IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

KAMIEL L. FOSKEY,

        Plaintiff,

    v.

MICHAEL J. ASTRUE, **Commissioner,**
Social Security Administration,

        Defendant.

No. 3:10-CV-06084-HU

OPINION AND ORDER

MOSMAN, J.,

On September 12, 2011, Magistrate Judge Hubel issued his Findings and

Recommendation ("F&R") [25] in the above-captioned case recommending denial of the

Commissioner's motion to dismiss [18]. Magistrate Judge Hubel also recommended reversal of

the Appeals Council's decision not to to reopen Foskey's 2000 Child's Insurance Benefits claim,

with remand to the Commissioner with instructions to reopen the same, and to recalculate and

award retrospective benefits pursuant to the regulations. No objections were filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may

file written objections. The court is not bound by the recommendations of the magistrate judge,

but retains responsibility for making the final determination. The court is generally required to

make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

is not required to review, de novo or under any other standard, the factual or legal conclusions of

the magistrate judge as to those portions of the F&R to which no objections are addressed. *See*

Thomas v. Arn, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121

(9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R

depends on whether or not objections have been filed, in either case, I am free to accept, reject,

or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Hubel's recommendation, and I ADOPT the F&R [25]

as my own opinion.

IT IS SO ORDERED.

DATED this __28th__ day of September, 2011.

/s/ Michael W. Mosman_____
MICHAEL W. MOSMAN
United States District Court