

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ANTOINETTE SMITH,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 3:16-1844
	:	
v.	:	JUDGE MANNION
	:	
NANCY A. BERRYHILL,	:	
	:	
Defendant	:	

ORDER

Pending before the court is the report of Magistrate Judge Martin C. Carlson which recommends that the plaintiff's request for a new administrative hearing be granted, the final decision of the Commissioner denying the plaintiff's claims be vacated and the matter be remanded to the Commissioner to conduct a new administrative hearing pursuant to sentence four of 42 U.S.C. §405(g) and 42 U.S.C. §1383(c)(3). (Doc. 17). The defendant has waived the opportunity to object to Judge Carlson's report, (Doc. 18), and no objections have been filed by the plaintiff. Upon review, the report will be adopted in its entirety.

When no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v.

Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

In her appeal, the plaintiff argues that the ALJ erroneously assigned great weight to a medical expert opinion concerning her physical health while giving little weight to her mental healthcare providers; the ALJ failed to acknowledge treating psychologist Dr. Arkadiev's medical opinion; and the ALJ failed to properly evaluate all of the plaintiff's medically determinable impairments. In carefully considering the plaintiff's claims, Judge Carlson concludes that the ALJ has not adequately explained the basis for the decision to reject all treating mental health care provider opinions. Moreover, Judge Carlson concludes that the ALJ's finding that the plaintiff is not disabled is not supported by substantial evidence because the ALJ does not explain which evidence concerning the plaintiff's mental health led him to that conclusion. As such, Judge Carlson recommends that the Commissioner's decision be vacated and that the matter be remanded for further consideration by the Commissioner.

The court has reviewed the entire report of Judge Carlson and finds no

clear error of record. The court further agrees with the sound reasoning which led Judge Carlson to his recommendation. As such, the court adopts the reasoning of Judge Carlson as the opinion of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report and recommendation of Judge Carlson, (**Doc. 17**), is **ADOPTED IN ITS ENTIRETY**.
- (2) The plaintiff's request for a new administrative hearing is **GRANTED**.
- (3) The final decision of the Commissioner denying the plaintiff's claims is **VACATED**.
- (4) The matter is **REMANDED** to the Commissioner to conduct a new administrative hearing pursuant to sentence four of 42 U.S.C. §405(g) and 42 U.S.C. §1383(c)(3).
- (5) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: March 22, 2018

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