

This is an action under Employee Retirement Security Act of 1974 (ERISA), 29 U.S.C.
§1001 et seq. challenging a determination by defendant Blue Shield of California that, as of a
particular point in time, plaintiff was no longer eligible to receive benefit coverage for residential
inpatient treatment of her anorexia nervosa, major depressive disorder, and related conditions. A
bench trial has been set for August 29, 2016.

Blue Shield has now noticed a motion for summary judgment for June 30, 2016. There are 21 22 circumstances in ERISA cases where factual disputes render summary judgment for either side 23 unavailable. Because review ordinarily is based on the administrative record, however, a "bench trial" in these cases often is very similar to a hearing on cross-motions for summary judgment. 24 25 Additionally, assuming plaintiff may wish to bring a motion for summary judgment as well, judicial efficiency is not served by entertaining six briefs on summary judgment, possibly 26 followed by additional briefing in connection with the bench trial, if disputed factual issues 27 28 emerge.

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Accordingly, the June 30, 2016 hearing on the motion for summary judgment is vacated. Within 15 days of the date of this order, Blue Shield may, at its option, submit a supplementary brief of not more than 10 pages addressing any further issues it believes might arise in the event the Court concludes neither side is entitled to summary judgment. The parties shall then meet and confer to agree on a briefing schedule that provides for (1) plaintiff to submit an opposition to Blue Shield's motion and briefing, combined with plaintiff's cross-motion for summary judgment and briefing on any bench trial issues; (2) Blue Shield to file a reply in support of its motion for summary judgment, combined with opposition to plaintiff's cross-motion, and; (3) plaintiff to file a reply in support of its cross-motion. The parties may agree between themselves as to page length limitations, as long as none of the briefs exceed 30 pages. The schedule shall provide for briefing to be complete no later than August 12, 2016.

The matter will then be heard as previously scheduled on August 29, 2016 and will deemed to be either cross-motions for summary judgment, or a bench trial, depending on what appears appropriate in light of the record and the parties' submissions. The further Case Management Conference previously set for June 16, 2016 and the Final Pretrial Conference set for August 11, 2016, are hereby both vacated.

IT IS SO ORDERED.

Dated: May 27, 2016

RICHARD SEEBORG United States District Judge