

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PATRICIA PAVELSKI,

Plaintiff,

v.

ANDREW SAUL,
Commissioner of Social Security,

Defendant.

ORDER

18-cv-451-bbc

Dana Duncan, counsel for plaintiff Patricia Pavelski, moves under 42 U.S.C. § 406(b) for a fee award of \$18,150.39 after plaintiff was awarded past-due disability insurance benefits and supplemental security income. The commissioner withheld \$28,150.38 for potential attorney fees, which equals 25% of plaintiff's past-due benefits. Counsel states that he will seek \$9,999.99 for work he performed at the administrative level, and he is seeking \$18,150.39 for work his firm performed in this court. Counsel's requested § 406(b) fee represents less than 25% of plaintiff's past-due benefits, dkt. #21-2, so it falls within the amount allowed by statute and the parties' fee agreement. Gisbrecht v. Barnhart, 535 U.S. 789, 792 (2002); Dkt. 21-1. The commissioner does not oppose counsel's fee request. Dkt. 25.

The total amount of time that counsel's firm spent on this case for proceedings in this court was 43.75 hours, resulting in a proposed effective rate of \$414.86 an hour. Of the 43.75 hours, 29.8 hours was attorney time and the remainder was for counsel's legal assistants. Dkt. #21-4. Counsel's requested fee is within the bounds of what is reasonable in light of counsel's experience, his risk of non-recovery, the work he performed, the results

he obtained, and the amounts awarded in similar cases. Therefore, the court will grant counsel's motion. For simplicity, the court will subtract the \$6,400 fee that counsel received under the Equal Access to Justice Act, which would otherwise have to be refunded to plaintiff.

ORDER

IT IS ORDERED that Dana W. Duncan's motion for attorney fees under 42 U.S.C. § 406(b), dkt. #21, is GRANTED. The court APPROVES a representative fee of \$11,750.39.

Entered this 13th day of July, 2021.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge