

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

RICHARD DODD,

Plaintiff,

v.

CASE NO. 2:09-CV-745-FtM-36DNF

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

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ORDER

THIS CAUSE came on for consideration upon the Report and Recommendation filed by United States Magistrate Judge Douglas Frazier on December 7, 2010 (Dkt. 37). In the Report and Recommendation, the Magistrate found that Plaintiff failed to exhaust his administrative remedies and therefore recommended that the Court: 1) deny Plaintiff's Amended Motion for Judgment on the Record (Dkt. 29); 2) grant Defendant's Amended Motion for Final Judgment (Dkt. 30) to the extent that this matter be remanded back to Defendant for a determination as to Short Term and Long Term Disability Benefits; 3) remand the action to Defendant for a period of ninety (90) days; and 4) administratively close this action during the ninety-day period, to be reopened upon a motion by either party at the expiration of the ninety-day period. Plaintiff filed an objection to the Report and Recommendation on December 21, 2010 (Dkt. 38). Defendant responded to Plaintiff's objection on January 4, 2011 (Dkt. 39).

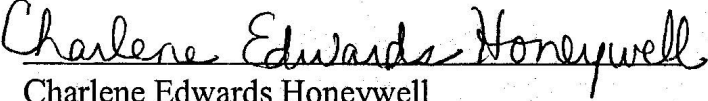
The Court has reviewed Plaintiff's Complaint (Dkt. 1), Plaintiff's Amended Motion for Judgment on the Record, Defendant's Response (Dkt. 33), Defendant's Amended Motion for Final

Judgment, Plaintiff's Response (Dkt. 32), the Magistrate's Report and Recommendation, Plaintiff's Objections, and Defendant's Response to Plaintiff's Objections. After carefully considering and independently examining the court file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects. Plaintiff's Objections should be overruled.

ACCORDINGLY, it is hereby, **ORDERED** and **ADJUDGED** as follows:

- 1) The Report and Recommendation of the Magistrate Judge (Dkt. 37) is **ADOPTED**, **CONFIRMED**, and **APPROVED** in all respects and is made a part of this order for all purposes, including appellate review.
- 2) Plaintiff's Objections to the Report and Recommendation are overruled.
- 3) Plaintiff's Amended Motion for Judgment on the Record (Dkt. 29) is **DENIED**.
- 4) Defendant's Amended Motion for Final Judgment (Dkt. 30) is **GRANTED in part**.
The Court grants Defendant's Motion to the extent that Defendant requests that the matter be remanded back to Defendant for a determination as to Short Term Disability and Long Term Disability Benefits.
- 5) The Court remands this matter to Defendant for a period of **NINETY (90) DAYS** to determine Plaintiff's Short Term and Long Term Disability Benefits.
- 6) The Clerk is directed to administratively **CLOSE** this action. Either party may reopen this action by filing a motion at the end of the ninety-day period.

DONE AND ORDERED at Ft. Myers, Florida, on January 7, 2010.


Charlene Edwards Honeywell
Charlene Edwards Honeywell
United States District Judge

COPIES TO:
UNITED STATES MAGISTRATE JUDGE DOUGLAS N.
FRAZIER
COUNSEL OF RECORD