UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Brittany R. Tovar and Reid Olson,

Plaintiffs,

v.

Essentia Health; Innovis Health, LLC
d/b/a Essentia Health West;
HealthPartners, Inc.; and
HealthPartners Administrators, Inc.,

Defendants.

Case Number: 16-cv-00100 (DWF/LIB)

DEFENDANTS HEALTHPARTNERS, INC. and HEALTHPARTNERS ADMINISTRATORS, INC.'S STATEMENT OF THE CASE

After more than two years of litigation, the Court determined that Brittany Tovar never had an injury for which Section 1557 of the Affordable Care Act provided a remedy. Reid Olson, Tovar's child, has since joined the case and has, likewise, asserted a claim against HealthPartners, Inc. ("HealthPartners") and HealthPartners Administrators, Inc. ("HPAI") for which Section 1557 provides no remedy.

According to Olson, HealthPartners and HPAI violated Section 1557 by serving as third-party administrators under a 2015 self-insured health plan offered to Tovar by Essentia Health, her employer at that time. Olson received health benefits under the 2015 plan.

The 2015 plan contained an exclusion for gender reassignment services or surgery. Essentia removed that exclusion prior to Tovar filing this lawsuit. Olson was not a beneficiary under any Essentia health plan in late 2017 when he joined this case.

Olson alleges that HealthPartners and HPAI violated Section 1557 by supposedly designing and administering the 2015 plan, although neither of these defendants was ever responsible for paying for health care of any kind under the 2015 plan. Olson does not claim that HealthPartners or HPAI refused to approve any medical procedure that was actually covered by the 2015 plan or that either entity had the ability to compel Essentia to pay for any excluded service. Rather, Olson claims that HealthPartners and HPAI "enforced" the Essentia exclusion by notifying him that certain services were excluded under the plan.

Olson's claims against HealthPartners and HPAI will fail. HealthPartners is not a third-party administrator and had nothing to do with Olson's claims for health benefits under the 2015 plan. Because HealthPartners had no involvement in this case, and did not prevent Olson from participating in the 2015 plan, deny benefits under that plan or discriminate under that plan, Olson's claim against HealthPartners will fail. 42 U.S.C. § 18116(a).

Olson's claims against HPAI will also fail. While HPAI was the third-party administrator under the 2015 plan, HPAI does not receive federal funds. It is legally separate from any entity that may receive such funds. As such, HPAI is not a "covered entity" under Section 1557, and for that reason alone, Olson's claim will fail.

Beyond that, Olson does not claim that HPAI discriminated in the administration of the 2015 plan. He does not, for example, allege that gender reassignment services and surgery were covered under the 2015 plan but that HPAI said otherwise in order to discriminate against him. To the contrary, Olson seems to concede that HPAI accurately conveyed the coverage provided under Essentia's self-insured plan and correctly informed him of the coverage limitations under the 2015 plan.

Olson responds to this undisputed fact by alleging that HPAI "designed" the 2015 plan, and that designing a plan somehow creates liability under Section 1557. (Olson's plan-design allegation is like Tovar's baseless initial allegation that she suffered economic harm. After nearly two years of litigation, Tovar eventually withdrew that allegation and her claim was dismissed.)

Discovery will show that HPAI did not "design" the 2015 plan. In fact, before the Affordable Care Act was passed, Essentia provided HPAI with a copy of its then-current self-insured plan and asked HPAI to match those benefits. When the Affordable Care Act was passed, Essentia obtained advice from a national health benefits consulting firm to ensure that its plan was consistent with the Affordable Care Act.

As a matter of law, Essentia, as plan sponsor of a self-insured plan, is responsible for the coverage afforded under its plan. HPAI, as a third-party administrator, is required to administer that plan as written. 29 U.S.C. § 1104(a)(1)(D). Olson does not contend that HPAI discriminated in the administration of the 2015 plan. Rather, he claims that the plan itself is discriminatory. Such a claim must be directed against Essentia.

It is worth emphasizing that, even before Tovar initiated this case and long before Olson joined the case, Essentia waived the gender reassignment exclusion as to Olson and then removed it altogether effective January 1, 2016. As such, Olson received coverage for gender reassignment services under the 2015 plan, and Essentia's 2016 plan did not prevent him from receiving gender reassignment services or surgery.

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