Short-Term Disability Denial for Gender Reassignment

BY TERRENCE J. BRIGGS • NOVEMBER 4, 2017

In *Baker v. Aetna*, (U.S. Northern District Court of Texas, 2017), Charlize Marie Baker filed claims against her employer and Aetna after having been denied benefits under the health plan and the short-term disability plan for coverage of breast implants recommended by her physicians as part of her male-to-female transition.

Her claim for surgical benefits against her employer under Title VII were permitted to proceed, but all of the claims against Aetna failed. Obamacare's non-discrimination provision, Section 1557, was not in effect when her claims were denied, so it was not an issue in this case. Title VII applies to employers, not plan administrators or insurers.

This left only the claim for short-term disability benefits and here, again, the Court ruled against Ms. Baker, opining that the surgery was cosmetic and therefore not medically necessary as set out in the policy. It is interesting to note that mastectomies for transgender men are deemed to be medically necessary by this plan.

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