

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.

Recalculations are in progress for all class members.¹ As of January 13, 2021, 0 cases are awaiting quality review after completion of Part 1.² No additional cases are being processed in Part 1. There are 0 cases awaiting quality review after completion of Part 2. An additional 1

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.

case is being processed in Part 2. Finally, 1 case is being processed in Part 3.

As of January 13, 2020, SSA has completed³ 129,689 recalculations. Of those 129,689 recalculations, underpayments were due in 71,108 cases, totaling approximately \$107,530,000.00 prior to withholding for payment of class counsel's fee. The highest underpayment was \$70,895.00. No underpayments were due in 56,415 cases. SSA has assessed 364 overpayments.

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 1,802 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.

In December 2020, SSA started reviewing administrative appeals of the completed recalculations, wherein claimants are afforded an opportunity to challenge the recalculation of benefits through administrative proceedings. *See* 20 C.F.R. § 404.902. SSA had begun this review process because the recalculations had neared completion and the agency was newly able to divert resources to those administrative appeals. In reviewing these administrative appeals,

³ "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 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 attorney fees, but may not have released a payment pending identification of an individual eligible to receive the payment. The number of cases reported as "completed" excludes cases in which SSA completed the recalculation, issued a notice, and is now reviewing the recalculations in Parts 2 and 3.

the agency found that some of these appeal requests could be characterized as class members’ objections to class counsel’s potential 20 percent fee award – many of these objections were from prior to this court’s fee decision. Insofar as the administrative appeals are objections to any potential 20 percent fee award or challenges to the court-ordered fee, the agency cannot grant that aspect of the appeal request. As SSA reviews class members’ appeal requests, the agency will therefore provide class counsel a copy of those appeal requests relating to the fee award.

Respectfully submitted,

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