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No. 95-3911MN

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Lee A. Qualley, \*

Appellant,

v.

The Minnesota State Automobile  
Association; The Minnesota  
State Automobile Association  
Long Term Disability Plan;  
UNUM Life Insurance Company of  
America,

Appellees.

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Appeal from the United States  
District Court for the District  
of Minnesota.

[UNPUBLISHED]

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Submitted: October 25, 1996

Filed: October 30, 1996

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Before McMILLIAN, FAGG, and BEAM, Circuit Judges.

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PER CURIAM.

Lee A. Qualley, an employee of the Minnesota State Automobile Association (MSAA), applied for long-term disability benefits under MSAA's insurance plan, the Minnesota State Automobile Association Long Term Disability Plan. UNUM Life Insurance Company of America provides a group long-term disability insurance policy to MSAA employees. UNUM denied Qualley's request for long-term disability benefits because UNUM decided Qualley is not totally disabled and thus does not qualify for long-term benefits under the policy. After the denial, Qualley brought this lawsuit for long-term disability benefits under the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001-1461 (1994) (ERISA). The district court decided Qualley is not totally disabled within the policy's meaning because she can "perform each of the material duties of some

gainful occupations for which she is reasonably fitted by training, education or experience." The district court considered Qualley's pain, the restrictions identified by several examining doctors, MSAA's willingness to accommodate the recommended restrictions, and the conclusion by an overwhelming majority of doctors that Qualley has the capacity to perform jobs for which she is qualified. Reviewing the denial of benefits de novo, Firestone Tire & Rubber Co. v. Bruch, 489 U.S. 101, 115 (1989), we conclude the denial was proper because Qualley is not totally disabled. Thus, we affirm the district court. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.