

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA**
Case Number: 11-cv-23948-MORENO

ALEXANDRA H.,

Plaintiff,

vs.

OXFORD HEALTH INSURANCE INC.,

Defendant.

**ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION
AND GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

THE MATTER was referred to the Honorable John J. O'Sullivan, United States Magistrate Judge for a Report and Recommendation on the Parties' Motions for Summary Judgment (D.E. Nos. 164, 172). The Magistrate Judge filed a Report and Recommendation (D.E. No. 189) on March 5, 2015, recommending that summary judgment be entered in favor of Defendant Oxford Health Insurance, Inc. The Court has reviewed the entire file and record, and the Court has made a *de novo* review of the issues that the objections to the Magistrate Judge's Report and Recommendation present. After considering the Parties' cross-motions for summary judgment, it is

ADJUDGED that United States Magistrate Judge John J. O'Sullivan's Report and Recommendation is **AFFIRMED** and **ADOPTED**. Accordingly, it is

ADJUDGED that Defendant's Motion for Summary Judgment is **GRANTED**, and Plaintiff's Motion for Summary Judgment is **DENIED**. The Court already determined that the external reviewer's decision was dispositive as to the medical necessity of Alexandra H.'s request for partial hospitalization, so the Court is now presented with the limited issue of whether the external reviewer of Alexandra H.'s medical files operated under a financial conflict of interest when he made his determination of medical necessity.

After reviewing the record, the Court agrees with the Magistrate that there is no evidence showing that the denial of the Plaintiff's claim would result in a financial gain to the external reviewer, nor is there evidence indicating that the external reviewer was otherwise biased against the Plaintiff. The Court is persuaded that New York's random assignment process of external review shields the reviewer from pressure from insurance companies to decide in their favor. The remainder of the Plaintiff's arguments is an attempt to relitigate the issue of medical necessity, but this Court has already proclaimed its adjudication of this issue to be the law of the case. *Alexandra H. v. Oxford Health Ins., Inc.*, No. 11-23948-CIV, 2014 WL 1659939, at *1 (S.D. Fla. Apr. 25, 2014) (“[T]he Court finds that the external appeal upholding Plaintiff's denial of benefits is conclusive as to the issue of medical necessity, but Plaintiff may conduct discovery as to whether the external reviewer had any conflict of interest that may have biased the decision.”). It is therefore

ADJUDGED that this Case is DISMISSED with prejudice, with each party bearing its own fees and costs. Fed. R. Civ. P. 41(a)(1)(A)(ii). Further, all pending motions are DENIED as MOOT with leave to renew if appropriate.

DONE AND ORDERED in Chambers at Miami, Florida, this 24th day of March, 2015.



FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

United States Magistrate Judge John J. O'Sullivan

Counsel of Record