] Interestingly, Plaintiff takes issue with the characterization that her position is a "sedentary" one. In her letter appealing the denial of her claim, Plaintiff states that her job is "more than a sedentary occupation." (ECF No. 20-2 at PageID 233.) She goes on to say that she has "to sit for long periods looking at the computer screen and operating a keyboard. . . . I am required to interact with customers over the phone and document research." (*Id.*). Webster's Dictionary defines "sedentary" as "doing or requiring much sitting." *Sedentary*, WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY (9th ed. 1983). While the characterization of her position as "sedentary" is not dispositive in this case, it is hard to imagine a position of employment more sedentary than the one described by Plaintiff in her letter dated November 8, 2013. (ECF No. 20-2 at PageID 233.)

> have resumed sedentary occupation from 7/17/13 to the current time. . . . The [Plaintiff] has subjective complaints of pain in the neck. These have been persistent. They are subjective in nature. They are not supported by significant objective clinical documentation that would preclude the claimant from performing the duties of her sedentary occupation from 7/17/13 to the current time."
>
> (*Id.*)

Defendant denied Plaintiff's appeal on February 4, 2014. (ECF No. 20-2 at PageID 224–25.) Defendant's denial letter set forth an exhaustive list of the medical providers Plaintiff consulted and whose reports were submitted by Plaintiff for review. (*Id.*) The denial letter discussed, in depth, Defendant's analysis of Plaintiff's medical records, making specific reference to the physical therapy evaluation by PhysioPlus (Carl Henderson), the counseling assessment by Elizabeth Storey, LPC, the neurological evaluation by Dr. Swaminathan, the orthopedic evaluation by Dr. Ashley Park and the independent neuropsychological evaluation by Dr. Brian Thomas. (*Id.*) The letter referenced the relevant terms of the STD Plan and the history of Plaintiff's claim. (*Id.*) Ultimately, the denial letter concluded as follows:

> The Committee considered all submitted documentation, noted the conclusions of the peer physicians, and determined there are no significant objective findings to substantiate that a functional impairment exists that would render you unable to perform your sedentary job duties as a Senior Customer support Representative from 7/17/13 through current. The committee determined the Plan is specific regarding the requirement of significant objective findings to substantiate eligibility for disability benefits and this requirement was not met in your case. . . .
>
> This decision represents the final step of the administrative review process. You have the right to bring civil action under section 5-2(a) of the Employment Retirement Income Security Act (ERISA).
>
> (ECF No. 20-2 at PageID 225.)

On December 30, 2016, Plaintiff filed a civil action against Defendant under the Employee Retirement Income Security Act ("ERISA"), arguing that Defendant improperly

denied Plaintiff STD benefits. (ECF No. 1.) On June 14, 2017, both parties filed Motions for Summary Judgment and Responses. (ECF Nos. 23–27.)

DISCUSSION

A. Standard of Judicial Review.

Section 502(a)(1)(B) of ERISA allows an individual to bring an action against a plan administrator "to recover benefits due to him under the terms of his plan . . . ." 29 U.S.C. § 1132(a)(1)(B). When reviewing a denial of benefits under ERISA, the administrative record (i.e., the evidence available to the administrator at the time of final decision) is a court's sole and complete universe of evidence. *See Wilkins v. Baptist Healthcare Sys., Inc.*, 150 F.3d 609, 618 (6th Cir. 1998). A court may not consider evidence outside of the administrative record. *See Schwalm v. Guardian Life Ins. Co. of Am.*, 626 F.3d 299, 308 (6th Cir. 2010); See also, *McClain v. Eaton Corp. Disability Plan*, 2014 U.S. App. LEXIS 1354, *9–10 (6th Cir. Jan. 24, 2014). To allow district courts to review additional evidence frustrates the role of plan administrators, as well as ERISA's efficiency goals. *See Perry v. Simplicity Eng'g*, 900 F.2d 963, 966 (6th Cir. 1990) ("Permitting or requiring district courts to consider evidence from both parties that was not presented to the plan administrator would seriously impair the achievement of [ERISA's] goal. If district courts heard evidence not presented to plan administrators, employees and their beneficiaries would receive less protection from Congress.").

Generally, a denial of eligibility under an employee-benefits plan is reviewed by the court, *de novo*. *See Schwalm*, 626 F.3d at 308. However, the parties in this matter correctly agree that, because the STD Plan explicitly gives Defendant "sole and exclusive discretion" to determine eligibility under the Plan, the more deferential arbitrary and capricious standard of review applies in this case. *See id.*; (ECF No. 20-6 at PageID 701.)

The arbitrary and capricious standard is a highly deferential form of judicial review—"When it is possible to offer a reasoned explanation, based on the evidence, for a particular outcome, that outcome is not arbitrary and capricious." *Shields v. Reader's Digest Ass'n, Inc.*, 331 F.3d 536, 541 (6th Cir. 2003) (quotation marks and citations omitted). In ERISA cases analyzed under the arbitrary and capricious standard, the question is whether the administrative record supports a "reasonable explanation for the administrator's decision denying benefits." *Williams v. Int'l Paper Co.*, 227 F.3d 706, 712 (6th Cir. 2000). While the arbitrary and capricious standard is by no means a rubber stamp, and a court must review the "quantity and quality of the medical evidence on each side," a denial of benefits by the plan administrator "must be upheld if it results from 'a deliberate principled reasoning process' and is supported by 'substantial evidence.'" *Schwalm*, 626 F.3d at 308 (quoting *Evans v. UnumProvident Corp.*, 434 F.3d 866, 876 (6th Cir. 2006) and *Baker v. United Mine Workers of Am. Health & Ret. Funds*, 929 F.2d 1140, 1144 (6th Cir. 1991)). In her Motion for Summary Judgment, Plaintiff described the standard of review as follows—"[T]he Administrator's decision [should be] upheld as long as it is rational in light of the Plan's provisions and the available evidence." (ECF No. 24-1 at PageID 829) (citing *Marchetti v. Sun Life Assur. Co. of Canada*, 30 F. Supp. 2d 1001, 1008 (M.D. Tenn. 1998)).

B. Plaintiff's Motion for Summary Judgment Fails to Establish That Defendant's Benefits Decision was Irrational in Light of the Plan's Provisions and the Administrative Record.

Plaintiff advances three primary arguments as to why Defendant's denial of benefits was arbitrary and capricious—(1) the administrative record was sufficient to substantiate Plaintiff's disability by significant objective findings, (2) Defendant erred in denying Plaintiff a reasonable opportunity to supplement the administrative record, and (3) Defendant's denial was arbitrary and capricious because it failed to include a functional job study.

1. Whether the Administrative Record Was Sufficient to Substantiate Plaintiff's Disability by Significant Objective Findings.

Plaintiff claims that the Plan Administrator ignored significant objective findings in the medical records and thus erred in denying her benefits. In advancing her argument on this point, Plaintiff misstates the nature of this Court's review. The question is not whether the administrative record was "sufficient" to substantiate Plaintiff's disability by significant objective findings. The more accurate questions for this Court are (1) whether Defendant's determination to the contrary, stemmed from "a deliberate principled reasoning process" and (2) was this determination "supported by substantial evidence." *Baker*, 929 F.2d at 1144. Here, the answer to each of those questions is yes.

Both Plaintiff and Defendant submitted considerable medical evidence into the administrative record. (ECF No. 20-2 at PageID 234–348.) Defendant reviewed the medical submissions by both parties and found that the totality of the medical evidence demonstrated that Plaintiff did not have a "disability," as defined by the STD, which would prevent her from returning to her position. (ECF No. 20-1 at 224–25.) However, nothing in the administrative record suggests that Defendant failed to properly consider Plaintiff's submissions or that Defendant's decision was not based on a "deliberate reasoning process." (ECF No. 229–30) ("[The Committee has] reviewed [Plaintiff's] file in full. In Addition, to afford you every consideration all data has been reviewed by a neuropsychology peer physician and internal medicine peer physician. It has been determined that the clinical data received and reviewed fails to support a functional impairment from performing you own sedentary occupation."). Instead, the administrative record shows that Defendant thoroughly considered Plaintiff's evidence and received input from independent medical practitioners and then concluded that Plaintiff's claim primarily consisted of subjective medical complaints and thus did not satisfy

the STD Plan's "significant objective findings" requirement. (ECF No. 20-1 at PageID 225) ("The Committee considered all submitted documentation, noted the conclusions of the peer physicians, and determined there are no significant objective findings to substantiate that a functional impairment exists that would render you unable to perform your sedentary job duties."). Moreover, the administrative record contains considerable evidence from medical providers which suggests that Plaintiff was both mentally and physically able to return to her position. (ECF No. 20-2 at PageID 301–08; ECF No. 20-2 at PageID 274–75; ECF No. 20-2 at PageID 324–39.)

The fact that Plaintiff disagrees with Defendant's conclusion does not mean that Defendant's conclusion was arbitrary and capricious. *See Whitehead v. Federal Express Corp.*, 878 F. Supp. 1066, 1070 (W.D. Tenn. 1994) (holding that a benefits determination cannot be overturned merely because an alternate conclusion can be drawn from the evidence). Disagreement does not equal error, and Plaintiff's argument on this point must fail as a result.

2. Whether Defendant Erred in Denying Plaintiff a Reasonable Opportunity to Supplement the Administrative Record.

Plaintiff's argument about supplementing the administrative record is disjointed. The heading and the body of the Plaintiff's argument are not in sync. Heading VI. B. in Plaintiff's Memorandum in Support of Plaintiff's Motion for Judgment on the Administrative Record states: "Aetna Erred in Denying Plaintiff a Reasonable Opportunity to Supplement the Administrative Record." (ECF No. 24-1 at PageID 840.) The focus of the heading is on the perceived failure of the Plan Administrator to provide what the Plaintiff considers a "reasonable opportunity" to present a complete administrative record. The body of the argument under this heading references a single report from a neuropsychologist that was issued on June 26, 2015, 14 months after the Plan Administrator issued its final decision regarding Plaintiff's claim in

this matter.[5] (ECF No. 24-1 at PageID 840–41.) Assuming Plaintiff is attempting to argue that the Plan Administrator's failure to consider the report of the neuropsychologist which was tendered 14 months after its final decision is arbitrary and capricious, the Court disagrees.

One of the main goals of ERISA is to provide an efficient, inexpensive and fair method for employees to address claims for benefits and to resolve disputes about those claims pursuant to structured plans developed by employers and published to their employees. *Perry v. Simplicity Eng'g*, 900 F.2d 963, 966 (6th Cir. 1990), citing 1974 U.S. Code Cong. & Admin. News 4639, 5000. The STD Plan imposes on Defendant a number of procedural requirements concerning timeliness. These requirements act as a set of procedural safeguard for employees, ensuring that disability claims are promptly and uniformly reviewed and decided. For example, the STD Plan requires Defendant to notify applicants of denials within 45 days of filing, subject to certain, defined, extensions. (ECF No. 20-6 at PageID 700.) Applicants then have 180 days to appeal an administrator's decision. (*Id.*) If an appeal occurs, the administrator must re-review the applicant's materials ruling on the appeal within 45 days of filing, subject to certain, defined, extensions. (*Id.*) Only by ruling on an applicant's appeal may the administrator issue a final decision on an applicant's claim. (ECF No. 20-6 at PageID 702.)

Plaintiff does not appear to argue that Defendant failed to observe the STD Plan's procedural requirements prior to closure—only that Defendant committed procedural abuse by closing Plaintiff's case prior to the June 26, 2015 medical evaluation. (ECF No. 24-1 at PageID 840–41.) If Defendant refused to allow Plaintiff's appeal, or short-circuited Plaintiff's appeal in some way, then Plaintiff may have a colorable claim against Defendant because doing so would violate the STD Plan. (ECF No. 20-6 at PageID 699–702.) However, the Plan is clear

[5]The final determination regarding Plaintiff's claim for benefits was issued February 4, 2014. (ECF No. 20-1 at PageID 224–25.)

that Defendant has "sole and exclusive discretion" to determine finality within the Plan's procedural constructs. (ECF No. 20-6 at PageID 701–02.) When Defendant issued its letter denying Plaintiff's appeal it explicitly stated that the letter constituted Defendant's final decision. (ECF No. 20-1 at PageID 225) ("This decision represents the final step of the administrative process."). Moreover, the Plan provides a concise statement regarding the authority of the Plan Administrator, which concludes as follows—"The determination of the Claims Paying Administrator shall be made in a fair and consistent manner in accordance with the Plan's terms and its decision shall be final, subject only to a determination by a court of competent jurisdiction that the decision was arbitrary and capricious." (ECF No. 20-6 at PageID 701–702.)

The Plaintiff cites no authority whatsoever to support her contention that the Plan Administrator was duty bound to consider the report of a neuropsychologist 14 months after issuing what it already described as a final decision. (ECF No. 24-1 at PageID 840–41.) Nothing in the STD Plan bars Defendant from issuing a final decision when it rules on a claimant's appeal. (ECF No. 20-6 at PageID 701–702.) This Court thus finds that Defendant was within its discretion to issue a final decision at that point, and thus finalize the administrative record.[6] Plaintiff's procedural challenge must fail as a result.

[6] To note, the Sixth Circuit routinely views an appeal, via 29 U.S.C. §1133(2), as the final step in the administrative process for determining eligibility under employer-benefits plans. *See Shelby Cnty. Health Care Corp. v. Majestic Star Casino*, 581 F.3d 355, 374 (6th Cir. 2009) (stating that Defendant's final decision came at the time that it denied Plaintiff's appeal); *Moss v. Unum Life Ins. Co.*, 495 Fed.Appx. 583, 590 (6th Cir. 2012) (holding that a court's "review is confined to the administrative record as it existed when [Defendant] issues its final decision denying [Plaintiff's] claim . . . ."); *Marks v. Newcourt Credit Group, Inc.*, 342 F.3d 444, 458 (6th Cir. 2003) (holding that the lower court erred in considering an email sent five days after Defendant denied Plaintiff's appeal, even though the email contained information unavailable to Defendant at the time of denial). It thus appears *pro forma* that Defendant finalized its decision after denying Plaintiff's appeal. (ECF No. 20-1 at PageID 225.) As a result, this Court is loath to now consider a medical evaluation, in any regard, that Plaintiff submitted over a year after Defendant denied her appeal.

In the body of her argument on this point, Plaintiff argues that, even though it is not in the Administrative Record, this Court should consider the June 26, 2015 report from neurologist, Dr. Sarah Richie, when deciding this case. (ECF No. 24-1 at PageID 840–41.) Plaintiff's argument is contrary to well-settled law in the Sixth Circuit that a district court may not consider evidence outside of the administrative record for denials of disability benefits under ERISA. *See Perry*, 900 F.2d at 966 (stating that reviewing evidence outside of the administrative record "frustrate[s] the goal of prompt resolution of claims by the fiduciary under the ERISA scheme."). Plaintiff herself essentially concedes as much in her Motion for Summary Judgment. (ECF No. 24-1 at PageID 840.) Instead, she urges this Court to ignore Sixth Circuit precedent and follow the Fifth Circuit's approach that allows a court to consider any evidence up until the point that a plaintiff files suit. *See Vega v. National Life Ins. Serv., Inc.*, 188 F.3d 287, 300 (5th Cir. 1999). This Court declines to contradict settled Sixth Circuit precedent. Thus, this Court will not consider the report of the neuropsychologist dated June 26, 2015 in its evaluation of this case.

3. Whether Defendant's Denial was Arbitrary and Capricious Because it Failed to Include a Functional Job Study.

Without citation to any authority, Plaintiff asserts that Defendant's failure to conduct a "functional job study" made Defendant's denial arbitrary and capricious. The STD Plan in question does not explicitly require Defendant to consider a functional job study prior to a benefits determination. Instead, Plaintiff argues that the STD Plan impliedly requires a functional job study because, without one, the physicians who rendered opinions had no basis to know whether Plaintiff was capable of performing her job duties. (ECF No. 24-1 at PageID 839–40.) This argument is unavailing for two reasons. First, the administrative record includes a paragraph description of Plaintiff's job duties, outlining the job's general physical

requirements. (ECF No. 20-2 at PageID 353, 286, 299, 369.) Several of the physicians either heard about her employment duties from the Plaintiff herself or they referenced the job description found in the administrative record. (ECF No. 20-2 at PageID 274, 353.) While Defendant concedes that it did not consider a functional job study prior to denying Plaintiff disability benefits, the administrative record indicates that Defendant *did* consider Plaintiff's job duties. (ECF No. 20-2 at PageID 229–230) (addressing and weighing Plaintiff's evidentiary submissions.) Second, and more notably, Plaintiff fails to cite a single case in support of her contention that of a functional job study was required. Without any explicit requirement to consider a functional job study, and with no case law to support its implied inclusion, this Court does not find that the Defendant's failure in this regard constitutes an arbitrary and capricious error. Thus, Plaintiff's argument fails.

C. The Administrative Record Itself Provides Alternate Grounds to Find That Defendant's Determination Was Not Arbitrary and Capricious.

The administrative record contains ample medical evidence that was submitted and considered by the Defendant. (ECF No. 20-2 at PageID 234–348.) The parties' Motions for Summary Judgment and supporting materials identify and cite to the administrative record's evidentiary submissions. (ECF No. 23-1 at PageID 801–10, 813–22; ECF No. 24-1 at PageID 829–40.) After reviewing the administrative record in this cause, this Court finds that Defendant properly considered these evidentiary submissions on its path towards ultimately denying Plaintiff's claim. Defendant's initial-denial and appeal-denial letters discuss, in detail, Plaintiff's medical evidence and the independent medical reviews conducted by several experienced practitioners. (ECF No. 20-2 at PageID 229–30; ECF No. 20-1 at PageID 224–25.) While the weight given by Defendant to each submission in the administrative record may not have been equal, the consideration given by Defendant of the entire administrative record

does appear equal. The Court finds, therefore, that the Defendant's decision to deny benefits in this cause resulted from "a deliberate principled reasoning process." *Baker*, 929 F.2d at 1144.

Moreover, the decision reached by the administrator in this matter is certainly supported by substantial evidence. Plaintiff submitted several reports from heath care practitioners, some of whom, performed radiological images to determine what might be causing her pain. Neither the x-rays, the CT scans nor the MRI revealed an objective finding that would explain the Plaintiff's conditions over the period of time she complained about them. The Plan Administrator also obtained independent medical reports from five separate independent medical providers who all agreed that Plaintiff did not have a disability as defined by the Plan. (ECF No. 20-1 at PageID 224–25, 322–48.)

This Court's duty, under the arbitrary and capricious standard, is to review the consideration given, not the weight placed, on each party's evidentiary submissions. *See Schwalm*, 626 F.3d at 308. As previously stated, the standard is whether Defendant considered the administrative record in a "deliberate principled reasoning process and that its decision is supported by substantial evidence." *Schwalm*, 626 F.3d at 308 (quotations omitted); *see Baker*, 929 F.2d at 1144. This Court finds that Defendant affirmatively satisfies this standard and thus Defendant's Motion for Summary Judgment is hereby granted.[7]

[7] Plaintiff also claims benefits under the LTD Plan. (ECF No. 24-1 at PageID 842.) According to the LTD Plan, one's LTD benefits begin only once one exhausts one's STD benefits. (ECF No. 20-5 at PageID 621) ("Your LTD benefit payments begin once you have exhauster our STD benefit period and you meet the LTD Plan requirements.") By holding that Defendant did not arbitrarily and capriciously deny Plaintiff STD benefits this Court concurrently holds that Plaintiff cannot receive LTD benefits.

CONCLUSION

This Court finds that Defendant did not act arbitrarily and capriciously in denying Plaintiff disability benefits.[8] This Court therefore DENIES Plaintiff's Motion for Summary Judgment and GRANTS Defendant's Motion for Summary Judgment.

A separate Judgement closing the case will be entered.

SO ORDERED, this 21st day of March, 2018.

s/ Thomas L. Parker
THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE

[8] By denying Plaintiff STD benefits, Defendant also denied Plaintiff LTD benefits because Plaintiff must exhaust her STD benefits to obtain LTD benefits. *See Miller v. Metropolitan Life Ins. Co.*, 925 F.2d 979, 986 (6th Cir. 1991; *Weiner v. Klais & Co.*, 108 F.3d 86, 89 (6th Cir. 1997).