

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>SHIRLEY A. COSTANZI,</b>	:	<b>CIVIL ACTION NO. 1:14-CV-752</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>CAROLYN W. COLVIN, Acting</b>	:	
<b>Commissioner of Social Security,</b>	:	
	:	
<b>Defendant</b>	:	

**ORDER**

AND NOW, this 6th day of November, 2015, upon consideration of the report (Doc. 11) of Magistrate Judge Gerald B. Cohn, recommending the court vacate the decision of the administrative law judge and remand the above-captioned matter for further proceedings with respect to the application for disability insurance benefits of plaintiff Shirley A. Costanzi (“Costanzi”), wherein Judge Cohn concludes that the administrative law judge’s decision is not “supported by substantial evidence,” 42 U.S.C. § 405(g), and finds specifically that the administrative law judge improperly assessed a residual functional capacity with greater capabilities than all submitted medical opinions regarding Costanzi’s physical function, (see Doc. 11 at 19-26), erred in relying on Costanzi’s noncompliance with her recommended course of medical treatment without considering her explanations for noncompliance, (see id. at 26), and failed to explain adequately her rejection of mental limitation opinions authored by numerous treating examining sources in favor of a state agency source opinion, (see id. at 27), and wherein Judge Cohn recommends that the matter be

remanded for full development of the record and a new administrative hearing, and the court noting that the Commissioner of Social Security (“Commissioner”) has objected to the report, (Doc. 12), and Costanzi has filed a response (Doc. 13) in support of Judge Cohn’s recommendations, and following a *de novo* review of the contested portions of the report, see Behar v. Pa. Dep’t of Trans., 791 F. Supp. 2d 383, 389 (M.D. Pa. 2011) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n.3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(C)), and applying a clear error standard of review to the uncontested portions, see Cruz v. Chater, 990 F. Supp. 375, 376-78 (M.D. Pa. 1999), the court finding Judge Cohn’s analysis to be thorough, well-reasoned, and fully supported by the record, and further finding the Commissioner’s objection to be without merit and squarely addressed by the report, it is hereby ORDERED that:

1. The report (Doc. 11) of Magistrate Judge Cohn is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of Shirley A. Costanzi and against the Commissioner as set forth in the following paragraph.
3. The Commissioner’s decision denying the application for disability insurance benefits of Shirley A. Costanzi is VACATED. This matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing, develop the record fully, and evaluate the evidence appropriately in accordance with this order and the report (Doc. 11) of Magistrate Judge Cohn.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania