

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

MAR 15 2016


CLERK

BRIAN J. COURNOYER,

Plaintiff,

vs.

CAROLYN W. COLVIN,
Commissioner of Social Security,

Defendant.

CIV 15-4084

ORDER

This Court referred the case to United States Magistrate Judge Duffy for the purpose of issuing a Report and Recommendation. The Magistrate Judge has recommended that the Commissioner's denial of benefits be reversed and remanded for reconsideration pursuant to 42 U.S.C. § 405(g), sentence four.

A sentence four remand is proper when the district court makes a substantive ruling regarding the correctness of the Commissioner's decision and remands the case in accordance with such ruling. *Buckner v. Apfel*, 213 F.3d 1006, 1010 (8th Cir. 2000). Remand with instructions to award benefits is appropriate "only if the record overwhelmingly supports such a finding." *Buckner* at 1011.

Even though no objections have been filed, the Court has carefully conducted a *de novo* review of the Magistrate Judge's Report and Recommendation and the record of the administrative proceedings including Defendant's Memorandum in Support of Defendant's Motion for Order Affirming the Decision of the Commissioner and in Response to Plaintiff's Motion. After having reviewed the record, the Court agrees with the Magistrate Judge's Report and Recommendation. In particular, the Court finds that the failure of the Administrative Law Judge to develop the medical

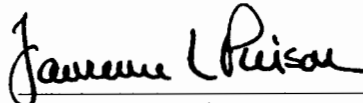
record was prejudicial to Plaintiff. Accordingly,

IT IS ORDERED:

1. That the Magistrate Judge's Report and Recommendation, Doc. 16, is ADOPTED by the Court.
2. That Plaintiff's Motion to Reverse Decision of the Commissioner, Doc. 11, is GRANTED.
3. That the Motion to Affirm Commissioner's Decision, Doc. 13, is DENIED.
4. That the Commissioner's decision is REVERSED under sentence four of 42 U.S.C. § 405(g) and the case is REMANDED to the Commissioner for reconsideration pursuant to 42 U.S.C. § 405(g), sentence four.

Dated this 15th day of March, 2016.

BY THE COURT:



Lawrence L. Piersol
United District Court Judge

ATTEST:

JOSEPH HAAS, Clerk

By


Deputy