

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

**Kimberly K. Coleman v. Frank Bisignano, Commissioner of Social
Security**

Coleman · No. 20-cv-653-wmc · Decided March 5, 2026

SUMMARY

The Western District of Wisconsin granted plaintiff’s counsel’s petition for attorney fees under 42 U.S.C. § 406(b)(1) following a sentence-four remand in a Social Security case. The court approved a gross fee of \$38,167.03, allowed counsel to retain \$13,643.96 in previously awarded EAJA fees, and directed disbursement of the net \$24,523.07 from plaintiff’s past-due benefits.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	March 5, 2026
DOCKET	20-cv-653-wmc
DISPOSITION	other
PROCEDURAL POSTURE	After the court remanded the Social Security case to the Commissioner under sentence four of 42 U.S.C. § 405(g), plaintiff's attorney petitioned for an award of fees under 42 U.S.C. § 406(b)(1).
STANDARD OF REVIEW	The court assessed whether the requested contingent fee was reasonable under 42 U.S.C. § 406(b)(1), considering the time expended, the favorable result, and counsel's contingent-fee representation.
PRECEDENTIAL VALUE	Unpublished district court order
PARTIES	Kimberly K. Coleman v. Frank Bisignano, Commissioner of Social Security

TOPICS

attorney fees

judicial review of agency action

administrative law

remedies

civil procedure

PRACTICE AREAS

Social Security

administrative law

attorney fees

QUESTIONS PRESENTED

1. Whether the requested attorney fee under 42 U.S.C. § 406(b)(1) was reasonable and could be approved in an amount not exceeding 25 percent of the claimant's past-due benefits.
2. How the prior EAJA fee award should be treated in relation to the § 406(b) fee award.

HOLDINGS

1. The court approved a gross representative fee of \$38,167.03 under § 406(b)(1), concluding that the requested fees were reasonable in light of the time spent, the favorable result obtained, and counsel's contingent-fee representation.
2. Counsel may retain the previously awarded \$13,643.96 in EAJA fees in partial satisfaction of the § 406(b) award, but may not recover both awards; the remaining \$24,523.07 may be disbursed from Coleman's withheld past-due benefits.

KEY QUOTATIONS

“Of course, counsel is not allowed to recover both awards.”

“Section 406(b) has been harmonized with the EAJA; though fee awards may be made under both the EAJA and § 406(b), a claimant's attorney must refund to the claimant the amount of the smaller fee.”

FACTUAL BACKGROUND

The court had previously remanded Coleman's Social Security claim under sentence four of 42 U.S.C. § 405(g). On remand, Coleman was awarded Supplemental Security Income and past-due benefits. Her attorney sought a gross representative fee of \$38,167.03, equal to the applicable 25 percent amount, while crediting a prior EAJA award of \$13,643.96 and requesting a net disbursement of \$24,523.07.

PROCEDURAL HISTORY

On July 22, 2021, the court entered an order and judgment remanding the case to the Commissioner for further proceedings pursuant to the parties' stipulation. Plaintiff subsequently received Supplemental Security Income and past-due benefits. Her attorney sought approval of a gross § 406(b) fee of \$38,167.03, with credit for a prior EAJA award; the Commissioner did not object. The court granted the fee petition on March 5, 2026.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002)

OPINION

FOR THE WESTERN DISTRICT OF WISCONSIN KIMBERLY K. COLEMAN, Plaintiff,
ORDER v. 20-cvB653-wmc FRANK BISIGNANO, Commissioner of Social Security, Defendant.
On July 22, 2021, the court issued an order and judgment remanding this case to the commissioner for further proceedings under sentence four of 42 U.S.C. ' 405(g) pursuant to stipulation of the parties. Now before the court is plaintiff Kimberly K. Coleman's attorney's petition for fees pursuant to § 406(b)(1) in the gross amount of \$38,167.03.

(Dkt. #43.) Defendant does not object to this motion. (Dkt. #45.) Fees under 42 U.S.C. ' 406 As part of its judgment, a court may allow "a reasonable fee... not in excess of 25 percent of the... past-due benefits" awarded to the claimant. § 406(b)(1)(A).

The fee is payable "out of, and not in addition to, the amount of [the] past-due benefits." Id. Counsel asks the court to approve an attorney fee award in the net amount of \$24,523.07, which represents the difference between the prior EAJA fee award and 25 percent of the Supplemental Security Income that was awarded to plaintiff in past-due benefits.¹ Having considered the supporting materials filed by plaintiff's attorney, and hearing no objection from plaintiff or 1 The court notes that this 25 percent fee award is \$38,167.03; however, counsel was previously defendant, the court will grant the motion.

The fees requested by counsel are reasonable in light of the time he and members of his firm spent on this case and the favorable result he obtained for plaintiff while working on a contingency basis. Of course, counsel is not allowed to recover both awards. Section 406(b) has been harmonized with the EAJA; though fee awards may be made under both the EAJA and § 406(b), a claimant's attorney must refund to the claimant the amount of the smaller fee.

Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002) (explaining that "an EAJA award offsets an award under Section 406(b)"). ORDER IT IS ORDERED that: 1. Counsel's motion for attorney fees under 42 U.S.C. § 406(b)(1) (dkt. #45) is GRANTED. 2.

The court approves representative fees under § 406(b) in the gross amount of \$38,167.03. 3. Counsel may retain the \$13,643.96 previously awarded in EAJA fees in partial satisfaction of the § 406(b) award. 4. The net amount of \$24,523.07 shall be disbursed by the Commissioner from any of plaintiff's past-due benefits being withheld and in accordance with agency policy.

Entered this 5th day of March, 2026. BY THE COURT: /s/

WILLIAM M. CONLEY District Judge