

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

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

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