

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

RANDY WOOD,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-6502

NANCY A. BERRYHILL,  
Acting Commissioner of the  
Social Security Administration,

Defendant.

**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Defendant's Partial Motion to Dismiss (ECF No. 11) pursuant to Federal Rule 12(b)(6). This case involves a challenge to the Social Security Administration's redetermination process found in 42 U.S.C. § 405(u). A full discussion of Plaintiff's background and disability can be found in this Court's previous order denying a preliminary injunction. See Mem. Op. & Order, ECF No. 19, at 1-2.

Plaintiff's challenges to the redetermination process replicate similar legal challenges brought to this Court in *Robertson v. Berryhill*, Civ. No. 3:16-3846 (S.D.W. Va.), in *Dillon v. Berryhill*, Civ. No. 2:16-4330 (S.D.W. Va.), and in *Milam v. Berryhill*, Civ. No. 2:16-6002 (S.D.W. Va.). The Court granted the Acting Commissioner's motions to dismiss in all of these cases, with detailed analyses in *Robertson* and *Dillon*. See *Robertson*, ECF No. 40; *Dillon*, ECF No. 13. As these opinions cover all of Plaintiff's challenges, the Court finds it unnecessary to repeat the analysis here. Therefore, the Court incorporates the opinions from *Robertson* and

Dillon herein and directs the parties to those opinions for a full discussion on why Plaintiff's procedural challenges fail to state a claim.

Accordingly, the Court **GRANTS** Defendant's Partial Motion to Dismiss (ECF No. 11). As the Defendant interpreted the complaint to include a substantive challenge regarding the Administrative Law Judge's final determination, the Court will allow this claim to continue. See Def. 's Partial Mot. to Dismiss, ECF No. 11, at 4 n.3. Whether the decision to terminate Plaintiff's benefits was based on substantial evidence, therefore, remains pending. The Court **DIRECTS** the Clerk to refer the remaining claim to the magistrate judge pursuant to this Court's Standing Order (ECF No. 3).

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER:        March 28, 2017

  
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ROBERT C. CHAMBERS, CHIEF JUDGE