

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PETRA HENG,

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

Case No. [16-cv-04136-EMC](#)

**ORDER GRANTING DEFENDANT’S
MOTION FOR SUMMARY JUDGMENT**

Docket No. 27

I. INTRODUCTION

Thomas Heng worked at DecisionView, Inc. (DecisionView) from August 31, 2011 until June 30, 2012 and was co-employed by TriNet Group, Inc. (TriNet), which provided DecisionView with payroll and benefits services. Heng ceased to be a TriNet employee after June 30, 2012, when DecisionView terminated its contract with TriNet, effective July 1, 2012. On July 25, 2012, Heng died in a hiking accident.

Decedent Thomas Heng is survived by his wife, Plaintiff Petra Heng. Plaintiff submitted a claim for basic life benefits, basic accidental death and dismemberment (AD&D) benefits, and Voluntary AD&D benefits. Defendant Metropolitan Life Insurance Co. (MetLife) paid Plaintiff basic life benefits but denied AD&D claims. Plaintiff filed this lawsuit against Defendant MetLife, seeking the AD&D benefits. Docket No. 1.

Pending before the Court is Defendant MetLife’s motion for summary judgment. Docket No. 27. The Court grants the motion.

A. Background

1. Background to the Claim for AD&D Benefit

Plaintiff was married to Thomas Heng, a system administrator for DecisionView. Docket

1 No. 27 at 1. DecisionView had contracted with TriNet, an entity that contracts with other business
2 to manage their payroll and benefits services. *Id.* Pursuant to an agreement between TriNet and
3 DecisionView, TriNet was Decedent’s co-employer, beginning in August 31, 2011. *Id.* at 6.
4 Heng participated in TriNet’s Employee Benefit Insurance Plan (the Plan), which is an employee
5 welfare benefit plan governed by the Employee Retirement Income Security Act of 1974, as
6 amended (ERISA), 29 U.S.C. § 1001, *et seq.* *Id.* at 1. He elected to supplement the basic plan of
7 term life insurance and AD&D insurance in the flat amount of \$20,000 by adding voluntary
8 AD&D coverage of \$750,000 at a cost to him of \$7.50 per each day period. Docket No. 29 at 2.
9 This premium payment was deducted from Decedent’s semi-monthly paycheck, and he made his
10 first premium payment on September 15, 2011. *Id.* Heng designated his wife Petra as his sole
11 beneficiary. *Id.*

12 DecisionView terminated its agreement with TriNet, effective July 1, 2012. AR¹ 164, 528.
13 Its employees, including Heng, were no longer co-employed by TriNet after June 30, 2012. *Id.*
14 Decedent’s June 30, 2012 paycheck included the last deduction for his semi-monthly AD&D
15 premium contribution. AR 527-28. TriNet sent Decedent a COBRA packet that addressed how to
16 continue life insurance, but TriNet has no record of Decedent contacting it about COBRA or
17 converting his basic life insurance coverage under the Plan to an individual policy. AR 528.

18 Around July 22, 2012, Heng died while hiking. AR 195. As Decedent’s beneficiary,
19 Plaintiff submitted a claim for basic life, basic AD&D, and Voluntary AD&D benefits dated
20 August 6, 2012, along with a death certificate indicating that death was the result of a mountain
21 hiking accident. AR 177-79. Defendant MetLife, the Plan’s claim administrator, paid the basic
22 life claim on the basis that Decedent died within the conversion period, but determined that
23 Plaintiff did not qualify for either basic or voluntary AD&A benefits because coverage had
24 terminated on June 30, 2012 and did not convert. AR 186, 206-08. On February 11, 2013,
25 Plaintiff appealed the denial of her claim. AR 237-42. MetLife affirmed its denial on October 1,
26 2013, which Plaintiff appealed on February 10, 2014. AR 538-41, 565-67. On October 23, 2014,

27 _____
28 ¹ Citations to AR are to the applicable Plan document and the Administrative Record filed
concurrently with Defendant’s motion for summary judgment, Docket No. 27-2, 3.

1 MetLife responded to Plaintiff’s appeal by upholding the denial of the claim. AR 578-82.

2 On July 22, 2016, Plaintiff filed this suit. Docket No. 1.

3 2. The MetLife Group Policy

4 MetLife issued Group Insurance Policy No. 1164937-1-G (the Policy) to TriNet to fund
5 the life and AD&D benefits under the Plan. AR 1-137. TriNet served as the Plan’s administrator
6 and sponsor. AR 48, 134. MetLife served as the Plan’s claim administrator. Docket No. 27 at 2.
7 The Plan provides basic life and AD&D coverages, AR 1-47, and supplemental life, dependent
8 life, and voluntary AD&D coverages, AR 52-133. While co-employed by TriNet, Decedent was
9 covered under the plan for certain benefits, including basic life insurance in the amount of
10 \$20,000, basic AD&D coverage in the amount of \$20,000, and Voluntary AD&D coverage in the
11 amount of \$750,000. AR 164, 185.

12 a. Basic Life and Basic AD&D

13 The Plan pays Basic Life benefits in the amount of \$20,000, AR 23, and Basic AD&D
14 benefits, in its full amount, “equal to [the participant’s] Life Insurance,” AR 24.

15 The Plan’s Basic Life and Basic AD&D section entitled “**DATE YOUR INSURANCE**
16 **ENDS**” states:

17 Your insurance will end on the earliest of:

18 **for all coverages**

- 19 1. the date the Group Policy ends; or
20 2. the date insurance ends for Your class; or
3. the end of the period for which the last premium has been paid for
You; or

21 **for Basic Life Insurance**

- 22 4. the last day of the calendar month in which Your employment
ends; Your employment will end if You cease to be Actively at
23 Work in any eligible class, except as stated in the section entitled
CONTINUATION OF INSURANCE WITH PREMIUM
24 PAYMENT; or
25 5. the last day of the calendar month in which You retire in
accordance with the Policyholder’s retirement plan; or

26 **for Accidental Death and Dismemberment Insurance**

- 27 6. the last day of the calendar month in which Your employment
ends; Your employment will end if You cease to be Actively at
28 Work in any eligible class, except as stated in the section entitled
CONTINUATION OF INSURANCE WITH PREMIUM
PAYMENT; or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. the last day of the calendar month in which You retire in accordance with the Policyholder’s retirement plan.

AR 28-29 (emphasis in original). The Plan further advises the participant to “refer to the section entitled LIFE INSURANCE: CONVERSION OPTION FOR YOU for information concerning the option to convert to an individual policy of life insurance if Your Life Insurance ends.” AR 29.

The section entitled “**LIFE INSURANCE: CONVERSTION OPTION FOR YOU**” provides:

If Your life insurance ends for any of the reasons stated below, You have the option to buy an individual policy of life insurance (“new policy”) from Us during the Application Period in accordance with the conditions and requirements of this section. This is referred to as the “option to convert”. Evidence of Your insurability will not be required.

When You Will Have the Option to Convert

You will have the option to convert when:

- Your life insurance ends because:
 - You cease to be in an eligible class;
 - Your employment ends;
 - this Group Policy ends, provided You have been insured for life insurance for at least 5 continuous years; or
 - this Group Policy is amended to end all life insurance for an eligible class of which You are a member, provided You have been insured for at least 5 continuous years.

...

Application Period

If You opt to convert Your Life Insurance for any of the reasons stated above, We must receive a completed conversion application form from You within 31 days after the date Your Life Insurance ends.

Option Conditions

The option to convert is subject to the following:

...

D. the new policy will be issued without an accidental death and dismemberment benefit, an accelerated benefit option, a waiver of premium benefit or any other rider or additional benefit

Maximum Amount of the New Policy

...

1 If Your life insurance ends for any other reason, the maximum
2 amount of insurance that You may elect for the new policy is the
3 amount of Your life insurance which ends under this Group Policy.

4 **If You Die Within 31 Days After Your Life Insurance Ends**

5 If You die within 31 days after Your life insurance ends, Proof of
6 Your death must be sent to Us. When We receive such Proof with
7 the claim, We will review the claim and if We approve it will pay
8 the Beneficiary. The amount We will pay is the amount You were
9 entitled to convert.

10 AR 35-36 (emphasis in original).

11 b. Supplemental life, Dependent Life, and Voluntary AD&D

12 The Plan’s section for Supplemental Life, Dependent Life, and Voluntary AD&D benefits
13 provides one of six options for life insurance. Decedent did not choose any. The Plan also
14 provides six options for Voluntary AD&D benefits, of which Decedent chose Option 6 that
15 increases the benefit to \$750,000. AR 78, 80, 185.

16 Coverage under this section takes effect as follows:

17 **Enrollment When First Eligible**

18 If You complete the enrollment process within 30 days of becoming
19 eligible for insurance, such insurance will take effect as follows:

- 20 • if You are **not required** to give evidence of Your insurability,
21 such insurance will take effect on the date You become eligible
22 for such insurance if You are Actively at Work on that date. You
23 are not required to give evidence of Your insurability for
24 Voluntary Accidental Death and Dismemberment Insurance.

25 AR 92 (emphasis in original). Participants become eligible on the date they enter the class of
26 TriNet’s full-time employees. AR 91.

27 The Plan’s Supplemental Life, Dependent Life, and Voluntary AD&D section entitled
28 “**DATE YOUR INSURANCE ENDS**” contains virtually the same language as that in the Plan’s
Basic Life and Basic AD&D. AR 94-95.² It further advises the participant to “refer to the section

² The section provides:

Your insurance will end on the earliest of:
for all coverages

1 entitled LIFE INSURANCE: CONVERSION OPTION FOR YOU for information concerning the
2 option to convert to an individual policy of life insurance in Your Life Insurance ends.” AR 95.

3 The Plan’s section on Supplemental Life, Dependent Life, and Voluntary benefits has a
4 conversion provision identical to the one in the Basic Life and Basic AD&D. AR 113-14.³

5

-
- 6 1. the date the Group Policy ends; or
 - 7 2. the date insurance ends for Your class; or
 - 8 3. the end of the period for which the last premium has been paid for
9 You; or

8

for Supplemental Life Insurance

9

- 10 4. the last day of the calendar month in which Your employment
11 ends; Your employment will end if You cease to be Actively at
12 Work in any eligible class, except as stated in the section entitled
13 CONTINUATION OF INSURANCE WITH PREMIUM
14 PAYMENT; or
- 15 5. the last day of the calendar month in which You retire in
16 accordance with the Policyholder’s retirement plan; or

13

for Accidental Death and Dismemberment Insurance

14

- 15 6. the last day of the calendar month in which Your employment
16 ends; Your employment will end if You cease to be Actively at
17 Work in any eligible class, except as stated in the section entitled
18 CONTINUATION OF INSURANCE WITH PREMIUM
19 PAYMENT; or
- 20 7. the last day of the calendar month in which You retire in
21 accordance with the Policyholder’s retirement plan.

17

AR 94-95 (emphasis in original).

18

³ The section entitled “**LIFE INSURANCE: CONVERSTION OPTION FOR YOU**” provides:

19

If Your life insurance ends for any of the reasons stated below, You have the option to buy an individual policy of life insurance (“new policy”) from Us during the Application Period in accordance with the conditions and requirements of this section. This is referred to as the “option to convert”. Evidence of Your insurability will not be required.

20

When You Will Have the Option to Convert

21

You will have the option to convert when:

22

- 23 • Your life insurance ends because:
 - 24 • You cease to be in an eligible class;
 - 25 • Your employment ends;
 - 26 • this Group Policy ends, provided You have been insured for life insurance for at least 5 continuous years; or
 - 27 • this Group Policy is amended to end all life insurance for an eligible class of which You are a member, provided You have been insured for at least 5 continuous years.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. MetLife Group Life Booklet

The MetLife Group Life Booklet provides that “Conversion is available on all Group Life insurance coverages. Conversion is **not** available on AD&D coverage.” Docket No. 29-1 Exhibit C to the Declaration of Wesley M. Lowe (emphasis in original). There is no evidence that MetLife or TriNet provided the MetLife Group Life Booklet to Decedent or that Decedent received the Booklet prior to the date when his insurance under the MetLife Group Policy ended. This Booklet, under the column entitled “Conversion” and to the right of the box that provides “How do I enroll/apply for coverage,” states that the employee “will receive a Notice of

...

Application Period

If You opt to convert Your Life Insurance for any of the reasons stated above, We must receive a completed conversion application form from You within 31 days after the date Your Life Insurance ends.

Option Conditions

The option to convert is subject to the following:

...

D. the new policy will be issued without an accidental death and dismemberment benefit, an accelerated benefit option, a waiver of premium benefit or any other rider or additional benefit

Maximum Amount of the New Policy

...

If Your life insurance ends for any other reason, the maximum amount of insurance that You may elect for the new policy is the amount of Your life insurance which ends under this Group Policy.

If You Die Within 31 Days After Your Life Insurance Ends

If You die within 31 days after Your life insurance ends, Proof of Your death must be sent to Us. When We receive such Proof with the claim, We will review the claim and if We approve it will pay the Beneficiary. The amount We will pay is the amount You were entitled to convert.

AR 113-14 (emphasis in original).

1 Conversion form from your Group Life Benefits Recordkeeper.” *Id.*

2 4. TriNet Benefits Guidebook & Summary Plan Description

3 The 2011-2012 TriNet Benefits Guidebook and Summary Plan Description (SPD) at
4 Chapter 16, Section 16.3 explains two types of TriNet life insurance and AD&D coverage as
5 follows:

| | Basic Life Insurance Paid for by Your Worksite | Supplemental Life Insurance Paid by You |
|-------|---|--|
| Plans | Life Insurance & AD&D | Supplemental Life Insurance Spouse Domestic Partner Life Insurance Child Life Insurance Supplemental AD&D |

6
7
8
9
10
11 AR 499.

12 Section 16.5 provides under “**Conversion**” that the employee “may generally purchase
13 individual life insurance benefits from MetLife when . . . [his or her] TriNet benefits coverage
14 terminates.” AR 500. Section 16.8, entitled “**Supplemental AD&D Coverage**,” states that the
15 employee “may elect supplemental AD&D coverage.” AR 504. Section 16.8 further states that
16 “if you die as result of an accident, your beneficiaries will receive the full amount of coverage.”
17 *Id.* SPD is silent about whether the AD&D coverage can be converted to an individual policy
18 when the insurance under the MetLife Group Policy ends.

19 5. TriNet COBRA Guide and Notice of Group Life Insurance Conversion

20 The only documents TriNet provided to Heng when his employment with TriNet ended are
21 the TriNet COBRA Guide and COBRA Notice. AR 528; Docket No. 33 at 2.

22 The TriNet COBRA Guide states that while “Continuation of TriNet life insurance
23 coverage is not available through federal COBRA, . . . you (the employee) can purchase an
24 individual plan from MetLife if MetLife receives a completed conversion application from for
25 [sic] you within 31 days after the date your TriNet insurance ends.” Docket No. 29-1 Exhibit B to
26 the Declaration of Wesley M. Lowe. The TriNet COBRA Guide is silent about whether the
27 AD&D coverage can be converted to an individual policy when the insurance under the MetLife
28 Group Policy ends.

1 The Notice of Group Life Insurance Conversion Privilege is silent about whether AD&D
2 coverage can be continued or converted to an individual policy when the insurance under the
3 MetLife Group Policy terminates. Docket No. 29-1 Exhibit D to the Declaration of Wesley M.
4 Lowe.

5 II. DISCUSSION

6 A. Legal Standard

7 A principal purpose of the summary judgment procedure is to identify and dispose of
8 factually unsupported claims. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24 (1986). Summary
9 judgment is proper when the “pleadings, depositions, answers to interrogatories, and admissions
10 on file, together with the affidavits, if any, show that there is no genuine issue as to any material
11 fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c).

12 A party moving for summary judgment, who does not have the ultimate burden of
13 persuasion at trial, must produce evidence which either negates an essential element of the non-
14 moving party’s claims or show that the non-moving party does not have enough evidence of an
15 essential element to carry its ultimate burden of persuasion at trial. *Nissan Fire & Marine Ins. Co.*
16 *v. Fritz Cos.*, 210 F.3d 1099, 1102 (9th Cir. 2000).

17 Once the moving party meets his or her initial burden, the non-moving party must go
18 beyond the pleadings and by its own evidence “set forth specific facts showing that there is a
19 genuine issue for trial.” Fed. R. Civ. P. 56(e). In order to make this showing, the non-moving
20 party must “identify with reasonable particularity the evidence that precludes summary judgment.”
21 *Keenan v. Allan*, 91 F.3d 1275, 1279 (9th Cir. 1996). It is not the Court’s task to “scour the record
22 in search of a genuine issue of triable fact.” *Id.* (quoting *Richards v. Combined Ins. Co.*, 55 F.3d
23 247, 251 (7th Cir.1995)). If the non-moving party fails to make this showing, the moving party is
24 entitled to judgment as a matter of law. *Celotex*, 477 U.S. at 323.

25 An issue of fact is “genuine” only if there is sufficient evidence for a reasonable fact finder
26 to find for the non-moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49 (1986).
27 A fact is “material” if it may affect the outcome of the case. *Id.* at 248. “In considering a motion
28 for summary judgment, the court may not weigh the evidence or make credibility determinations,

1 and is required to draw all inferences in a light most favorable to the nonmoving party.” *Freeman*
2 *v. Arpaio*, 125 F.3d 723, 735 (9th Cir. 1997).

3 ERISA allows a participant in an employee benefit scheme to bring a civil action to
4 recover benefits due under the terms of a plan. 29 U.S.C. § 1132(a)(1)(B). Courts review a denial
5 of benefits challenged under § 1132(a)(1)(B) “under a *de novo* standard unless the benefit plan
6 gives the administrator or fiduciary discretionary authority to determine eligibility for benefits or
7 to construe the terms of the plan.” *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101, 115
8 (1989).

9 Here, Parties have stipulated that the Court should review the denial of benefits *de novo*.
10 Docket No. 27 at 8; Docket No. 29 at 7. Under the *de novo* standard, “in considering motions for
11 summary judgment, the district court must decide whether there are genuine issues of material
12 fact, not whether there was substantial or ample evidence to support the plan administrator’s
13 decision.” *Mongeluzo v. Baxter Travenol Disability Benefit Plan*, 46 F.3d 938, 942 (9th Cir.
14 1995). Thus, Defendant’s argument – that the Court’s review is limited to the evidence that was
15 before the claims administrator at the time of its determination and that Plaintiff maintains the
16 burden of proving entitlement to benefits, Docket No. 27 at 8-9 – does not apply to the pending
17 summary judgment motion.

18 B. Interpretation of the Terms of the Plan and SPD

19 Defendant argues that it correctly denied Plaintiff’s claims for AD&D benefits under the
20 clear and unambiguous terms of the Plan and the 2011-2012 TriNet Benefits Guidebook and
21 Summary Plan Description (SPD). Docket No. 27 at 9-10, 13-14. Reading the Plan and SPD in
22 the light most favorable to Plaintiff, the Court agrees with Defendant and finds no genuine issues
23 of material fact.

24 The Plan’s sections entitled “**DATE YOUR INSURANCE ENDS**” provide

25 Your insurance will end in the earliest of
26 **for all coverages**
27 . . .
28 3. the end of the period for which the last premium has been paid for
You; or
for Basic Life Insurance/for Supplemental Life Insurance

1 4. the last day of the calendar month in which Your employment
ends . . . or

2 . . .
3 **for (Voluntary) Accidental Death and Dismemberment**
4 **Insurance**

5 6. the last day of the calendar month in which Your employment
ends

6 AR 28-29, 94-95 (emphasis in original). The SPD provides: “Your participation in the TriNet
7 Benefits Plan will terminate on the last day of the month in which any of these events occur a. The
8 date you cease to be employed by TriNet” AR 469.

9 DecisionView terminated its contract with TriNet effective July 1, 2012, and Decedent’s
10 last day of employment was June 30, 2012. Docket No. 29 at 2; Docket No. 33 at 2. Thus, under
11 the terms of the Plan and the SPD, Decedent’s coverage for Basic Life, AD&D, and Voluntary
12 AD&D ended on June 30, 2012.

13 When Heng’s employment ended, he had the option to convert his life insurance coverage
14 to “an individual policy of life insurance” up to “the amount of life insurance” which ended under
15 the Plan. AR 29, 95. However, the Plan explicitly *excludes* AD&D coverage from converted
16 individual policies: it states “the new policy will be issued without an accidental death and
17 dismemberment benefit.” AR 35, 113.

18 Plaintiff’s interpretation of the terms of the Plan to the contrary fails to raise a genuine
19 issue of material fact, even when viewed in the light most favorable to her.

20 First, Plaintiff argues that “the MetLife Group Policy is fundamentally a group life
21 insurance policy that includes accidental death and dismemberment insurance as an additional
22 benefit” because “[t]he face page of MetLife’s Certificate of Insurance for Thomas Heng, effective
23 ‘**Term Life & Accidental Death & Dismemberment Insurance.**’” Docket No. 29 at 8
24 (emphasis in original). Although it is true that the Certificate combines term life and accidental
25 death and dismemberment in one group policy under one group policy number (1164937-1-G),
26 there are two distinct types of coverage. If the Policy were a life insurance that automatically
27 includes AD&D benefits, the Certificate would not have referred to the insurance as a term life
28 *and* AD&D insurance.

1 Second, Plaintiff argues that the sections entitled “**DATE YOUR INSURANCE ENDS**”
2 inform that the Policy treats life insurance and AD&D insurance as one type of insurance. Docket
3 No. 29 at 8. However, these sections explain the procedure for basic life insurance and AD&D
4 insurance *separately* under *different* subsections titled in bold type. AR 28-29, 94-95. In addition,
5 the Plan’s title page expressly states that it concerns more than one distinct type of insurance: one
6 includes “Basic Life Insurance” and “Accidental Death and Dismemberment Insurance,” AR 1;
7 and the other includes “Supplemental Life Insurance,” “Dependent Life Insurance,” and
8 “Voluntary Accidental Death and Dismemberment Insurance,” AR 52. Moreover, the Basic Life
9 and AD&D Policy’s section titled “**SCHEDULE OF BENEFITS**” defines benefits in two
10 different subsections, one titled “**Life Insurance For You**” and another titled “**Accidental Death**
11 **& Dismemberment Insurance (AD&D) For You.**” AR 24. The supplemental insurance Plan
12 includes similar provisions. AR 77, 80.

13 Third, Plaintiff disputes that the Plan excludes AD&D coverage from Heng’s converted
14 insurance, although she concedes that the Plan states that “the new policy will be issued without
15 an accidental death and dismember benefit.” Docket No.29 at 10. Specifically, Plaintiff argues
16 that this limitation in the Plan is “ambiguous and confusing given its placement and location and
17 especially when viewed in the context of MetLife’s attempt to provide notice of this limitation.”
18 *Id.* However, the limitation is plainly stated; it is not ambiguous or confusing because it is located
19 under the section that discusses conversion option and is set apart by its own separate subsection
20 titled “Option Conditions.”

21 C. Whether Decedent’s Premium Payments Created Coverage

22 Plaintiff argues that premiums are prospective and that coverage existed in July 2012,
23 when the death occurred, because Decedent paid his last premiums in June 2012. Docket No. 29
24 at 15-16. However, Defendant provided administrative record that Decedent’s date of hire with
25 TriNet was August 31, 2011, which is also the effective date under the terms of the Plan and the
26 effective date listed on the employer’s claim statement. AR 28, 92, 184-85.⁴ Decedent’s first
27

28 ⁴ First, the Basic Life and AD&D Insurance provides under the section entitled “**DATE YOUR INSURANCE TAKES EFFECT**” that “When You complete the enrollment process for

1 premium contribution by payroll deduction was made on September 15, 2011. AR 268, 527.
2 Since coverage started on the date Decedent was hired, his premium payments were made *in*
3 *arrears* for the current month, not in advance for the following month. Plaintiff failed to present
4 any evidence to the contrary; she only requested that she be “allowed to conduct limited discovery
5 on this issue.” Docket No. 29 at 16. Thus, even in the light most favorable to Plaintiff, it seems
6 that Decedent’s premium payment in June 2012 was a payment in arrears and did not create
7 coverage for July 2012 – the month in which the death occurred.

8 ///

9 ///

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Noncontributory Insurance, such insurance will take effect on the date You become eligible, provided You are Actively at Work on that date.” AR 28. It also provides under the section entitled “**DATE YOU ARE ELIGIBLE FOR INSURANCE**” that “You may only become eligible for the insurance available for Your eligible class as shown in the SCHEDULE OF BENEFITS.” *Id.* Coverage for basic life and basic AD&D insurance is effective on the date the participant enters the class of TriNet’s full-time employees and is actively at work.

Second, the Supplemental Life, Dependent Life, and Voluntary AD&D Insurance provides:

Enrollment When First Eligible

If You complete the enrollment process within 30 days of becoming eligible for insurance, such insurance will take effect as follows:

- if You are not required to give evidence of Your insurability, such insurance will take effect on the date You become eligible for such insurance if You are Actively at Work on that date. You are not required to give evidence of Your insurability for Voluntary Accidental Death and Dismemberment Insurance.

AR 92 (emphasis in original). Since Heng was not required to give evidence of his insurability for Voluntary AD&D benefits, under the clear terms of the Plan, coverage for these benefits took effect on the date Heng entered the class of TriNet’s full-time employees.

Third, the life insurance claim form filled out by TriNet shows that “the effective date of amount of insurance being claimed” for Thomas Heng was August 31, 2011. AR 184. The claim form also shows that the effective dates for basic life, AD&D, and voluntary AD&D insurance are August 31, 2011 and that Heng was a TriNet employee as of August 31, 2011. AR 185.

1 D. Whether California Insurance Code § 10209 Requires Inclusion of AD&D Benefits in the
2 Conversion Period Life Insurance Coverage

3 Plaintiff argues that AD&D benefits should be extended into the conversion period
4 because California Insurance Code § 10209 requires it. Docket No. 29 at 12.

5 Section 10209 provides:

6 (a) Except as provided by Sections 10203.5 and 10203.8, the policy
7 shall contain a provision that the insurer will issue to the employer
8 for delivery to the insured employee an individual certificate setting
9 forth:

10 . . .

11 (2) A provision that if the employment terminates for any reason
12 whatsoever and the employee applies to the insurer within 31 days
13 after the termination, paying the premium applicable to the class of
14 risk to which he or she belongs and to the form and amount of the
15 policy at his or her then attained age, he or she is entitled, without
16 producing evidence of insurability, to the issue by the insurer of any
17 individual life policy in any one of the forms, other than term
18 insurance, customarily issued by the insurer.

19 (3) A statement that the policy in lieu of group insurance will be in
20 an amount equal to the amount of his or her protection
21 under the group insurance at the time of the termination.

22 (4) A provision that if the employee dies during the 31-day period
23 within which he or she is entitled to have an individual policy issued
24 to him or her in accordance with this section and before the policy
25 shall have become effective, the amount of life insurance that the
26 employee is entitled to have issued to him or
27 her under the individual policy shall be payable as a claim under the
28 group policy, whether or not application for the individual policy or
the payment of the first premium therefor has been made.

Cal. Ins. Code § 10209 (West).

Section 10209 does not apply to Plaintiff's AD&D coverage. Section 10209 appears in the
"Group Life Policies" chapter of the insurance code. Cal. Ins. Code § D. 2, Pt. 2, Ch. 2, Refs &
Annos (West). The Ninth Circuit has held that section 10209 does not apply to accidental death
policies in *Henkin v. Northrop Corp.*, 921 F.2d 864 (9th Cir. 1990). In holding so, the Ninth
Circuit relied on the California Supreme Court's dicta in *Williams v. American Casualty Co.*, 491
P.2d 398 (Cal. 1971). *Henkin*, 921 F.2d at 867-68. Although the *Williams* court referred to the
policy at issue therein as a disability policy, it was actually referring to an accidental death &

1 dismemberment policy – the opinion states:

2 The facts underlying this litigation are not in dispute. On August 1,
3 1962, American Casualty issued to Atlantic a master insurance
4 policy, VGA 18057, providing group insurance benefits for named
5 beneficiaries in the event of **accidental death or dismemberment**
6 of insured Atlantic employees; all Atlantic employees were eligible
7 to become ‘Persons Insured’ under the policy upon written
8 application and payment of premium.

9 *Williams*, 491 P.2d at 400 (emphasis added); *see Henkin v. Northrop Corp.*, 921 F.2d 864, 868
10 (9th Cir. 1990) (“The policy in *Williams* was an accidental death and dismemberment policy, 6
11 Cal.3d at 269, 491 P.2d 398, 98 Cal.Rptr. 814, and yet was referred to throughout the opinion as a
12 disability policy.”). Thus, Section 10209 does not apply to Plaintiff’s AD&D coverage.

13 E. Whether MetLife Is Estopped from Denying Coverage

14 Both parties agree that ERISA preempts California estoppel law. Docket No. 27 at 19;
15 Docket No. 29 at 14. At issue is whether federal common law estops Defendant from denying
16 coverage.

17 Plaintiff argues that “[i]t can be reasonably inferred that Thomas Heng relied on a number
18 [sic] representations about the insurance which were contained in the MetLife Group Policy and
19 believed that these representations allowed him to convert the protection he had under the Group
20 Policy into an individual policy.” Docket No. 29 at 14. Although Plaintiff seems to suggest that
21 there are a number of representations in the Plan about conversion of the AD&D benefits, Plaintiff
22 fails to name any. Plaintiff only points to the certificate pages (AR 3, 54) and argues that “an
23 employee would think that all of the insurance and protection he had under the Group Policy could
24 be converted.” *Id.*

25 The Ninth Circuit has established four federal common law elements of equitable estoppel
26 that are applicable to an ERISA action:

27 (1) the party to be estopped must know the facts; (2) he must intend
28 that his conduct shall be acted on or must so act that the party
 asserting the estoppel has a right to believe it is so intended; (3) the
 latter must be ignorant of the true facts; and (4) he must rely on the
 former's conduct to his injury.

Ellenburg v. Brockway, Inc., 763 F.2d 1091, 1095 (9th Cir. 1985). The Ninth Circuit has imposed
two additional prerequisites on a plaintiff attempting to allege a claim of equitable estoppel in an

1 ERISA action:

2 First, the provisions of the plan at issue must be ambiguous such that
3 reasonable persons could disagree as to their meaning or effect.
4 *Greany v. Western Farm Bureau Life Ins. Co.*, 973 F.2d 812, 821
5 (9th Cir.1992). Second, representations must be made to the
6 employee involving an oral interpretation of the plan. *Id.* “Unless
7 both conditions are met . . . a beneficiary has no equitable estoppel
8 claim.” *Greany, supra* at p. 821–822, quoting *Simmons v. Southern*
9 *Bell Tel. and Tel. Co.*, 940 F.2d 614, 618 (11th Cir.1991).

10 *Pisciotta v. Teledyne Indus., Inc.*, 91 F.3d 1326, 1331 (9th Cir. 1996).

11 Plaintiff raised an argument applying the first four factors but failed to state the latter two
12 factors. Docket No. 29 at 14-15. Even assuming that the terms of the Plan are ambiguous,
13 Plaintiff never argued that Defendant made any representations involving *oral* interpretations of
14 the Plan.

15 Plaintiff additionally argues that MetLife should be estopped from denying coverage
16 because neither TriNet COBRA Guide and COBRA Notice (the only documents TriNet provided
17 to Heng when his employment with TriNet ended, AR 528; Docket No. 33 at 2) provided any
18 notice that Decedent stood to lose his accidental death and dismemberment coverage when his
19 employment ended. Docket No. 33 at 2. This argument assumes that MetLife owes Heng a duty
20 to notify that a third-party employer’s termination of a plan participant triggered the termination of
21 coverage under the terms of the Plan. However, Plaintiff failed to provide any authority for
22 imposing such a duty. In fact, the Ninth Circuit has rejected analogous attempts to impose notice
23 requirements on administrators for information already contained in the Plan documents and SPD.
24 *See, e.g., Scharff v. Raytheon Co. Short Term Disability Plan*, 581 F.3d 899, 908 (9th Cir. 2009)
25 (declining to requiring plan administrators to inform participants separately of time limits already
26 contained in a summary plan description). As discussed above, Plaintiff and Decedent were
27 already on notice of the termination by the clear terms of the Plan and SPD. AR 28-29, 94-95,
28 469.

Moreover, the cases cited in Plaintiff’s supplemental briefing – *Salterelli v. Bob Baker*
Group Medical Trust, 35 F.3d 382; *Haynes v. Farmers Ins. Exchange*, 32 Cal.4th 1198, 1212-
1215 (2004); *Bareno v. Employer’s Life Ins. Co.*, 7 Cal.3d. 875 – fail to support her argument that

1 the allegedly required notice is also subject to the reasonable expectations doctrine. Unlike in
2 *Salterelli* and *Haynes*, Plaintiff does not and cannot argue that MetLife excluded coverage through
3 an inconspicuous provision in the Plan. Moreover, unlike in *Bareno*, which held that ambiguities
4 in certificate of insurance and notice of termination should be construed against the insurer,
5 Plaintiff does not allege any ambiguities in the certificate page or notice but only silence as to
6 AD&D conversion.

7 **III. CONCLUSION**

8 For the foregoing reasons, the Court **GRANTS** Defendant's motion for summary
9 judgment. The Clerk is instructed to enter judgment in favor of Defendant and close the file.

10 This order disposes of Docket No. 27.

11

12 **IT IS SO ORDERED.**

13

14 Dated: July 27, 2017

15



EDWARD M. CHEN
United States District Judge

16

17

18

19

20

21

22

23

24

25

26

27

28