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Providing Legal Support to the Aging-Advocacy Network

Social Security Probation Case: Class Certification Will Benefit Countless Thousands

As many as 100,000 people are likely to benefit from certification of a nationwide class in a successful challenge to the Social Security Administration's policy of suspending SSI and Social Security benefits whenever an individual had an outstanding arrest warrant for an alleged violation of probation or parole. *Clark v. Astrue*, No. 06-15521 (S.D.N.Y., Dec. 2, 2011)[s1] . The Second Circuit has already ruled that the SSA policy was unlawful. *Clark v. Astrue*, 602 F.3d 140 (2nd Cir. 2010). Plaintiffs' counsel is seeking full retroactive reinstatement for class members whose benefits were suspended. The plaintiff class includes all those whose Social Security or SSI benefits were suspended or denied on or after October 24, 2006 because of the challenged policy or who had a determination to recover an overpayment on or after that date. It also includes anyone who had an appeal of such a suspension, denial or overpayment determination pending on or after October 24, 2006.

What Can You Do? You can notify all advocates in your program to be on the lookout for potential class members, since class members may present with other problems such as a housing issue. If you have any clients who have had Social Security or SSI benefits suspended or denied or who have been notified of an overpayment because of an outstanding probation or parole warrant since October 24, 2006 or who had an appeal pending on that date, tell them that it is important that they keep SSA and you apprised of their current address so they will be notified when relief becomes available. Some class members may be entitled to over five years of retroactive benefits.

How Can You Get Current Information on the Clark case?

Updates will be posted from time to time on the National Senior Citizens Law Center website at www.nsccl.org under Litigation.

Advocates can also contact Nancy Arevalo (narevalo@nsccl.org) if they wish to be added to a listserv dealing with issues that arise under Clark and under the settlement in Martinez v. Astrue.

Download the order

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Income Network Alerts are published as needed by the NSCLC. The National Senior Citizens Law Center is a non-profit organization whose principal mission is to protect the rights of low-income older adults. Through advocacy, litigation, and the education and counseling of local advocates, we seek to ensure the health and economic security of those with limited income and resources, and access to the courts for all. For more information, visit our Web site at www.NSCLC.org.

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