

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-7045**September Term, 2017****1:14-cv-00035-RDM****Filed On:** February 15, 2018

Karen Berryman-Turner,

Appellant

v.

District of Columbia, A Municipal Corporation,
et al.,

Appellees

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BEFORE: Srinivasan, Pillard, and Wilkins, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia, on the briefs filed by the parties, and on the supplemental appendix filed by appellees. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's order, filed February 3, 2017, be affirmed. On appeal, appellant argues that she has been continuously disabled since she suffered her original head injuries. This argument essentially amounts to a substantive challenge to the merits of the District of Columbia's decision to terminate her disability compensation benefits. Appellant, however, did not raise this argument in the district court, and this court need not consider it for the first time on appeal. See *Potter v. District of Columbia*, 558 F.3d 542, 550 (D.C. Cir. 2009) ("It is well settled that issues and legal theories not asserted at the District Court level ordinarily will not be heard on appeal.").

Appellant also challenges the district court's award of summary judgment to the District of Columbia on claim two of her amended complaint. In her opposition to summary judgment in district court, appellant alleged that D.C. Code § 1-623.24, as applied, violated the Due Process Clause because the District of Columbia terminated her disability compensation benefits without providing her with copies of the medical reports, upon which it relied, until the day of her administrative hearing. Weighing the relevant due process factors set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the district court correctly held that the District of Columbia's procedure for terminating

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appellant's benefits did not violate due process. Although appellant's private interest was substantial, and the burden on the District of Columbia was low, the District of Columbia established that the existing procedures adequately safeguarded against the risk of erroneous deprivation of appellant's benefits, and appellant failed to identify how the requested additional safeguard would have aided her case. See Mathews, 424 U.S. at 335.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam