

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DANIEL W. MCMAHON,

Plaintiff,

vs.

Case No. 2:07-cv-737-FtM-29SPC

NAPLES HMA; HEALTH MANAGEMENT  
ASSOCIATES INC. (HMA),

Defendants.

---

**OPINION AND ORDER**

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #15), filed December 26, 2007, recommending that plaintiff's Application to Proceed Without Prepayment of Fees (Doc. #2) be denied and the case be dismissed with prejudice. On January 23, 2008, plaintiff filed a Response (Doc. #22) essentially conceding the need to dismiss the case in favor of removing a pending state case.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n. 9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. §

636(b)(1)(C). The district judge reviews legal conclusions de novo, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation of the magistrate judge to the extent that the case will be dismissed, however, the case will be dismissed without prejudice.

Accordingly, it is now


**ORDERED:**

1. The Report and Recommendation is hereby **adopted as modified.**

2. Plaintiff's Application to Proceed Without Prepayment of Fees (Doc. #2) is **DENIED.**

3. The case is **dismissed without prejudice.** The Clerk shall enter judgment accordingly, terminate all pending motions and deadlines as moot, and close the file.

**DONE AND ORDERED** at Fort Myers, Florida, this 7th day of February, 2008.

  
\_\_\_\_\_  
**JOHN E. STEELE**  
United States District Judge

Copies:

Hon. Sheri Polster Chappell  
United States Magistrate Judge

Counsel of Record  
Unrepresented parties