

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

STEPHANIE LYNN STEIGERWALD)	CASE NO.: 1:17-CV-1516
)	
Plaintiff,)	JUDGE JAMES S. GWIN
)	MAGISTRATE JUDGE DAVID RUIZ
v.)	
)	
ANDREW SAUL,)	<u>STATUS REPORT</u>
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	
Defendant. ¹)	

Pursuant to the Court's April 4, 2019 Order, ECF No. 104, Defendant respectfully submits the following status report, informing the Court of SSA's progress in completing the windfall-offset recalculations for the Class.

Recalculations are in progress for all class members.² As of July 17, 2019, 27,695 cases are awaiting quality review after completion of Part 1.³ An additional 92,737 cases are being processed in Part 1. There are 3,828 cases awaiting quality review after completion of Part 2. An additional 1,643 cases are being processed in Part 2. Finally, 426 cases are being processed in

¹ Andrew Saul is now the Commissioner of Social Security and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). See also section 205(g) of the Social Security Act, 42 USC § 405(g) (action survives regardless of any change in the person occupying the office of Commissioner of Social Security).

² Four of the 129,695 class members were found to be duplicates, so the total class number is 129,691 individuals.

³ The windfall-offset recalculation is completed in three distinct phases, requiring coordination between agency field offices and processing centers. The steps required for Part 1 of the recalculation are set forth in Janet Walker's February 21, 2019 declaration in paragraphs 15 through 20; Part 2 is explained in paragraphs 21 through 29; and Part 3 of the recalculation process is expounded in paragraphs 30 through 41. See ECF No. 96-2. The quality review process is also described in paragraph 9 of Janet Walker's April 2, 2019 declaration. See ECF No. 102-1.

Part 3.

As of July 17, 2019, SSA has completed⁴ 3,382 recalculations. Of those 3,382 recalculations, underpayments were due in 1,886 cases, totaling approximately \$2,680,000 prior to withholding for payment of class counsel's fee. The highest underpayment was \$16,024.40. No underpayments were due in 1,441 cases. Fifty-five overpayments have been assessed.

Additionally, in the course of performing recalculations, SSA has determined that a small number of putative class members it identified in 2018 are not subject to the harm that is the basis of this suit because they are not owed a windfall-offset recalculation. Specifically, these individuals do not have a concurrent benefits period and/or do not have a corresponding attorneys' fee, meaning that no recalculation is due. SSA has thus far identified 210 individuals who fit this description. Individuals who are not owed a windfall-offset recalculation nonetheless receive a notice stating that no recalculation is due.

⁴ Because fees for class counsel have not yet been determined, "completed" in this context refers to the completion of the recalculation and the issuance of any underpayment, if due, while withholding 20% of the underpayment for payment of potential attorney fees. However, in cases in which the class member is deceased, incarcerated, or otherwise not able to receive the underpayment due, the agency has calculated the underpayment and withheld 20% for potential attorney fees, but may not have released a payment pending identification of an individual eligible to receive the payment.

Respectfully submitted,

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s/ Ruchi V. Asher

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of July, 2019, a copy of the foregoing Status Report was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Ruchi V. Asher

Ruchi V. Asher

Assistant U.S. Attorney