

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Debra J. Morse,)
)
Plaintiff,)
)
v.)
)
Nancy A. Berryhill,)
Commissioner of Social Security)
Administration,)
)
Defendant.)
_____)

Civil Action No.: 9:16-cv-03683-JMC

ORDER

This matter is before the court for a review of the Magistrate Judge’s Report and Recommendation filed on December 5, 2017, addressing Plaintiff Debra J. Morse’s claim for disability benefits. (ECF No. 15.) The Administrative Law Judge (“ALJ”) determined that, although Plaintiff does suffer from the “severe” impairment of Chiari malformation, anxiety, and depression, Plaintiff could perform other jobs existing in significant numbers in the national economy with her limitations, and was therefore not entitled to disability benefits during the time period at issue. (*Id.* at 9.) The Appeals Council denied Plaintiff’s request for a review of the ALJ’s decision, thereby making the determination of the ALJ the final decision of the Commissioner. (*Id.* at 2.)

The Magistrate Judge concluded that the Appeals Council committed reversible error in its evaluation of the evidence submitted by Plaintiff on appeal, thereby requiring a remand of this case for further consideration of Plaintiff’s claim. (*Id.* at 10); *see Meyer v. Astrue*, 662 F.3d 700, 704 (4th Cir. 2001) (stating that where a claimant submits additional evidence that was not before the ALJ when requesting review by the Appeals Council, if the evidence is new and material, the Appeals Council is to evaluate the entire record, including the new and material evidence to see if

it warrants any change in the ALJ's decision). The Report and Recommendation sets forth the relevant facts and legal standards which this court incorporates herein without a recitation. (ECF No. 15.)

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The parties were fully apprised of their right to object to the Report and Recommendation. (ECF No. 15 at 18.) On December 15, 2017, the Commissioner filed Defendant's Notice of Not Filing Objections to the Report and Recommendation wherein she stated her intention not to file any objections. (ECF No. 17.) In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1);

Thomas v. Arn, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 15) and incorporates it herein. It is therefore ordered that the Commissioner's decision be **REVERSED** and **REMANDED** for further administrative action in accordance with 42 U.S.C. § 405(g).

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

January 18, 2018
Columbia, South Carolina