

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BRADFORD LONERGAN,

Plaintiff,

v.

PROVIDENCE HEALTH SERVICES,

Defendant.

Case No. 3:20-cv-920-AC

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on November 16, 2020. ECF 26. Judge Acosta recommended that because Plaintiff has not filed an amended complaint in the time allowed by the Court, the Court should dismiss this case without prejudice.¹

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 judge’s findings and recommendations, “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.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, 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

¹ The Court previously dismissed certain claims asserted by Plaintiff with prejudice and dismissed other claims without prejudice, allowing Plaintiff leave to file an amended complaint.

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 judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, 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 judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Acosta’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Acosta’s Findings and Recommendation, ECF 26. This case is dismissed without prejudice. The Court shall enter a Judgment concurrent with this Order.

IT IS SO ORDERED.

DATED this 16th day of December, 2020.

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