

1 under the Employee Retirement Income Security Act of 1974 (“ERISA”) after
2 Aetna denied her claim for short term disability (“STD”) and long term disability
3 (“LTD”) benefits under a plan established by her employer, Boeing (the “Plan”).

4 Primarily at issue is Aetna’s termination of STD benefits effective February
5 28, 2013. Plaintiff’s claim for STD benefits beyond February 28, 2013 is
6 supported by relevant medical records and opinions of four treating doctors: (1)
7 neurologist Dr. Edelman; (2) neurologist Dr. Ullman; (3) psychiatrist Dr.
8 Lindberg; and (4) neuropsychologist Dr. Budding. Aetna’s termination of STD
9 benefits effective February 28, 2013 is based on findings from three reviewing
10 doctors: (1) neurologist Dr. Cohan; (2) occupational medicine specialist Dr.
11 Swotinsky; and (3) neuropsychologist Dr. Mendelssohn.

12 **I. JURISDICTION**

13 The Court has jurisdiction pursuant to 29 U.S.C. § 1132(e).

14 **II. FINDINGS OF FACT²**

- 15 1. The Plan is comprised of a Master Welfare Plan and Governing Documents
16 for each benefit program, including the Summary Plan Description (“SPD”)
17 for “Disability, Life, and Accident Plans.” [A.R. 1-124.]
- 18 2. Boeing funds the Short-Term Disability Plan (“STD Plan”), and Aetna
19 administers claims made under the LTD and STD Plans. [A.R. 12-13, 50-
20 51, 114, 123.]
- 21 3. Plaintiff began working at Boeing on January 29, 1990. [A.R. at 293, 329,
22 562.] She was employed as a Supply Chain Specialist with the following
23 job description:

24 Defines, plans, develops, coordinates, integrates, and manages
25 support requirements . . . Analyzes and resolves support
26 problems to ensure efficient product operation. Coordinates or

27 ² Any finding of fact that more appropriately constitutes a conclusion of law, is hereby deemed a
28 conclusion of law, and vice versa. Unless specified otherwise, all citations are to the Administrative
Record.

1 performs multi-discipline support tasks that leads to integrated
2 support program (e.g., system support analysis, technical
3 publications, training, supply support, support services, etc.)
4 Interacts with internal and external customers, vendors and
subcontractors. . . [p]erforms research and technical assessments
and guides product design. [A.R. 715.]

- 5 4. Plaintiff was admitted to the hospital on September 8, 2011, with stroke
6 symptoms. Plaintiff underwent a CAT scan and MRI, which showed
7 findings consistent with a stroke. She was discharged two days later, and at
8 that time, her neurological symptoms had resolved fortunately. [A.R. 853.]
- 9 5. Plaintiff saw neurologist Dr. David Edelman on November 14, 2012 for
10 chronic headaches. [A.R. 585]
- 11 6. Plaintiff stopped working at Boeing on December 12, 2012. [A.R. at 293,
12 329, 562.]
- 13 7. Plaintiff saw neurologist, Dr. Edelman, on December 12, 2012. Dr.
14 Edelman described Plaintiff's problems as "migraine, acute but ill-defined
15 cerebrovascular disease, and vascular dementia uncomplicated." [A.R. 567-
16 68.] Dr. Edelman noted for Plaintiff to go on disability "pending further
17 testing." [*Id.* at 568.]

18 **PLAINTIFF'S CLAIM FOR STD BENEFITS.**

- 19 8. Plaintiff submitted a claim for STD benefits in December 2012 that Aetna
20 approved from December 20, 2012 through January 17, 2013. [*Id.*, 561-66.]
- 21 9. A "Screening Physician Report" from December 13, 2012, showed results
22 from computerized cognitive testing by Dr. Edelman, which found that
23 Plaintiff's overall cognitive function score was within normal range, but her
24 executive functions predicted a moderate likelihood of "mild cognitive
25 impairment" (greater than 40%). [A.R. 570-571.]
- 26 10. An MRI from December 21, 2012, reported "no acute infarct nor
27 hemorrhage and no mass." [A.R. 573-74.]

- 1 11. Neurologist Dr. Edelman stated on February 19, 2013, in an “Attending
2 Provider’s Statement,” that Plaintiff needed to be absent from work due to
3 disability from December 13, 2012, through June 1, 2013, based on three
4 diagnoses: (1) mild cognitive impairment; (2) acute cerebrascular disease;
5 and (3) migraine. [A.R. 587-588.]
- 6 12. Aetna advised Plaintiff on February 28, 2013, that it received additional
7 medical documentation submitted for continued STD benefits. [A.R. 576-
8 580.] Aetna approved Plaintiff’s STD claim through February 28, 2013
9 based on findings from the MRI and cognitive testing which showed
10 probable impairment of Plaintiff’s executive functions (the ability to
11 organize, respond quickly and inhibit incorrect responses). [A.R. 334-35.]
- 12 13. Aetna retained neurologist, Dr. Vaughn Cohan, to review Plaintiff’s STD
13 claim and determine whether Plaintiff’s claim was supported beyond
14 February 28, 2013. [A.R. 583-84.] On March 5, 2013, Dr. Cohan
15 concluded based upon review of Plaintiff’s medical records and a telephone
16 consultation with Plaintiff’s treating neurologist Dr. Edelman, the
17 documentation failed to support functional impairment from February 28,
18 2013 through June 1, 2013. [*Id.* at 585-86.] Dr. Cohan acknowledged that
19 the neurological exam by Dr. Edelman found problems with executive
20 functioning, consistent with mild cognitive impairment, but found overall,
21 the exam results were normal and Plaintiff’s speech and memory functions
22 were intact. [*Id.* at 585.] Dr. Cohan also explained that during the
23 telephone consultation, Dr. Edelman stated that while formal
24 neuropsychological testing would be required, Plaintiff had not returned for
25 follow up. [*Id.*] Dr. Cohan also noted that the MRI from December 2012
26 showed white matter ischemic changes and an old small temporoparietal
27 infarct but no acute abnormalities. [*Id.*, 584.]
- 28 14. Aetna informed Plaintiff by letter that it terminated her STD benefits

1 effective February 28, 2013, explaining that its peer review process found
2 that her “condition was not of a severity that would prevent her from
3 working beyond February 28, 2013.” [A.R. 606.] Aetna also denied
4 Plaintiff’s claim for LTD benefits because she was not eligible for LTD
5 benefits having only received STD benefits from December 20, 2012 to
6 February 28, 2013 (10 weeks—as opposed to the requisite 26-weeks). [*Id.*]

7 **PLAINTIFF UNDERGOES FURTHER EVALUATION.**

- 8 15. Plaintiff was evaluated by neurologist Dr. Edelman on April 30, 2013, and
9 he found evidence that Plaintiff was suffering from cerebral infarctions and
10 cognitive problems. Dr. Edelman stated that he did not believe that Plaintiff
11 was able to return to work at that time. [A.R. 833.] He noted that
12 Plaintiff’s headaches were not disabling, but her cognitive problems
13 required further workup. [*Id.*]
- 14 16. Dr. Edelman examined Plaintiff again on May 28, 2013 and reported that
15 Plaintiff was alert and oriented and her memory appeared intact. [A.R. 835-
16 0836.] He further reported that Plaintiff’s cranial nerves were normal, and
17 described her problems as migraine, acute but ill-defined cerebrovascular
18 disease, and vascular dementia uncomplicated. [*Id.*] Dr. Edelman reported
19 similar findings about Plaintiff during three subsequent examinations on
20 July 1, 2013, July 31, 2013, and November 26, 2013. [A.R. 837-38, 893-
21 40, 765-766.]
- 22 17. On June 10, 2013, Plaintiff saw another neurologist, Dr. Bernard Ullman,
23 for a consultation. Dr. Ullman reported that Plaintiff’s motor function,
24 coordination, and sensory exam appeared “unremarkable.” [A.R. 782.]
- 25 18. Plaintiff had a follow-up visit with Dr. Ullman on August 12, 2013 during
26 which he referenced findings from a June 5, 2013 neuropsychological
27 evaluation by Dr. Wen, which found that Plaintiff’s verbal comprehension
28 index was average, and Plaintiff’s IQ, processing speed index and

1 perceptual reasoning index were low average.³ [A.R. 779-780.] Dr.
2 Ullman listed the following under “impression” for Plaintiff: (1) Status
3 post right hemisphere stroke; (2) Extensive small vessel ischemic disease of
4 the brain; (3) Depression, as per neuropsychological testing, and (4)
5 Cognitive problems. [*Id.*, 779.] He opined that Plaintiff was disabled:

6 The patient scored poorly on many of the psychometric
7 measures. There was some inconsistency, according to Dr.
8 Wen. [] I think, therefore, that it is very important for the
9 patient to have psychiatric evaluation and further treatment. . .[]
10 ***I do believe that she is disabled*** at this time and needs the
11 psychiatric treatment, and then re-testing and a new
12 psychological profile before a judgment can be made on her
13 ability to go back to work. [*Id.*, 780.]

14 19. On August 15, 2013, neurologist Dr. Edelman certified Plaintiff’s disability
15 due to (1) mild cognitive impairment; (2) acute cerebrovascular disease; and
16 (3) migraine. [A.R. 747.]

17 20. Dr. Edelman saw Plaintiff on August 27, 2013, and reported that Plaintiff’s
18 cranial nerves were normal and described her problems as migraine, acute
19 but ill-defined cerebrovascular disease, and vascular dementia
20 uncomplicated. [A.R. 762-63.]

21 21. On August 27, 2013, Dr. Edelman requested that Plaintiff’s medical leave
22 be extended until further treatment. [A.R. 656.]

23 22. On September 10, 2013, Dr. Edelman opined that Plaintiff was disabled due
24 to cognitive impairment:

25 Williby presented with severe headaches and her initial
26 diagnosis was migraine type headaches. However, MRI scan of
27 the brain showed evidence of stroke, and subsequent testing
28 showed evidence of an autoimmune type disorder. Her initial
diagnosis was based upon her clinical presentation and

³ Plaintiff’s treating neurologist Dr. Ullman and psychologist Dr. Budding reference findings from a neuropsychological evaluation performed by psychologist Dr. Wen on June 5, 2013. However, Dr. Wen’s evaluation is not part of the Administrative Record.

1 subsequent diagnoses were based on her MRI scan and other
2 testing. She has also been seen by Dr. Wen and by Dr. Ullman.
3 They've also been [sic] confirmed her cognitive impairments.
4 ***Based upon her cognitive impairments alone, she is disabled.***
5 [A.R. 785 (emphasis added).]

- 6 23. As of October 8, 2013, psychiatrist Dr. Carol Lindberg was treating
7 Plaintiff for depression and anxiety secondary to her medical conditions,
8 including the stroke from September 2011.⁴ [A.R. 784.]
- 9 24. Plaintiff saw neurologist Dr. Ullman on November 1, 2013, who listed
10 under "impression" cognitive problems following Plaintiff's stroke. [A.R.
11 1201.]
- 12 25. On August 30, 2013, in an "Attending Provider's Statement," neurologist
13 Dr. Edelman listed Plaintiff's date of disability as December 12, 2012 and
14 anticipated that Plaintiff could return to work on September 27, 2013.
15 [A.R. 822.]
- 16 26. Plaintiff consulted with neuropsychologist Deborah Budding on September
17 13, 2013.⁵ [A.R. 1214.]
- 18 27. Dr. Budding opined on December 10, 2013, that Plaintiff appeared to be
19 demonstrating "***considerable cognitive impairment***" and recommended she
20 undergo thorough neuropsychological evaluation. [A.R. 1214 (emphasis
21 added).]
- 22 28. Psychiatrist Dr. Lindberg opined on December 12, 2013, that Plaintiff was
23 disabled:

24 "I do not believe that grief and depression account for the full
25 extent of her impairment and I have referred her for a
26 comprehensive neuro-psychological testing to define the
27 complete extent of her cognitive deficits. ***Because of her***

28 ⁴ Medical records from psychiatrist Dr. Lindberg are not part of the Administrative Record, however, she opines on Plaintiff's cognitive impairment and disability by letter. [A.R. 1222.]

⁵ Medical records from neuropsychologist Deborah Budding are not part of the Administrative Record, however, she opines on Plaintiff's cognitive impairment by letter. [A.R. 2114.]

1 *significant cognitive slowing and impairment in concentration,*
2 *memory, and word-finding, it is my professional opinion that*
3 *she is disabled from any gainful occupation for which she is*
 reasonably suited.” [A.R. 1222 (emphasis added).]

4 29. Neurologist Dr. Ullman completed an “Attending Physician Statement” on
5 December 19, 2013, in which he stated that Plaintiff was disabled due to
6 stroke, migraine, and cognitive impairment. [A.R. 1230.]

7 **PLAINTIFF’S APPEAL.**

8 30. Plaintiff appealed Aetna’s termination of benefits by letter on December 11,
9 2013. [A.R. 685-688.] Along with the appeal letter, Plaintiff’s counsel
10 enclosed a completed Appeal Request Form and submitted additional
11 medical records. [See A.R. 685-1214.] While Plaintiff maintains that she
12 appealed Aetna’s denial of benefits by a letter dated September 6, 2013,
13 nothing in the record indicates that the letter was sent to Aetna in
14 September. [A.R. 793.] Plaintiff’s appeal was due in September 2013, but
15 Aetna accepted the late appeal in December 2013. [See A.R. 352, 354.]

16 31. Aetna retained Dr. Robert Swotinsky (specialist in occupational medicine)
17 who completed a peer review of Plaintiff’s claim on February 14, 2014,
18 based on review of Plaintiff’s medical records and a teleconference with her
19 treating neurologist, Dr. Edelman. [See A.R. 1247-1260.] Dr. Swotinsky
20 found a lack of significant objective clinical documentation to support
21 functional impairment that would preclude Plaintiff from performing her
22 occupation from March 1, 2013 through June 12, 2013. Dr. Swotinsky
23 found Plaintiff’s impairment was “self-reported and [] primarily based on
24 mood disorder/behavioral issues. . .” [Id., 1258.] Dr. Swotinsky had a
25 telephone consultation with Plaintiff’s treating neurologist, Dr. Edelman, on
26 February 11, 2014. [Id., 1255.] Dr. Edelman stated that he believed
27 Plaintiff’s cognitive impairment was subjective, and he had discussed
28 Plaintiff’s neurological testing with Dr. Wen, which showed results

1 consistent with depression. [*Id.* at 1253.]

- 2 32. Aetna retained neuropsychologist, Elana Mendelssohn, who also completed
3 a peer review of Plaintiff’s claim on February 11, 2014, based on review of
4 Plaintiff’s medical records and teleconferences with Plaintiff’s treating
5 physicians Dr. Edelman and Dr. Lindberg. [*See* A.R. 1261-69.] Dr.
6 Mendelssohn concluded that “the provided information did not include
7 sufficient findings to corroborate the presence of impairment in
8 neuropsychological functioning interfering with Plaintiff’s ability to
9 perform her job duties from March 1, 2013 to June 12, 2013.” [*Id.*, 1268.]
10 Dr. Mendelssohn found that the documentation “did not indicate
11 observations or findings of neuropsychological impairment. . . [r]ather, it
12 was consistently indicated that [Plaintiff] presented as cognitively intact.”
13 [*Id.* at 1267-68.] She also explained that while records referenced reports of
14 anxiety and depression, there were no findings showing impairment in
15 emotional or behavioral functioning. [*Id.* at 1267.]
- 16 33. On February 18, 2014, Aetna upheld its decision to terminate STD benefits
17 as of February 28, 2013, based on its determination that “there was
18 insufficient medical evidence to support continued disability” beyond
19 February 28, 2013. [A.R. 1270-72.] Aetna also upheld its denial of
20 Plaintiff’s claim for LTD benefits because she had not met the 26-week
21 waiting period. [*Id.*]

22 **III. CONCLUSIONS OF LAW**

23 **AETNA’S APPEAL DECISION WAS TIMELY.**

- 24 1. Plaintiff argues that Aetna did not make an appeal decision within 45 days
25 as required by 29 C.F.R. § 2560.503-1(i)(2)(iii). As set forth *supra*,
26 Plaintiff appealed Aetna’s denial of benefits on December 11, 2013. [AR
27 1223.] Aetna reviewed Plaintiff’s appeal and timely issued a decision on
28 February 18, 2014, less than a month after Plaintiff’s counsel advised Aetna

1 that he had submitted all documentation for Aetna’s appeal review. [A.R.
2 1231, 1242-43, 1270-72.]

3 **DE NOVO STANDARD OF REVIEW.**

- 4 2. A denial of benefits under 29 U.S.C. §1132(a)(1)(B) is reviewed under a *de*
5 *novo* standard unless the benefit plan gives the administrator or fiduciary
6 discretionary authority to determine eligibility for benefits or to construe the
7 terms of the plan. *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101,
8 956-957 (1989). Where the plan or policy grants such discretion, the
9 standard of review is abuse of discretion. *Id.* at 957; *Abatie v. Alta Health*
10 *& Life Ins. Co.*, 458 F.3d 955, 963 (9th Cir. 2006) (en banc). However,
11 provisions that reserve discretionary authority to insurers to determine
12 eligibility for benefits in contracts or policies in effect after January 1, 2012,
13 are void and unenforceable under California Insurance Code § 10110.6.⁶
- 14 3. The parties do not dispute that the Plan and SPD unambiguously confer
15 discretionary authority to Aetna to administer claims and make decisions
16 regarding benefits.⁷ [See A.R. 12-13, 51.] Defendant argues that the
17

18 ⁶ Cal. Ins. Code § 10110(a) provides in relevant part: “[i]f a policy, contract, [] or agreement. . .
19 that provides or funds [] disability insurance coverage. . .contains a provision that reserves
20 discretionary authority to the insurer, or an agent of the insurer, to determine eligibility for benefits
or coverage, to interpret the terms of the policy, contract, [] or agreement. . .that provision is void
and unenforceable.”

21 ⁷ The Plan provides in relevant part: “The Plan Administrator’s powers include full discretionary
22 authority to interpret the Plan, including the power to construe ambiguities, remedy inconsistencies
23 and repair scrivener’s errors. The Plan Administrator has full discretionary authority to determine
24 all questions that may arise including all questions relating to the eligibility. . . to participate in the
Plan and the amount of benefits to which any Participant or Dependent may become entitled, and
any benefits under this Plan will be payable to a Participant or Dependent only if the Plan
Administrator determines in its discretion that the Participant or Dependent is entitled to them. . . .”
25 [See A.R. 12.] The SPD provides in relevant part: “The Plan Administrator has the exclusive right,
26 power and authority, in its sole and absolute discretion, to administer, apply, construe, and interpret
the Plan and related Plan documents. Decide all matters and questions arising in connection with
27 entitlement to benefits and the nature, type, form, amount, and duration of benefits. . .” [A.R. 112.]
28 The Plan and SPD also provide for delegation of such discretionary authority to Aetna to make
benefit determinations. [See A.R. 13, 112.]

1 insurance code does not apply because (1) the STD benefits are self-funded
2 by Boeing,⁸ and (2) Aetna is granted discretion by the Plan, which is not an
3 insurance policy, and thus, not regulated by the insurance code. Several
4 district courts have found, although not in the context of self-funded plans,
5 that Section 10110.6 applies to ERISA plan documents because the statute
6 expressly applies to contracts *and* insurance policies.⁹ A federal court
7 interpreting a state statute gives the language of the statute its “usual,
8 ordinary import,” but if the statute’s wording is ambiguous, it may consider
9 extrinsic evidence of legislative intent. *In re First T.D. & Inv., Inc.*, 253
10 F.3d 520, 527 (9th Cir. 2001). Section 10110.6 by its plain language
11 applies to any insurance policy, contract, certificate or agreement, and “an
12 ERISA plan is a contract.” *Harlick v. Blue Shield of Cal.*, 686 F.3d 699,
13 708 (9th Cir. 2012). The statute’s legislative history reinforces its
14 application to employer-sponsored ERISA plans. A report from a June 22,
15 2011, hearing refers to an opinion letter from the Insurance Commissioner’s
16 counsel that explained: “in group, employer-sponsored disability contracts
17 that are governed by ERISA, the presence of a discretionary clause has the
18 legal effect of limiting judicial review of a denial of benefits to a review for
19 abuse of discretion. . . . [t]his standard of review deprives California
20 insureds of the benefits for which they bargained, access to the protections
21 of the Insurance Code[,] and other protections in California law.” *See* June
22 22, 2011, Senate Bill No. 621. The Court finds that the provisions

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24 ⁸ [A.R. 114, 123.]

25 ⁹ *See, e.g., Jahn-Derian v. Metro. Life Ins. Co.*, No. 13-7221, 2015 WL 900717, at *3 (C.D.
26 Cal. Mar. 3, 2015); *Gonda v. The Permanente Med. Grp., Inc.*, 10 F. Supp. 3d 1091, 1095
27 (N.D. Cal. 2014); *Snyder v. Unum Life Ins. Co. of Am.*, No. 13-07522, 2014 WL 7734715, at
28 *8 (C.D. Cal. Oct. 28, 2014); *Curran v. United of Omaha Life Ins. Co.*, 38 F.Supp.3d 1184,
1191 (S.D. Cal 2014); *Polnicky v. Liberty Life Assur. Co. of Boston, et al.*, 999 F.Supp.2d
1144, 1147 (N.D. Cal. 2013); *Hodjati v. Aetna Life Ins. Co.*, No. 13-05021, 2014 WL
7466977, at *12 (C.D. Cal. Dec. 29, 2014).

1 conferring discretionary authority to Aetna are void and unenforceable
2 pursuant to Cal. Ins. Code § 10110.6. Because the Court finds the
3 provisions conferring discretionary authority to Aetna are void and
4 unenforceable, the Court reviews whether Aetna correctly or incorrectly
5 denied benefits *de novo*. See *Firestone*, 489 U.S. at 957; see also *Abatie*,
6 458 F.3d at 963.

7 **AETNA PREMATURELY TERMINATED PLAINTIFF'S STD BENEFITS.**

8 4. The parties agree that Plaintiff bears the burden of showing by a
9 preponderance of the evidence that she was entitled to benefits under the
10 terms of the STD Plan. See, e.g., *Muniz v. Amec Const. Mgmt., Inc.*, 623
11 F.3d 1290, 1294 (9th Cir. 2010). To establish that Plaintiff is entitled to
12 STD benefits, she must demonstrate that her condition prevented her from
13 performing the material duties of her occupation as a Supply Chain
14 Specialist beyond February 28, 2013, the effective date that Aetna
15 terminated Plaintiff's STD benefits.¹⁰

16 5. Plaintiff's treating neurologist, Dr. Edelman, saw Plaintiff at least five times
17 from February 2013 through December 2013, when Plaintiff appealed
18 Aetna's termination of benefits. [See A.R. 833, 835-88, 893-40, 762-63.]
19 Dr. Edelman opined that Plaintiff's cognitive impairment, acute
20 cerebrovascular disease, and migraines rendered her disabled. [A.R. 747,
21 785.] Dr. Edelman's opinion that Plaintiff was disabled beyond February
22 2013 was consistent with his prior findings—and Aetna's determination—
23 that Plaintiff was disabled from December 12, 2012 to February 28, 2013.

24 ¹⁰ The STD plan defines "disability" as follows:

25 You become disabled as a result of accidental injury [or] illness [] and your accidental injury [or]
26 illness [] prevents you from performing the material duties of your own occupation or other
appropriate work the Company makes available.

- 27 ▪ You continue under the care of a physician throughout your disability. You also may be
28 required to be examined by a physician chosen by the service representative as often as
reasonably necessary to verify your disability.
 ▪ You are earning 80 percent or less of your indexed predisability earnings. [A.R. 119].

1 [Id. at 570.] Nothing in the record suggests that Plaintiff’s cognitive
2 impairment ceased or improved such that Plaintiff could resume performing
3 the material duties of her occupation after February 28, 2013. Rather,
4 Plaintiff underwent additional evaluation by a second neurologist, a
5 physiatrist, and a psychologist. Dr. Ullman, Dr. Lindberg, and Dr. Budding
6 all opined—consistent with Dr. Edelman—that Plaintiff was disabled or
7 suffered from considerable cognitive impairment. Neurologist, Dr. Ullman,
8 opined that Plaintiff was temporarily disabled as of August 12, 2013. [A.R.
9 780-83.] Dr. Lindberg opined that Plaintiff was still disabled from any
10 suitable gainful occupation as of December 2013 because of cognitive
11 slowing and impairment in concentration, memory, and word-finding.
12 [A.R. 1222.] Psychologist Dr. Budding similarly found that as of December
13 2013, Plaintiff was demonstrating “considerable cognitive impairment.”
14 [A.R. 1214.] Aetna’s reviewing doctors summarized the findings and
15 opinions of Plaintiff’s treating physicians and found a lack of significant
16 objective clinical documentation supporting a finding of functional
17 impairment from February 28, 2013 to June 1, 2013. The Court in
18 weighing the evidence and respective opinions, gives more weight to those
19 doctors who treated Plaintiff.¹¹ See, e.g., *Salomaa v. Honda Long Term*
20 *Disability Plan*, 642 F.3d 666, 676 (9th Cir. 2011). Based on medical
21 records and opinions of Plaintiff’s treating doctors, the Court finds that
22 Plaintiff has established by a preponderance of the evidence that she was
23 disabled within the STD Plan’s definition of disability beyond February 28,
24 2013 through the STD Plan’s 26-week period (December 20, 2012 to June
25 20, 2013).¹² Aetna thus prematurely terminated Plaintiff’s STD benefits.

26 _____
27 ¹¹ The Administrative Record did not contain a curriculum vitae for any of Plaintiff’s treating
28 doctors or any of Aetna’s reviewing doctors.

¹² Even under an abuse of discretion standard, the Court finds that in viewing Aetna’s decision with
no degree of skepticism since Aetna did not have a conflict of interest, *i.e.*, it did not have a direct

1 **IV. CONCLUSION**

2 The Court therefore finds based upon medical records and opinions of
3 Plaintiff's treating doctors, that Defendant improperly denied Plaintiff's claim for
4 STD and LTD on February 28, 2013. Plaintiff was entitled to receive STD
5 benefits for an additional 16 weeks in accordance with the terms of the STD
6 Plan.¹³

7 **IT IS SO ORDERED.**

8 DATED: August 31, 2015

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11 _____
12 Honorable Consuelo B. Marshall
13 United States District Judge
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22 financial incentive to deny benefits since benefits are funded by Boeing, Aetna nonetheless abused
23 its discretion in terminating Plaintiff's STD benefits. Aetna's decision was illogical, implausible, or
24 without support in inferences that could reasonably be drawn from facts in the record because (1) all
25 of the doctors who personally treated Plaintiff concluded that she was disabled or demonstrating
26 considerable cognitive impairment; and (2) Aetna's reviewing doctors cited to lack of objective
27 clinical support, but there is no evidence that Aetna requested for Plaintiff to be examined by its
28 physicians or undergo the specific testing it needed to support an objective, clinical finding of
functional impairment. *See, e.g., Salomaa v. Honda Long Term Disability Plan*, 642 F.3d 666-76
(9th Cir. 2011).

¹³ Because Plaintiff's claim for LTD benefits was denied on the ground that Plaintiff was not eligible
for LTD benefits having received STD benefits for only 10 weeks—as opposed to the required 26
weeks—the Court makes no findings regarding Plaintiff's eligibility or entitlement to LTD benefits
pursuant to the LTD Plan. [A.R. 561, 605.]