

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

COLLEEN M. MCAULIFFE,

Plaintiff,

v.

**5:09-CV-1428
(FJS/VEB)**

**MICHAEL J. ASTRUE, Commissioner, Social
Security Administration,**

Defendant.

APPEARANCES

OF COUNSEL

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**DENNIS J. CANNING, ESQ.
JOANNE JACKSON, ESQ.
RICHARD A. HILL, JR., ESQ.**

SCULLIN, Senior Judge

ORDER

Currently before the Court is Magistrate Judge Bianchini's January 24, 2011 Report and Recommendation, in which he recommended that this Court grant Plaintiff's motion for judgment on the pleadings, deny Defendant's motion for judgment on the pleadings, reverse Defendant's decision, and remand the case to Defendant for calculation of benefits. *See* Dkt. No. 16 at 23. The parties did not file any objections to those recommendations.

When a party does not object to a magistrate judge's report and recommendation, the court reviews that report and recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Bianchini's January 24, 2011 Report and Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Bianchini's January 24, 2011 Report and Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that Plaintiff's motion for judgment on the pleadings is **GRANTED**; and the Court further

ORDERS that Defendant's motion for judgment on the pleadings is **DENIED**; and the Court further


ORDERS that Defendant's decision is **REVERSED**; and the Court further

ORDERS that this case is **REMANDED** to Defendant for calculation of benefits; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Plaintiff and close this case.

IT IS SO ORDERED.

Dated: February 9, 2011
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge