

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TAMARA E. EDWARDS,

Plaintiff,

Civil Case No. 18-13526
Honorable Linda V. Parker

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

_____ /

**OPINION AND ORDER GRANTING MOTION FOR AUTHORIZATION
OF ATTORNEY FEES PURSUANT TO 42 U.S.C. § 406(b)**

Plaintiff commenced this action to appeal a final administrative decision denying her claim for benefits under the Social Security Act. The parties thereafter stipulated to a remand to the Social Security Administration for further action pursuant to sentence four of 42 U.S.C. § 405(g). (ECF No. 14.) On remand, Plaintiff was found disabled and awarded past due benefits. (ECF No. 16-1.) The Social Security Administration notified Plaintiff that it would withhold \$31,157.57 in benefits, representing an award of attorney’s fees equal to 25% of the total amount of past due benefits to which Plaintiff is entitled.¹ (*Id.* at Pg. ID 1205.) At

¹ In a recent Notice filed with the Court, Plaintiff’s counsel states that “a new Notice of Award [] issued by the Administration . . . indicates that \$30,614.50 was withheld for attorney fees.” (ECF No. 17 at Pg. ID 1240-41.)

the administrative level, Plaintiff requested attorney's fees totaling \$10,000. (ECF No. 16-7 at Pg. ID 1239.)

The matter is presently before the Court on a motion for authorization of attorney's fees pursuant to 42 U.S.C. § 406(b) in the amount of \$8000, filed by Plaintiff's counsel. (ECF No. 16.) Plaintiff consents to the fee request. (*Id.* at Pg. ID 1195, ¶ 10.) Defendant does not object to the requested relief. (*Id.*, ¶ 9.)

Section 406(b) authorizes a court to award a social security claimant the fees for his or her representative in an amount not to exceed 25 percent of the total of the past-due benefits to which the claimant is entitled. 42 U.S.C. § 406(b). While fee awards are possible under both the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, and § 406(b), Congress provided that "the claimant's attorney must 'refund to the claimant the amount of the smaller fee.'" *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002) (quoting Pub. L. 99-80, § 3, 99 Stat. 186). In this case, Plaintiff's counsel did not request fees under the EAJA. (ECF No. 16 at Pg. ID 1195, ¶ 9.)

Accordingly,

IT IS ORDERED that Plaintiff's Motion for Attorney Fees Pursuant to § 406(b) of the Social Security Act is **GRANTED** and Plaintiff's counsel is

awarded fees in the amount of \$8,000.

IT IS SO ORDERED.

s/ Linda V. Parker _____
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: April 28, 2021