

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
INDIANA, FORT WAYNE DIVISION

Thomas A. Kuemmel, Jr. v. Frank Bisignano, Commissioner of the
Social Security Administration

Kuemmel · No. 1:20-CV-239-TLS · Decided May 14, 2026

SUMMARY

The United States District Court for the Northern District of Indiana granted the plaintiff’s attorney’s motion for supplemental attorney fees under 42 U.S.C. § 406(b). The court awarded \$8,695.25 based on dependent benefits awarded after remand, finding the requested fee reasonable and requiring the previously awarded EAJA fees to offset the § 406(b) award.

CASE DETAILS

COURT	United States District Court for the Northern District of Indiana, Fort Wayne Division
WRITING FOR THE COURT	Theresa L. Springmann
JURISDICTION	United States District Court for the Northern District of Indiana, Fort Wayne Division
DECIDED	May 14, 2026
DOCKET	1:20-CV-239-TLS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's attorney moved under 42 U.S.C. § 406(b) for a supplemental award of attorney fees based on past-due dependent benefits awarded after the Court previously remanded the Social Security case.
STANDARD OF REVIEW	The Court reviewed the requested fee for reasonableness under 42 U.S.C. § 406(b), beginning with the contingency-fee award and considering the character of the representation, results achieved, claimant satisfaction, counsel's expertise and efforts, undue delay or overreaching, risk of nonrecovery, and the effective hourly rate.
PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Thomas A. Kuemmel, Jr. v. Frank Bisignano, Commissioner of the Social Security Administration

TOPICS

attorney fees administrative law judicial review of agency action remedies civil procedure

PRACTICE AREAS

Social Security attorney fees administrative law

QUESTIONS PRESENTED

1. Whether counsel was entitled to a supplemental attorney-fee award under 42 U.S.C. § 406(b) based on past-due dependent benefits awarded after remand.
2. Whether the requested \$8,695.25 fee was reasonable and within the statutory twenty-five-percent limitation.

HOLDINGS

1. A court may award a reasonable fee under § 406(b) to an attorney who successfully represented a claimant in federal court, subject to the statutory cap based on past-due benefits, including the past-due dependent benefits at issue here.
2. The requested \$8,695.25 supplemental fee was reasonable and should be awarded.

KEY QUOTATIONS

“For the reasons stated below, the fees motion is GRANTED.”

“The reasonableness analysis considers the “character of the representation and the results the representative achieved.””

FACTUAL BACKGROUND

Counsel represented the plaintiff in federal-court review of the Commissioner's unfavorable disability-benefits decision. After remand, the Social Security Administration awarded the plaintiff \$230,697.96 in past-due benefits and later awarded the plaintiff's two children dependent benefits totaling \$34,781.00. Counsel had already received \$57,566.99 under § 406(b) and sought an additional \$8,695.25, equal to twenty-five percent of the dependent benefits.

PROCEDURAL HISTORY

The Court previously reversed the Commissioner's unfavorable decision and remanded for further proceedings, and awarded attorney fees under the Equal Access to Justice Act. On remand, the Social Security Administration awarded the plaintiff and his two children past-due benefits. The attorney then sought an additional § 406(b) fee of \$8,695.25, which the Court granted.

DISPOSITION

other

CASES CITED

- Culbertson v. Berryhill, 586 U.S. 53, 55 (2019)
- Gisbrecht v. Barnhart, 535 U.S. 789, 792, 794, 796, 808 (2002)
- Arnold v. O'Malley, 106 F.4th 595, 601 (7th Cir. 2024)
- Long v. Saul, No. 3:19-CV-155, 2021 WL 2588110, at *1 (N.D. Ind. June 24, 2021)
- Koester v. Astrue, 482 F. Supp. 2d 1078, 1083 (E.D. Wis. 2007)

OPINION

Thomas A. Kuemmel, Jr. v. Frank Bisignano, Commissioner of the Social Security Administration
PER CURIAM.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

THOMAS A. KUEMMEL, JR.,

Plaintiff,

v. CAUSE NO.: 1:20-CV-239-TLS

FRANK BISIGNANO, Commissioner of the Social Security Administration, Defendant.

OPINION AND ORDER

This matter is before the Court on a Plaintiff's Attorney's Motion for an Award of Attorney Fees Under 42 U.S.C. § 406(b) [ECF No. 39], filed on May 7, 2026. The Commissioner neither supports nor opposes the motion. ECF No. 41. For the reasons stated below, the fees motion is GRANTED.

BACKGROUND

The Plaintiff's attorney represented the Plaintiff before this Court in a judicial review of the Commissioner's unfavorable decision on the Plaintiff's application for disability insurance benefits. The Court reversed and remanded for further proceedings, ECF No. 31, and awarded attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, ECF No. 35. On remand, the Social Security Administration issued a Notice of Award entitling the Plaintiff to past-due benefits of \$230,697.96, twenty-five percent of which was \$57,567.00. See ECF Nos. 39-9; 39-10. The Court granted the Plaintiff's attorney an award of attorney fees under 42 U.S.C. § 406(b) in the amount of \$57,566.99 with the Plaintiff's attorney to refund to the Plaintiff the \$16,769.40 in EAJA fees previously awarded and received by counsel in this case. ECF No. 38. On June 16, 2025, and January 20, 2026, the Social Security Administration issued Notices of Awards for dependent benefits to the Plaintiff's two children in the total amount of \$34,781.00 based upon the Plaintiff's earnings records. ECF No. 39-7, p. 1; ECF No. 39-8, p. 1. The Plaintiff's attorney now seeks payment of a supplemental fee under 42 U.S.C. § 406(b) in the amount of \$8,695.25, which is twenty-five percent of the past-due dependent benefits awarded.

ANALYSIS

The Social Security Act allows for a reasonable fee to be awarded both for representation at the administrative level, see 42 U.S.C. § 406(a), as well as representation before the Court, see *id.* § 406(b). *Culbertson v. Berryhill*, 586 U.S. 53, 55 (2019) (quoting *Gisbrecht v. Barnhart*, 535 U.S. 789, 794 (2002)). Under § 406(b), the Court may award a reasonable fee to the attorney who has successfully represented the claimant in federal court, not to exceed twenty-five percent of the past-due benefits to which the social security claimant is entitled. 42 U.S.C. § 406(b)(1)(A); *Gisbrecht*, 535 U.S. at 792. The reasonableness analysis considers the “character of the representation and the results the representative achieved.” *Gisbrecht*, 535 U.S. at 808. For this analysis, a district court must begin with the contingency award as its polestar and consider whether that amount should be reduced because it is unwarranted based on relevant factors, such as the claimant’s satisfaction with their attorney’s representation, the attorney’s expertise and efforts expended, whether the attorney engaged in any undue delay or overreaching, the uncertainty of recovery and risks of an adverse outcome, and how the effective hourly rate compares to others in the field and jurisdiction. To be sure, this list is not meant to be exhaustive. Moreover, the inquiry is case-specific, and it will not produce the same results in every case. *Arnold v. O’Malley*, 106 F.4th 595, 601 (7th Cir. 2024) (cleaned up). An award of EAJA fees under 28 U.S.C. § 2412 offsets an award under § 406(b). *Gisbrecht*, 535 U.S. at 796. Here, the combined benefits to the Plaintiff and her children total \$265,048.96. The requested amount in attorney’s fees is consistent with the contingency agreement. The total gross fee paid to the Plaintiff’s attorney for the work performed at the federal court level would be \$66,262.24 when combining the sum of the fee previously awarded of \$57,566.99 and the fee requested in the instant motion of \$8,695.25. Counsel represents that 78.05 attorney hours were spent in federal court on this case, resulting in an effective hourly rate of \$848.92. See Pl. Mot. 2, ECF No. 39. This hourly rate is reasonable given the contingent nature of this case, the favorable past-due benefit award, and the benefit the Plaintiff will receive in future payments. See *Long v. Saul*, No. 3:19-CV-155, 2021 WL 2588110, at *1 (N.D. Ind. June 24, 2021) (noting that an hourly rate of \$1,711.96 is within the range of rates approved by courts); *Koester v. Astrue*, 482 F. Supp. 2d 1078, 1083 (E.D. Wis. 2007) (collecting cases showing that district courts have awarded attorney’s fees with hourly rates ranging from \$400 to \$1,500).

CONCLUSION

For the reasons stated above, the Court hereby GRANTS the Plaintiff’s Attorney’s Motion for an Award of Attorney Fees Under 42 U.S.C. § 406(b) [ECF No. 39], and AWARDS attorney fees under 42 U.S.C. § 406(b) in the amount of \$8,695.25. SO ORDERED on May 14, 2026. s/ Theresa L. Springmann

JUDGE THERESA L. SPRINGMANN

UNITED STATES DISTRICT COURT

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