

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Amanda M. V. v. Frank Bisignano, Acting Commissioner of Social Security

Amanda M. V. · No. 1:24-cv-00089-KRS · Decided December 31, 2025

SUMMARY

The United States District Court for the District of New Mexico granted Plaintiff’s motion for \$11,504.00 in attorney fees under 42 U.S.C. § 406(b) following a favorable Social Security disability benefits determination after remand. The court found the representation adequate, the fee request timely and reasonable, and ordered counsel to refund the previously awarded \$6,695.40 in EAJA fees to Plaintiff.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of New Mexico                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Kevin R. Sweazea                                                                                                                                                                                                                                                             |
| JURISDICTION          | United States District Court for the District of New Mexico                                                                                                                                                                                                                  |
| DECIDED               | December 31, 2025                                                                                                                                                                                                                                                            |
| DOCKET                | 1:24-cv-00089-KRS                                                                                                                                                                                                                                                            |
| DISPOSITION           | other                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Plaintiff moved under 42 U.S.C. § 406(b) for authorization of \$11,504.00 in attorney fees for representation in federal court following a successful Social Security appeal and remand.                                                                                     |
| STANDARD OF REVIEW    | The court independently reviewed the requested fee award for reasonableness under 42 U.S.C. § 406(b), considering the character of the representation, the results achieved, delay, substandard performance, and proportionality between the contingency fee and time spent. |
| PRECEDENTIAL VALUE    | unpublished district court order                                                                                                                                                                                                                                             |
| PARTIES               | Amanda M. V. v. Frank Bisignano, Acting 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

civil procedure

## QUESTIONS PRESENTED

1. Whether the court could authorize attorney fees under 42 U.S.C. § 406(b) after remanding the Social Security case for further proceedings and the agency subsequently awarded past-due benefits.
2. Whether the requested \$11,504.00 fee was reasonable under § 406(b).
3. Whether counsel was required to refund the previously awarded EAJA fee to Plaintiff after receiving the § 406(b) award.

## HOLDINGS

1. A court may award attorney fees under 42 U.S.C. § 406(b) when it remands a Social Security case for further proceedings and the Commissioner ultimately awards the claimant past-due benefits.
2. The requested \$11,504.00 § 406(b) fee was reasonable and appropriate because counsel's representation was adequate, achieved a fully favorable result, caused no delay, was timely requested, and was proportionate to the 25.4 hours expended.
3. When fees are awarded under both the EAJA and § 406(b), counsel must refund the lesser award to the claimant; here, counsel was ordered to refund the \$6,695.40 EAJA award.

## KEY QUOTATIONS

*“Section 406(b) also requires the court to conduct “an independent check” to ensure that fees are reasonable even if they are less than 25% of the past due benefits because there is no presumption that 25% is reasonable.”*

*“Having performed its “independent check” duties, the Court finds the requested award to be both appropriate and reasonable.”*

## FACTUAL BACKGROUND

Plaintiff's counsel represented her in federal court in an action seeking review of the denial of Social Security disability benefits. After remand, the Social Security Administration found Plaintiff disabled and awarded \$82,816.00 in past-due benefits, withholding twenty-five percent, or \$20,704.00, for a potential fee claim. Counsel sought \$11,504.00 for 25.4 hours of federal-court work, an amount below the contractual and statutory twenty-five-percent cap.

## PROCEDURAL HISTORY

Plaintiff sought judicial review of the denial of Social Security disability benefits. The court reversed the Commissioner's decision, remanded for a new hearing, and previously awarded Plaintiff \$6,695.40 in EAJA fees. On remand, the Social Security Administration found Plaintiff disabled and awarded \$82,816.00 in past-due benefits, withholding \$20,704.00 for a potential attorney-fee claim. Plaintiff then sought authorization of

\$11,504.00 in § 406(b) fees, which the court granted and ordered counsel to refund the previously awarded EAJA fee.

## DISPOSITION

other

## CASES CITED

- Wrenn ex rel. Wrenn v. Astrue, 525 F.3d 931, 933–34 (10th Cir. 2008)
- McGraw v. Barnhart, 450 F.3d 493–96, 505 (10th Cir. 2006)
- Gisbrecht v. Barnhart, 535 U.S. 789, 796, 807–08 (2002)
- Culbertson v. Berryhill, 586 U.S. 53, 57–62 (2019)
- Marquez v. Astrue, CIV 10-1165 CG (D.N.M. Aug. 29, 2012)
- Ferguson v. Barnhart, Civ. No. 02-00823 (D.N.M. May 31, 2006)
- Faircloth v. Barnhart, 398 F. Supp. 2d 1169, 1174 (D.N.M. 2005)
- Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986)

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