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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HORTENCIA T. VALENCIA,
Petitioner,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,
Respondent.

No. 1:17-cv-01662-GSA

**ORDER DIRECTING
SUPPLEMENTAL BRIEFING**

Plaintiff Hortencia T. Valencia (“Plaintiff”) seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner” or “Defendant”) denying her September 16, 2014, application for disability insurance benefits pursuant to Title II of the Social Security Act. Based on documentation within the record, the Administrative Law Judge found that September 30, 2012, was the last effective date of Plaintiff’s disability insurance coverage (DIB). AR 17. On April 4, 2013, in a prior proceeding, however, the Commissioner had already determined that Plaintiff’s “condition was not disabling on any date through 9/30/12, when [Plaintiff was] last insured for disability benefits.” AR 113.

Plaintiff’s September 2014 application initially sought disability insurance benefits for impairments with an onset date of March 22, 2014. AR 90, 204. Any disability with an onset date after September 30, 2012, would have begun after Plaintiff no longer was entitled to disability insurance benefits.

1 Further, on September 9, 2016, Plaintiff's counsel asked to amend the alleged onset date
2 from March 22, 2014, to January 1, 2012. AR 226. Although the administrative record does not
3 document whether the Commissioner explicitly granted counsel's request, the amendment was at
4 least implicitly granted. The hearing decision states: "On September 16, 2014, the claimant
5 protectively filed a Title II application for a period of disability and disability insurance benefits,
6 alleging disability beginning January 1, 2012." AR 15. While the amended date circumvented
7 the complication of an onset date after the end of disability insurance coverage, it had the effect
8 of requesting a determination that Plaintiff was disabled during a time period in which the
9 Commissioner had previously determined that Plaintiff was not disabled.

10 In light of the allegations and procedures outlined above, the Court questions whether
11 disability insurance benefits were available to Plaintiff in response to her September 16, 2014
12 application. If benefits were unavailable, little purpose would be served by addressing the errors
13 alleged in the above-captioned case, and dismissing the case would be appropriate.

14 Accordingly, on or before April 15, 2019, each party is DIRECTED to submit to the Court
15 a supplemental memorandum of law, not to exceed five pages, addressing the issues outlined in
16 this order.

17
18 IT IS SO ORDERED.

19 Dated: April 2, 2019

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE