

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Wiley Y. Daniel

Civil Action No. 15-cv-02675-WYD

KIMBERLY ANN HERMAN,

Plaintiff,

v.

CAROLYN COLVIN, acting Commissioner of Social Security,

Defendant.

ORDER GRANTING SENTENCE SIX REMAND

Daniel. J.

This matter is before me on Defendant's Unopposed Motion to Remand the Case to the Agency Pursuant to Sentence Six of 42 U.S.C. § 405(g). (ECF No. 16). I grant the motion and REMAND the case to the agency.

Sentence six of 42 U.S.C. § 405(g) provides that the Court may, "on motion of the Commissioner of Social Security made for good cause shown before" she files her answer, remand the case to the Commissioner for further action. The answer has not yet been filed in this case.

The Social Security Administration's Appeals Council has determined that a remand is appropriate at this time because at the administrative hearing, the Administrative Law Judge (ALJ) stated that the F section of the medical records contained 24 items with a page count of 1,216 pages. However, the F section of the electronic folder only contains Exhibits 1F-11F, and the decision only discussed Exhibits 1F-11F. Moreover, the certified record contains only 893 pages, which is also inconsistent with the 1,216 pages in the F section as the ALJ noted at the hearing. Thus, a discrepancy exists between the ALJ's statements at the administrative hearing

and the evidence in the electronic folder and the evidence discussed in the decision. Further clarification regarding the number of exhibits and pages in the record is necessary to determine whether the record needs to be supplemented with additional medical records that were not exhibited or included in the electronic file.

Upon receipt of the Court's remand order, the Appeals Council will remand the case to an ALJ who will be instructed to clarify the number of exhibits and total number of pages that are in the F section and, if necessary, to supplement the record with any missing exhibits. The ALJ shall provide the claimant with an opportunity to update the evidence of record in order to complete the administrative record in accordance with the regulatory standards regarding existing medical evidence.

Accordingly, it is

ORDERED that Defendant's Unopposed Motion to Remand the Case to the Agency Pursuant to Sentence Six of 42 U.S.C. § 405(g) (ECF No. 16) is **GRANTED**. **This matter is remanded pursuant to sentence six of 42 U.S.C. § 405(g) based on the missing records, and, as such, the Court will not enter final judgment and will retain jurisdiction over this matter. Final judgment shall not enter until such time as the remand proceedings are completed and the matter returns to this Court. *McGraw v. Barnhart*, 450 F.3d 493, 496 n.1 (10th Cir. 2006).**

Dated: February 26, 2016

BY THE COURT:

Wiley Y. Daniel
WILEY Y. DANIEL,
SENIOR U.S. DISTRICT JUDGE