

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.)	

Pursuant to the Court's April 4, 2019 Order, ECF No. 104, and the Sixth Circuit's July 23, 2019 Order, 6th Cir. ECF No. 20-2, Defendant respectfully submits the following status report, informing the Court of SSA's progress in completing the windfall-offset recalculations for the Class. SSA also updates the Court with details relating to the agency's response to the COVID-19 pandemic.

1. Recalculations are in progress for all class members.¹ As of May 7, 2020, 0 cases are awaiting quality review after completion of Part 1.² An additional 37,733 cases are being processed in Part 1. There are 0 cases awaiting quality review after completion of Part 2. An

¹ Four of the 129,695 class members were found to be duplicates, so the total class number is 129,691 individuals.

² 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.

additional 6,003 cases are being processed in Part 2. Finally, 11,078 cases are being processed in Part 3.

As of May 7, 2020, SSA has completed³ 74,877 recalculations. Of those 74,877 recalculations, underpayments were due in 40,263 cases, totaling approximately \$ 59,170,000 prior to withholding for payment of class counsel's fee. The highest underpayment was \$53,894.34. No underpayments were due in 31,475 cases. SSA has assessed 2,481 overpayments.

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 an estimated 658 individuals who fit this description. Individuals who are not owed a windfall-offset recalculation will nonetheless receive a notice stating that no recalculation is due.

2. In its March 26, 2020 status report, SSA also stated that it would continue to determine the effect the pandemic may have on the agency's workloads and available resources. As SSA has also explained, the recalculation process requires a manual review of class members' Title II and Title XVI records to ensure the accuracy of the information used to perform the recalculation and to develop any pending actions that may affect class members' benefit

³ 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.

amounts. See Second Walker Decl., RE 96-2, Page ID ## 1239-1242; Fourth Walker Decl., RE 118-1, Page ID ## 2318-2321. Title XVI records terminate after 12 months of inactivity, meaning that due to the age of class members' records, SSA will need to reconstruct most class members' Title XVI records before performing the recalculation. See Second Walker Decl., RE 96-2, Page ID ## 1240-1242; Walker Reply Decl., RE 99-1, Page ID # 1333; Fourth Walker Decl., RE 118-1, Page ID ## 2320-2321. In some cases, technicians must request that SSA's central folder storage location pull and mail paper file folders from the archives. See Second Walker Decl., RE 96-2, Page ID # 1241; Fourth Walker Decl., RE 118-1, Page ID # 2321.

As our March 26 status report explained, on Tuesday, March 17, SSA suspended face-to-face services in order to protect the public and its employees. Due to the COVID-19 pandemic, SSA also significantly limited employee access to SSA facilities, which means employees cannot go into the office to review paper folders. Paper folders cannot be shipped to the personal addresses of employees. As a result of this limited access, technicians have been unable to obtain and review the paper file folders necessary to process certain class members' recalculations. SSA will otherwise continue processing recalculations and continue reporting its case processing progress by submitting its Biweekly Status Reports.

Respectfully submitted,

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