IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

DIANE KINZEBACH,

Plaintiff,

vs.

NANCY A. BERRYHILL, Acting Commissioner of Social Security,

Defendant.

No. 16-CV-2114-LRR

ORDER

The matter before the court is United States Magistrate Judge Kelly K.E. Mahoney's Report and Recommendation (docket no. 18), which recommends that the court affirm the final decision of Defendant Commissioner of Social Security ("Commissioner") denying Plaintiff Diane Kinzebach's application for Title II disability insurance benefits.

On November 10, 2016, Kinzebach filed a Complaint (docket no. 2), requesting judicial review of the Commissioner's decision to deny her application for disability insurance benefits. On January 13, 2017, the Commissioner filed an Answer (docket no. 8). The matter was briefed and referred to Judge Mahoney on May 26, 2017, for issuance of a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). *See* Plaintiff's Brief (docket no. 14); Defendant's Brief (docket no. 15); Plaintiff's Reply (docket no. 16). On January 19, 2018, Judge Mahoney issued the Report and Recommendation. In the Report and Recommendation, Judge Mahoney advised the parties that "[o]bjections to [the] Report and Recommendation must be filed within fourteen days of service." Report and Recommendation at 19. Neither party has filed objections to the Report and Recommendation, and the time for doing so has passed.

Pursuant to statute, this court's standard of review for a magistrate judge's Report and Recommendation is as follows:

> A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for de novo review of a magistrate judge's Report and Recommendation on dispositive motions when objections are made. Fed. R. Civ. P. 72(b)(3). The Eighth Circuit Court of Appeals has held that it is reversible error for a district court to fail to conduct a de novo review of a magistrate judge's Report and Recommendation when such review is required. *See, e.g.*, *United States v. Lothridge*, 324 F.3d 599, 600 (8th Cir. 2003). The court reviews the unobjected-to portions of the proposed findings or recommendations for "plain error." *See United States v. Rodriguez*, 484 F.3d 1006, 1010-11 (8th Cir. 2007) (noting that, where a party does not file objections to a magistrate's report and recommendation, the party waives the right to de novo review and the court will review the decision for plain error).

In this case, no objections have been filed, and it appears to the court upon review of Judge Mahoney's findings and conclusions that there is no ground to reject or modify them. Therefore, the court **ACCEPTS** Judge Mahoney's Report and Recommendation of January 19, 2018. Accordingly, the Report and Recommendation (docket no. 18) is **ADOPTED** and the final decision of the Commissioner is **AFFIRMED**.

IT IS SO ORDERED.

DATED this 21st day of February, 2018.

LINDA R. READE, JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA