

UNITED STATES DISTRICT COURT
EASTERN DIVISION OF KENTUCKY
SOUTHERN DIVISION at PIKEVILLE

EDDIE R. SEXTON,)	
)	
Plaintiff,)	
v.)	Case No. 7:07-CV-167-JMH
)	
CAROLYN W. COLVIN,)	
Commissioner of Social)	MEMORANDUM OPINION & ORDER
Security)	
)	
Defendant)	
)	

This matter is before the Court upon Plaintiff's Attorney's Motion for an Award of Attorney Fees Under 42 U.S.C. § 406(b) [DE 19]. The United States has filed a Response [DE 21] in which it states that it has no objection to the Motion or to the amount requested. The Court has reviewed the motion and the materials offered in support of the request for relief and concludes that an award of fees is warranted.

The Court may award "a reasonable fee [for work before the Court] . . . not in excess of 25 percent of the total of the past-due benefits." 42 U.S.C. § 406(b)(1); *Secretary of Health and Human Services* , 35 F.3d 261, 262 (6th Cir. 1994). Plaintiff's attorney, P. Heith Reynolds, requests \$8,268.23 in attorney fees for 36.75 hours spent before the district court, an amount consistent with the contingent fee agreement between

Plaintiff and his attorney [DE 19-6] and which would result in payment of a fee not in excess of 25 percent of the total of the past-due benefits, which have been calculated to be \$73,072.90, when considered, in combination, with the \$10,000 already awarded for counsel's work before the administrative tribunal under §406(a). The Court has considered the matter and, noting the absence of any objection, concludes that this request is reasonable and in keeping with the relevant law.¹

Accordingly, **IT IS ORDERED** that the Motion for Attorney Fees [DE 19] is **GRANTED**. Judgment shall be entered by separate order.

This the 14th day of January, 2014.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge

¹ As fees have already been awarded under the Equal Access to Justice Act (EAJA), in the amount of \$3,375.00, counsel must refund to the claimant the smaller of the EAJA fee or the Section 406 fee. See *Jankovich v. Bowen*, 868 F.2d 867, 871 n.1 (6th Cir. 1989). He has agreed, in his Motion to return those funds to his client upon receipt of the Court's Order. [DE 19-1 at 3.]