

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

MARJORIE ELAINE FUDGE

V.

**NANCY A. BERRYHILL,
ACTING COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION**

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A-16-CV-908-AWA

MEMORANDUM OPINION AND ORDER OF REMAND

After consideration of Defendant’s Unopposed Motion to Reverse with Remand and Enter Judgment (Dkt. No. 19), the Court finds that the Motion is well-taken and should be granted. Therefore, the Court, **ORDERS** the above-captioned matter **REVERSED** and **REMANDED** under the fourth sentence of 42 U.S.C. § 405(g) to the Commissioner of Social Security for the purpose of conducting further administrative proceedings.

The Court finds that a sentence four remand under § 405(g) is appropriate in this case in order to ensure that the Commissioner properly considers Plaintiff’s claim of disability. *See Buckner v. Apfel*, 213 F.3d 1006, 1010 (8th Cir. 2000) (finding that district court’s remand should have been pursuant to sentence four, where purpose of the remand was to prompt additional fact finding and further evaluation of the existing facts); *Morris v. Apfel*, 14 F. Supp.2d 1134, 1135 (D. Neb. 1998) (sentence four remand appropriate where government conceded that remand was necessary to ensure proper consideration of plaintiff’s claim, and where Appeals Council failed to address certain medical evidence). On remand, an ALJ will evaluate the onset, severity, and limiting effects of Plaintiff’s mental impairments, with particular attention to the medical opinion evidence regarding these issues.

A district court remanding a case pursuant to sentence four of § 405(g) must enter judgment in the case, and may not retain jurisdiction over the administrative proceedings on remand. *Shalala v. Shafer*, 509 U.S. 292, 297 (1993); *Istre v. Apfel*, 208 F.3d 517, 520-521 (5th Cir. 2000) (a sentence four remand must include a substantive ruling affirming, modifying or reversing the Secretary's decision). Therefore, **IT IS FURTHER ORDERED** that the Clerk **ENTER JUDGMENT** in this case on behalf of the Plaintiff and that the Clerk's Office **CLOSE** this cause of action.

SIGNED this 9th day of February, 2017.

A handwritten signature in black ink, appearing to read "A. Austin", written over a horizontal line.

ANDREW W. AUSTIN
UNITED STATES MAGISTRATE JUDGE