

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

DONALD NEEL,

Plaintiff,

v.

ORDER

ANDREW SAUL,
Commissioner of Social Security,

19-cv-919-jdp

Defendant.

Dana Duncan, counsel for plaintiff Donald Neel, moves under 42 U.S.C. § 406(b) for a fee award of \$8,745 after plaintiff was awarded past-due disability insurance benefits. The commissioner withheld \$17,701 for potential attorney fees, which equals 25% of plaintiff's past-due benefits. Counsel states that he was awarded \$8,956 for work he performed at the administrative level, and he is seeking \$8,745 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. *See Gisbrecht v. Barnhart*, 535 U.S. 789, 792 (2002); Dkt. 21-1. The commissioner does not oppose counsel's fee request. Dkt. 23.

The total amount of time that counsel's firm spent on this case for proceedings in this court was 28.05 hours, resulting in a proposed effective rate of \$311.76 an hour. Of the 28.05 hours, 15.9 hours was attorney time and the remainder was for counsel's legal assistants. Dkt. 21-3. 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 \$3,980 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 \$4,765.

Entered June 3, 2021.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge