

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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PHILIP J. HOLMES,

Plaintiff,

v.

Case No. 18-10202

NANCY BERRYHILL,

Defendant.

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**OPINION AND ORDER GRANTING “PLAINTIFF’S ATTORNEY’S  
MOTION FOR AWARD OF ATTORNEY FEES”**

Plaintiff’s counsel seeks attorney fees pursuant to 42 U.S.C. § 406(b) for past-due Social Security insurance benefits payable to Plaintiff. Under § 406(b), counsel is entitled to no more than 25% of Plaintiff’s total past-due benefits. Plaintiff’s counsel requests a total award of \$12,826.75.<sup>1</sup> Defendant does not object to the validity of counsel’s request but notes that counsel’s motion is premature because counsel’s total award was calculated based on the inclusion of past-due benefits payable to Plaintiff’s minor children, which had not yet been awarded at the time of counsel’s request. (ECF No. 23, PageID.592.)

Plaintiff’s counsel has since filed a supplemental brief notifying the court that Plaintiff has been awarded past-due benefits for his minor children, making Plaintiff’s total awarded past-due benefits \$51,307. Counsel also confirms in the supplemental

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<sup>1</sup> In the original motion, counsel requested \$12,828.75, which is \$2 higher than 25% of Plaintiff’s total award. Counsel corrected this apparent error in his supplemental brief, requesting \$12,826.75.

brief that he has received no EAJA fee related to this case. (ECF No. 25, PageID.599.)

The court finds counsel's request to be appropriate and not in excess of the statutory maximum. Accordingly,

IT IS ORDERED that counsel's Motion for Award of Attorney Fees (ECF No. 21) is GRANTED. Plaintiff's counsel will be awarded \$12,826.75 pursuant to 42 U.S.C. § 406(b).

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: November 5, 2019

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 5, 2019, by electronic and/or ordinary mail.

s/Lisa Wagner  
Case Manager and Deputy Clerk  
(810) 292-6522

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