

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

MAURA NOONE,

Plaintiff,

v.

**UNITED OF OMAHA LIFE INSURANCE
COMPANY,**

Defendant.

Case No. 3:15-cv-1197-AC

ORDER

Michael H. Simon, District Judge.

Plaintiff Maura Noone (“Noone” or “Plaintif”) seeks judicial review of Defendant United Omaha Life Insurance Company’s (“United” or “Defendant”) denial of her Long Term Disability (“LTD”) benefits. The parties filed cross motions for summary judgment. United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on June 16, 2016. ECF 32. Judge Acosta recommended that the Court grant Noone’s summary judgment motion (ECF 21) and deny United’s summary judgment motion (ECF 20).

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court

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shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” Id.; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. See *Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Act “does not preclude further review by the district judge[] sua sponte . . . under a de novo or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate’s recommendations for “clear error on the face of the record.”

United timely filed objections (ECF 34), to which Noone responded (ECF 35). United objects to the entirety of the Findings and Recommendation. According to United, the Findings and Recommendation (1) improperly ignores or discounts the substantial evidence supporting United’s decision to terminate LTD benefits; (2) fails to apply or misapplies the burden of proof; and (3) incorrectly applies the standard of review. The Court has reviewed de novo Judge Acosta’s Findings and Recommendation, as well as United’s objections, Noone’s response, and the underlying briefing and pleadings. The Court agrees with Judge Acosta’s reasoning regarding the evidence, the burden of proof, and the standard of review. In particular, the Court finds that, contrary to United’s argument, Judge Acosta closely analyzed the facts and circumstances of the case and the various factors that influence a court’s level of skepticism

when a plan administrator has a conflict of interest, as set forth in both *Saffon v. Wells Fargo & Co. Long Term Disability Plan*, 522 F.3d 863 (9th Cir. 2008), and *Abatie v. Alta Health & Life Insurance Co.*, 458 F.3d 955 (9th Cir. 2006). Having reviewed Judge Acosta's analysis and the relevant case law, the Court agrees with Judge Acosta's conclusion that a high level of skepticism was warranted in the review of United's explanation of its decision to terminate Noone's LTD benefits.

The Court **ADOPTS** Judge Acosta's Findings and Recommendation, ECF 32. Noone's Motion for Summary Judgment (ECF 21) is **GRANTED**, and United's Motion for Summary Judgment (ECF 20) is **DENIED**. United is required to reinstate Noone's LTD benefits in accordance with her employee-sponsored LTD plan retroactive to the date on which her LTD benefits ceased with interest.

IT IS SO ORDERED.

DATED this 26th day of July, 2016.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge