

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DAVID HARDY,
Plaintiff,

v.

Case No. 09-1201-JTM

MICHAEL J. ASTRUE,
COMMISSIONER OF
SOCIAL SECURITY,
Defendant.

ORDER

This matter is before the court on defendant's motion to remand. (Dkt. No. 9). Plaintiff filed his complaint on June 26, 2009. (Dkt. No. 1). On August 12, 2009, defendant filed a motion to remand. (Dkt. No. 9). Plaintiff did not file a response. Therefore the motion will be considered and decided as an uncontested motion. D.Kan.Rule 7.4

Defendant requests a sentence six remand based on: 1) the Social Security Administration Appeals Council determined the administrative record is incomplete; 2) the hearing office discovered medical evidence that was not considered by the Administrative Law Judge ("ALJ") and 3) the State agency found plaintiff was disabled effective 2/24/09, the date he filed a subsequent SSI claim, and six weeks after the ALJ's decision.

Defendant has shown good cause exists to remand the claim to the Commissioner for appropriate action to produce a record pursuant to sentence six of 42 U.S.C. § 405(g).

The Appeals Council will remand the case for a *de novo* hearing and the ALJ shall be instructed to provide full disclosure of all medical and other evidence considered in reaching his decision by identifying all of the evidence in all sections of the claim file on a complete list of exhibits, including the evidence in the electronic claim file that was previously omitted from the official paper record. The ALJ shall be directed to obtain medical expert evidence to address the

onset of disability prior to 2/24/09, and to reevaluate the severity of the claimant's physical impairments and his residual functional capacity in light of the expanded record.

IT IS THEREFORE ORDERED this 24th day of September, 2009, that defendant's Motion to Remand (Dkt. No. 9) is granted.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE