

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
STEPHANIE A. GALLAGHER
UNITED STATES MAGISTRATE JUDGE

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BALTIMORE, MARYLAND 21201
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November 30, 2017

Carriann Cash
911 Leadenhall St., 3306
Baltimore, MD 21230

Benjamin B. Prevas
Social Security Administration, Room 617
6401 Security Blvd.
Baltimore, MD 21235

RE: *Carriann Cash v. Commissioner, Social Security Administration*;
Civil No. GLR-17-2171

Dear Ms. Cash and Counsel:

Pursuant to Standing Order 2014-01, the above-captioned case has been referred to me to review the parties' dispositive motions and to make recommendations pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 301.5(b)(ix). [ECF No. 4]. The Commissioner has moved to dismiss Plaintiff's Complaint on the grounds that it was not filed timely. [ECF No. 10]. On November 8, 2017, Ms. Cash filed a Response to the Commissioner's Motion to Dismiss. [ECF No. 13]. Specifically, Ms. Cash contends that she did not receive the letter until June 1, 2017 and therefore was not required to file an appeal until August 2, 2017.¹ *Id.* at 1-2. Moreover, Ms. Cash has provided documentation showing that the Commissioner's Notice of Disapproved Claim ("Notice") was not mailed until May 25, 2017, although the date on the letter was May 22, 2017. [ECF No. 13-1, at 5].

The Notice states, in relevant part:

You have 60 days to ask for an appeal. The 60 days start the day after you receive this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.

[ECF No. 10-2, at 20]. Based on the Notice, the Commissioner will give the claimant an opportunity to "show [the Commissioner] that [he or she] did not get it within the 5-day period." *Id.* The Notice, however, does not provide a clear deadline or procedure by which the claimant

¹ Ms. Cash's calculation of dates is incorrect because holidays are not excluded. *See* 20 C.F.R. §§ 404.901, 422.210(c). However, by this Court's calculation, if Ms. Cash had received the letter on June 1, 2017, her motion would have been due on August 1, 2017, the date she filed. *See* [ECF No. 13].

can make this showing. Here, Ms. Cash has now submitted a response and supporting documentation to show that she did not receive the Notice within the 5-day period. [ECF No. 13]. Accordingly, this Court finds that the Commissioner must consider whether Ms. Cash has made the required showing, as described in the Notice.

The Commissioner is instructed to consider Ms. Cash's response and supporting documentation, and to inform this Court of its determination on or before December 14, 2017. The Clerk is directed to MAIL a copy of this Order to Plaintiff Carriann Cash, 911 Leadenhall St., 3306, Baltimore, MD 21230.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Sincerely yours,

/s/

Stephanie A. Gallagher
United States Magistrate Judge