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Film Workers Sue Union Health Plan For Virus Relief Denial

By **Danielle Nichole Smith**

Law360 (July 17, 2020, 4:25 PM EDT) -- Two union members have lodged a proposed ERISA class action in California federal court, claiming the Motion Picture Industry Health Plan provided relief to some of its participants during the coronavirus outbreak while excluding others in violation of the federal benefits law.

Greg Endries and Dee Nichols, members of Local 600 of the International Cinematographers Guild, said in their complaint Thursday the plan's board of directors left them and others "out in the cold" in its attempts to address the problems COVID-19 caused for plan participants.

Ultimately, the board of directors breached its fiduciary duties under the Employee Retirement Income Security Act by arbitrarily favoring the interests of one group of plan participants over another, the workers said.

"These actions have forced Mr. Endries and Mr. Nichols and others like them to either pay for COBRA or other insurance coverage that they can ill afford given their loss of employment, or to go without health insurance during this dangerous health crisis," the complaint said.

According to the suit, participating union members must work a certain amount of hours during a six-month period in order to receive benefits under the plan — 600 hours for newly qualifying participants, and then 400 hours from there on out.

Because the pandemic largely shut down the motion picture industry, the board of directors provided a 300-hour credit, premium waivers for dependents, and COBRA subsidies, but only to participants whose eligibility period ended in April, the complaint said.

Participants whose eligibility periods ended in March who had at least 375 hours were given a 25-hour credit, the suit said. And those who had at least 300 hours but less than 375 were subject to the "more onerous standard" of demonstrating they would have met their hours requirement if hadn't been for the pandemic, according to the complaint.

However, participants who weren't on track to meet the March deadline but were on track to meet the one in April were precluded from the hours credit, the suit said. Additionally, the relief was only extended to participants who already qualified for benefits, leaving out those who were working towards their 600 hours entirely, the complaint said.

The suit noted Endries had 283 hours by early March and was planning to go on COBRA for a month to meet the April deadline if he couldn't get to 400 hours by the March deadline, and Nichols had 512 of the 600 hours he needed when the pandemic hit.

Elizabeth Hopkins, an attorney representing the workers, told Law360 in a statement Friday that they "sincerely hope that the board will reconsider its position excluding our clients and others like them from the important COVID-related relief that it has provided to other plan participants."

"This is critically important during this worldwide health crisis for union members and plan participants like Greg Endries, who has now lost coverage under the MPI Health Plan because of the

industry shutdown, and for those like Dee Nichols, who had enough work booked before the shutdown to finally qualify for benefits after years of working on jobs that paid into the plan," Hopkins said.

A representative for the plan told Law360 in a statement Friday that it doesn't comment on pending legal matters.

The workers are represented by Elizabeth Hopkins of Kantor & Kantor LLP, and Teresa S. Renaker, Margo Hasselman Greenough and Kirsten G. Scott of Renaker Hasselman Scott LLP.

Counsel information for the plan's board of directors wasn't yet available Friday.

The case is *Endries et al. v. Board of Directors of the Motion Picture Industry Health Plan et al.*, case number 2:20-cv-06347, in the U.S. District Court for the Central District of California.

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