

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

KONNI LOGAN, an individual,

Plaintiff,

1:12-cv-118-CL

v.

ORDER

KATHLEEN SEBELIUS, Secretary of
Health and Human Services, et al.,

Defendants.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation and the matter is now before me. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Plaintiff filed objections and I have reviewed the file of this case *de novo*. See 28 U.S.C. § 636(b)(1)(c); McDonnell Douglas Corp. v. Commodore Bus. Mach.,

Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). I conclude the Report is correct.

While plaintiff may be correct in stating the decision of the Administrative Law Judge (ALJ) was supported by substantial evidence, that is not the applicable standard of review. Instead, as noted in the Report, the court must review the decision of the Appeals Council to determine whether that decision, as opposed to the decision of the ALJ, is supported by substantial evidence. Because the decision of the Appeals Council here was supported by substantial evidence, that decision is affirmed. See Howard v. Heckler, 782 F.2d 1484, 1486-87 (9th Cir. 1986).

I adopt the Report and Recommendation (#64). Defendants' motion for summary judgment (#55) is GRANTED.

IT IS SO ORDERED.

DATED this 10 day of May, 2013.

A handwritten signature in black ink, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE