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U.S. District Court
District of Connecticut (New Haven)
CIVIL DOCKET FOR CASE #: 3:24−cv−00931−SVN

Abira Medical Laboratories, LLC v. Aetna, Inc. et al
Assigned to: Judge Sarala V. Nagala
Demand: $20,646,000
Cause: 29:1132 E.R.I.S.A.−Employee Benefits

Date Filed: 05/24/2024
Jury Demand: None

03/09/2026	84	ORDER granting in part and denying in part 67 Motion to Dismiss Second Amended Complaint. The Court assumes the parties' familiarity with its decision granting Defendants' motion to dismiss Plaintiff's complaint and the legal standards therein, which are incorporated by reference into this order. *See Abira Med. Lab'ys LLC v. Aetna, Inc.*, 3:24−CV−00931 (SVN), 2025 WL 448443 (D. Conn. Feb. 10, 2025). The Court now concludes that Plaintiff's amended complaint survives dismissal, in part. **Initial Matters**. To start, the Court agrees with Defendants that Plaintiff has failed to allege any plausible claims against Defendants Aetna Health and Life Insurance Company, Aetna Life Insurance Company, and CVS Accountable Care Organization. Plaintiff offers no defense to the request to dismiss these Defendants. Thus, these Defendants are dismissed as parties to this action. Nature of Suit: 110 Insurance Jurisdiction: Federal Question **Count One: Breach of Contract**. The breach of contract claim survives dismissal in part. First, Plaintiff has not adequately alleged it has an implied−in−fact contract with any Defendant. *See Vertex, Inc. v. City of Waterbury*, 278 Conn. 557, 574 (2006). As with Plaintiff's original complaint, the amended complaint fails to allege anything beyond conclusory statements about a course of dealing between Plaintiff and any Defendant that would suggest formation of an implied−in−fact contract with respect to the nearly 13,000 claims that Plaintiff claims "Defendants" failed to pay. But Plaintiff plausibly pleads that it was assigned rights to pursue payment from the remaining Defendants as to a narrow set of claims. "[T]o constitute an assignment there must be a purpose to assign or transfer the whole or a part of some particular thing... and the subject matter of the assignment must be described with such particularity as to render it capable of identification." *Centerplan Constr. Co., LLC v. City of Hartford*, 343 Conn. 368, 394 (2022). An assignment is valid if two elements are met: (1) the assignor possessed an "intent to assign −− that is, to confer a complete and present right in the subject matter to the assignee"; and (2) the subject matter of the assignment is sufficiently identified. *Liberty Transp., Inc. v. Mass. Bay Ins. Co.*, 189 Conn. App. 595, 602−03 (2019) (cleaned up). Plaintiff cites to language in certain of its requisition forms stating: "I hereby assign all rights and benefits under my health plan and direct payments be made to [Plaintiff] for laboratory services furnished to me by [Plaintiff]. I irrevocably designate[,] authorize and appoint [Plaintiff] or its assigned affiliates as my true and lawful attorney−in−fact for the purpose of submitting my claims and pursuing any request, disclosure, appeal, litigation or other remedies in accordance with the benefits and rights under my health plan and in accordance with any federal or state laws." ECF No. 49 para. 16; ECF No. 49−1 at 6−7. The first sentence of this provision plausibly constitutes an intent to confer "all rights and benefits" under the insureds' health plan to Plaintiff, and the subject matter of the assignment −− all rights and benefits −− is sufficiently identified. While it is true that the second sentence operates to grant Plaintiff attorney−in−fact status with respect to submitting claims and pursuing litigation, and "standing alone, a power of attorney does not enable the grantee to bring suit in his own name," *Advanced Magnetics, Inc. v. Bayfront Partners, Inc.*, 106 F.3d 11, 18 (2d Cir. 1997), the first sentence contains language sufficient to plausibly allege a valid assignment at this stage. Of course, if discovery reveals that the parties' intent was for the first sentence to also confer only power of attorney status −− and not full assignment of claims −− Defendants are free to renew their argument for dismissal at a later juncture. Defendants make no other arguments for dismissal of the breach of contract claim at this time. The Court notes, however, that its holding above is limited to only those claims associated with requisition forms that contain the explicit assignment language quoted above. The requisition forms submitted by Plaintiff at ECF No. 49−1, pages 2−5, *do not* sufficiently allege assignment of any claims. Thus, Plaintiff may proceed with its breach of contract claim only as to those claims that use the explicit statement "I hereby assign all rights and benefits under my health plan and direct payments be made to [Plaintiff] for laboratory services furnished to me by [Plaintiff]." **Count Two: Breach of the Covenant of Good Faith and Fair Dealing**. Defendants' only argument with respect to dismissal of Count Two is that it must fail where no breach of contract is plausibly alleged. As the Court has held that Plaintiff has

plausibly alleged a valid assignment with respect to a specific subset of claims, Count Two likewise survives dismissal for those set of claims alone.

Importantly, as Plaintiff has clarified that it is pursuing Counts One and Two only with respect to health plans that are not governed by the Employee Retirement Income Security Act ("ERISA"), *see* ECF No. 75 at 22, these counts are not preempted by ERISA.

Count Three: Fraud by Nondisclosure. Count Three is dismissed. First, Plaintiff again decidedly fails to comply with Rule 9(b)'s heightened pleading standard for alleging fraud. Its allegations are highly conclusory and it fails to specify the statements, identify the speaker, state where and when the statements were made, or explain why they were fraudulent. *See In re Synchrony Fin. Sec. Litig.*, 988 F.3d 157, 167 (2d Cir. 2021); *see also Abira Med. Laby'ys, LLC*, 2025 WL 4488443, at *9. Second, Plaintiff's fraud claim is duplicative of its breach of contract claim. Plaintiff's theory of fraud is that Defendants failed to disclose that Plaintiff's "continuation of performing" lab testing services would "result in Defendants' declination to pay for such services rendered." ECF No. 49 para. 39. Of course, this statement does not allege sufficient details to meet Rule 9(b)'s standard. But it also demonstrates that Plaintiff is simply attempting to dress a breach of contract claim in fraud clothing, as the only possible basis for failing to pay is the alleged default on the contractual obligation to do so. *See Rowe Plastic Surgery of New Jersey, L.L.C. v. Aetna Life Ins. Co.*, No. 23−8083, 2024 WL 4315128, at *5 (2d Cir. Sept. 27, 2024) (citing *Wall v. CSX Transp., Inc.* , 471 F.3d 410, 416 (2d Cir. 2006)); *Willenta Feed, Inc. v. Arnold Food Co.*, No. 3:04−CV−1090 (RNC), 2006 WL 798916, at *2 (D. Conn. Mar. 29, 2006).

Count Four: ERISA Claim. Count Four is dismissed. Although the Court concludes that Plaintiff has adequately stated an assignment for ERISA purposes, it has not adequately alleged any plan terms, to plausibly show wrongful denial of benefits under any health plan governed by ERISA.

A healthcare provider must allege "specific assignment language" to survive a motion to dismiss an ERISA claim, because "[n]ot all ERISA assignments convey the same rights." *Abira Med. Lab'ys, LLC v. Cigna Health and Life Ins. Co.*, No. 3:23−CV−830 (VAB), 2024 WL 4349052, at *13 (D. Conn. Sept. 30, 2024). Accordingly, courts have concluded that a plaintiff lacks standing to bring an action pursuant to ERISA where it fails to plead facts sufficient to determine what specific rights the insured assigned. *Id.* ("Because Genesis fails to allege the actual language of the assignment in their Complaint, they fail to allege standing sufficient to permit their ERISA claims."); *Murphy Med. Assocs., LLC v. Yale Univ.*, No. 3:22−CV−33 (KAD), 2023 WL 2631798, at *5−6 (D. Conn. Mar. 24, 2023) (dismissing plaintiff's ERISA claims where the complaint did not sufficiently allege language from the alleged assignment or any details of the plan beneficiaries' ERISA plans), *aff'd*,, 120 F.4th 1107 (2d Cir. 2024).

Here, for the same reasons the Court held above that Plaintiff has adequately alleged an assignment for a narrow set of claims associated with requisitions that had explicit assignment language, the Court holds that Plaintiff has adequately alleged ERISA standing. But without alleging any plan language to demonstrate that the plans cover the benefits sought −− and thus why denial of the benefits was wrongful −− Plaintiff has not adequately alleged an ERISA wrongful denial of benefits claim. *See Prof. Orthopaedic Assocs., PA v. 1199SEIU Nat'l Benefit Fund*, 697 F. App'x 39, 41 (2d Cir. 2017) (summary order) (dismissing ERISA claim where the complaint "fail[ed] to identify any provision in the plan documents requiring" the defendant to pay certain rates); *Murphy Med. Assocs., LLC*, 2023 WL 2631798 at *5−6. And although Plaintiff argues in its opposition brief that it does not have access to the plan terms, the Court agrees with Defendants that if Plaintiff seeks to sue Defendants for wrongful denial of benefits under ERISA and alleges it received valid assignments from patients, it must identify the plan terms that were supposedly breached. To the extent Plaintiff claims to have valid assignments from its customers, it had the ability to contact those customers to obtain the relevant plan documents.

Punitive Damages. Plaintiff has failed to allege facts to show that Defendants acted with "reckless indifference to the rights of others or an intentional and wanton violation of those rights," as would justify punitive damages. *Landmark Inv. Grp., LLC v. CALCO Const. and Development Co.*, 318 Conn. 847, 878 (2015). Plaintiff's request for punitive damages is therefore stricken.

For these reasons, Plaintiff may continue with its causes of action for breach of contract and breach of the covenant of good faith and fair dealing with respect to only those claims governed by the explicit assignment language quoted in this ruling (i.e., Counts One and Two). All other claims are dismissed, and the request for punitive damages is stricken. The Clerk is directed to terminate Defendants Aetna Health and Life Insurance Company, Aetna Life Insurance Company, and CVS Accountable Care Organization. Signed by Judge Sarala V. Nagala on 3/9/2026. (Glover, S) (Entered: 03/09/2026)