

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 March 26, 2020, 0 cases are awaiting quality review after completion of Part 1.² An additional 58,124 cases are being processed in Part 1. There are 0 cases awaiting quality review after completion of Part 2.

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.

An additional 5,220 cases are being processed in Part 2. Finally, 6,771 cases are being processed in Part 3.

As of March 26, 2020, SSA has completed³ 59,576 recalculations. Of those 59,576 recalculations, underpayments were due in 31,907 cases, totaling approximately \$ 46,850,000 prior to withholding for payment of class counsel's fee. The highest underpayment was \$53,894.34. No underpayments were due in 24,716 cases. SSA has assessed 2,453 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 500 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 light of the global COVID-19 crisis, SSA has taken the unprecedented step of suspending in-person services – including face-to-face services to the public in field offices and hearing offices. See SSA, Coronavirus Disease (COVID-19), <https://www.ssa.gov/coronavirus/> (updated Mar. 25, 2020). SSA is focusing on providing the most critical services by mail, phone, and online to those most in need, which include older Americans and those with underlying

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.

medical conditions. SSA is also taking additional steps to protect its employees and help stop the spread of COVID-19, maximizing social distancing, including significantly limiting employee access to SSA facilities for health and safety only and moving rapidly toward a virtual work environment.

The COVID-19 pandemic has impacted SSA's operations, as a whole, and as a result may impact the agency's progress in processing class members' recalculations. SSA has not yet determined precisely what effect the pandemic may have on the agency's workloads and available resources. SSA will continue reporting its case processing progress by submitting its Biweekly Status Reports.

Respectfully submitted,

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