

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| JAMES M. SEBASTIAN, | : | |
| | : | CIVIL ACTION |
| v. | : | |
| | : | |
| KATHLEEN SEBELIUS, Secretary of the | : | |
| United States Department of Health and | : | No. 09-1404 |
| Human Services. | : | |

ORDER

AND NOW, this 28th day of February, 2011, after consideration of Plaintiff James Sebastian's Motion for Summary Judgment (Doc. No. 7), Defendant's Cross-Motion for Summary Judgment (Doc. No. 9), and Plaintiff's Response to Defendant's Cross-Motion for Summary Judgment (Doc. No. 10); review of Magistrate Judge Elizabeth T. Hey's Report and Recommendation (Doc. No. 14) and the record in this matter; and de novo review of Plaintiff's Objections to the Magistrate Judge's Report and Recommendation (Doc. No. 19) and Defendant's Memorandum in support of the Magistrate Judge's Report and Recommendation (Doc. No. 20), the Court hereby ORDERS that:

1. Plaintiff's Objections to the Magistrate Judge's Report and Recommendation are OVERRULED;
2. Magistrate Judge Elizabeth T. Hey's Report and Recommendation is APPROVED and ADOPTED;
3. Plaintiff's Motion for Summary Judgment (Doc. No. 7) is DENIED; and
4. Defendant's Cross-Motion for Summary Judgment (Doc. No. 9) is GRANTED.

BY THE COURT:

/S/LEGROME D. DAVIS
Legrome D. Davis, J.