

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

SHARON CHARLES SMITH,

Plaintiff,

v.

Case No. 6:18-cv-42-Orl-37DCI

THE AMERICAN NATIONAL RED
CROSS; and LIFE AND HEALTH
BENEFIT PLAN OF THE AMERICAN
RED CROSS,

Defendants.

ORDER

This action concerns the decision to discontinue Plaintiff's long-term disability ("LTD") benefits. (*See* Doc. 12.) Plaintiff, a former employee of the American Red Cross, was at all material times enrolled in an employment benefit plan with the American National Red Cross. (*Id.* ¶ 2.) In October 2004, Plaintiff was forced to discontinue work due to numerous medical conditions. (*Id.* ¶¶ 3-10.) Subsequently, Plaintiff was paid monthly disability benefits for approximately twelve years. (*Id.* ¶¶ 11-12.) When Plaintiff's benefits were terminated on April 3, 2017, she appealed her decision, but the appeal was denied. (*Id.* ¶¶ 13-16.) Thus, Plaintiff initiated the instant action, seeking LTD benefits pursuant to her disability plan and attorney's fees. (*Id.* ¶¶ 17-26.)

Both parties now move for summary judgment. (*See* Doc. 44 ("**Red Cross Motion**"); Doc. 45 ("**Plaintiff's Motion**").) Plaintiff argues that: (1) the Court should review the benefits decision *de novo*; (2) she did not receive a full and fair review; and (3)

the decision to terminate her benefits was wrong. (Doc. 45, pp. 19–35.) Defendants American National Red Cross and Life and Health Benefits Plan of the American Red Cross (collectively “**Red Cross**”) argue that Plaintiff is not entitled to benefits because the decision to terminate her LTD benefits was proper because she was no longer totally disabled. (*See* Doc. 44.) Both parties submitted responses. (Docs. 46, 47.)

On referral, U.S. Magistrate Judge Daniel C. Irick recommends that the Court: (1) grant Red Cross’s Motion; (2) deny Plaintiff’s Motion; and (3) enter judgment in favor of Red Cross and against Plaintiff. (Doc. 49, pp. 22–23.) Applying the *de novo* standard of review, Magistrate Judge Irick determined that the decision to terminate Plaintiff’s benefits was appropriate based on the record evidence, which supports finding that Plaintiff was not totally disabled. (*Id.* at 13–22.) Further, Magistrate Judge Irick noted that although post-decision evidence was not to be considered, it would not support finding that Plaintiff was totally disabled at the time of the benefits decision. (*Id.* at 19–20.) Last, Magistrate Judge Irick found that Red Cross conducted a full and fair review of Plaintiff’s record. (*Id.* at 21–22.) Thus, Magistrate Judge Irick concluded that Red Cross is entitled to summary judgment. (*Id.* at 22.)

The parties did not object to the R&R, and the time for doing so has now passed. As such, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). Finding none, the Court concludes that the R&R is due to be adopted in its entirety.

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. U.S. Magistrate Judge Daniel C. Irick's Report and Recommendation (Doc. 49) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Defendants American National Red Cross and Life and Health Benefits Plan of the American Red Cross's Motion for Summary Judgment and Supporting Memorandum (Doc. 44) is **GRANTED**.
3. Plaintiff's Dispositive Motion for Summary Judgment and Incorporated Memorandum of Law (Doc. 45) is **DENIED**.
4. The Clerk is **DIRECTED** to:
 - a. Enter judgment in favor of Defendants the American National Red Cross and Life and Health Benefit Plan of the American Red Cross and against Plaintiff Sharon Charles Smith;
 - b. Terminate any other pending motions and deadlines; and
 - c. Close the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on March 13, 2019.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record