

INSTRUCTIONS FOR USING THIS PETITION

Any attorney or other representative who wants to charge or collect a fee for services, rendered in connection with a claim before the Social Security Administration (SSA), is required by law to first obtain SSA's approval of the fee [sections 206(a) and 1631(d)(2) of the Social Security Act (42 U.S.C. 406(a) and 1383(d)(2)) and sections 404.1720 and 416.1520 of Social Security Administration Regulations Numbers 4 and 16, respectively.]

The only exceptions are if the fee is for services rendered (1) when a nonprofit organization or government agency pays the fee and any expenses out of funds which a government entity provided or administered and the claimant incurs no liability, directly or indirectly, for the cost of such services and expenses; (2) in an official capacity such as that of legal guardian, committee, or similar court-appointed office and the court has approved the fee in question; or (3) in representing the claimant before a court of law. A representative who has rendered services in a claim before both SSA and a court of law may seek a fee from either or both, but generally neither tribunal has the authority to set a fee for services rendered before the other [42 U.S.C. 406(a) and (b)].

When to File a Fee Petition

The representative should request fee approval only after completing all services (for the claimant and any auxiliaries). The representative has the option to petition either before or after SSA effectuates the determination(s).

In order to receive direct payment of all or any part of an authorized fee from past-due benefits, the representative who is eligible for direct fee payment, as defined under "Collection of the Fee," should file a request for fee approval, or written notice of intent to file a request **within 60 days** of the date of the notice of the favorable determination is mailed. When there are multiple claims on one account and the representative who is eligible for direct fee payment will not file the petition within 60 days after the mailing date of the first notice of favorable determination, he or she should file a written notice of intent to file a request for fee approval within the 60-day period.

Where to File the Petition

The representative must first give the "Claimant's Copy" of the SSA-1560-U4 petition to the claimant for whom he or she rendered services, with a copy of each attachment. The representative may then file the original and third carbon copy, the "ODAR Copy," of the SSA-1560-U4, and the attachment(s), with the appropriate SSA office:

- If a court or the Appeals Council issued the decision, send the petition to the Office of Disability Adjudication and Review. Attention: Attorney Fee Branch, 5107 Leesburg, Pike, Falls Church, VA 22041-3255.
- If an Administrative Law Judge issued the decision, send the petition to him or her using his or her office address.
- In all other cases, send the petition to the reviewing office address which appears at the top right of the notice of award or notice of disapproved claim.

Evaluation of a Petition for a Fee

If the claimant has not agreed to and signed the fee petition, SSA does not begin evaluating the request for 30 days. SSA must decide what is a reasonable fee for the services rendered to the claimant, keeping in mind the purpose of the social security or supplemental security income program. When evaluating a request for fee approval, SSA will consider the (1) extent and type of services the representative performed; (2) complexity of the case; (3) level of skill and competence required of the representative in giving the services; (4) amount of time he or she spent on the case; (5) results achieved; (6) levels of review to which the representative took the claim and at which he or she became the representative; and (7) amount of fee requested for services rendered, including any amount authorized or requested before but excluding any amount of expenses incurred.

SSA also considers the amount of benefits payable, if any, but authorizes the fee amount based on consideration of all the factors given here. The amount of benefits payable in a claim is determined by specific provisions of law unrelated to the representative's efforts. Also, the amount of past-due benefits may depend on the length of time that has elapsed since the claimant's effective date of entitlement.

Disagreement

SSA notifies both the representative and the claimant of the amount which it authorizes the representative to charge. If either or both disagree, SSA will further review the fee authorization when the claimant or representative sends a letter, explaining the reason(s) for disagreement, to the appropriate office **within 30 days** after the date of the notice of authorization to charge and receive a fee.

Collection of the Fee

Basic liability for payment of a representative's approved fee rests with the client. However, SSA will assist in fee collection when SSA awards the claimant benefits under Title II or Title XVI of the Social Security Act and the representative is eligible for direct fee payment. To be eligible for direct payment, the representative must be an attorney or a non-attorney who is participating in SSA's direct fee payment demonstration project. In addition; if the representative was appointed after December 31, 2006, the representative must register for direct payment before SSA effectuates the favorable determination. In these cases, SSA generally withholds 25 percent of the claimant's past-due benefits. Once the fee is approved, SSA pays the representative from the claimant's withheld funds. **This does not mean that SSA will approve as a reasonable fee 25 percent of the past-due benefits.** The amount payable to the representative from the withheld benefits is subject to the assessment required by section 206(d) and 1631(d)(2)(C) of the Social Security Act, and it is also subject to offset by any fee payment(s) the representative has received or expects to receive from an escrow or trust account. If the approved fee is more than the amount of the withheld benefits, collection of the difference is a matter between the representative and the client.

SSA will not withhold past-due benefits to pay the authorized fee to a non-attorney representative who is not participating in the direct payment project. In addition, SSA will not pay a fee directly to a representative if the representative was discharged by the client; withdrew from representing the client; or was appointed to represent the client after December 31, 2006, and did not register for direct payment before SSA effectuated the determination.

Information on registering for direct fee payment and on becoming eligible to participate in the non-attorney direct fee payment project is on SSA's "Representing Claimants" website: <http://www.ssa.gov/representation/>.

Penalty for Charging or Collecting an Unauthorized Fee

Any individual who charges or collects an unauthorized fee for services provided in any claim, including services before a court which has rendered a favorable determination, may be subject to prosecution under 42 U.S.C. 406 and 1383 which provide that such individual, upon conviction thereof, shall for each offense be punished by a fine not exceeding \$500, by imprisonment not exceeding one year, or both.

Computer Matching

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information you provide us may be used or given out are available in Social Security Offices. If you want to learn more about this, contact any Social Security Office.

Paperwork Reduction Act Statement –This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 30 minutes to read the instructions, gather the facts, and answer the questions. *You may send comments on our time estimate above to: SSA, 1338 Annex Building, Baltimore, MD 21235-0001. Send only comments relating to our time estimate to this address, not the completed form.*

WHAT YOU SHOULD KNOW

This is a copy of a petition, or request, your representative made to the Social Security Administration (SSA) for approval to charge a fee for services performed in connection with your claim.

If You Have Questions or Disagree Now

If you have questions or if you disagree with the fee requested or any information shown, contact SSA **within 20 days** from the date of this request. You may call or visit your local Social Security office or you may write to the office which last took action in your case.

- Write to the SSA office address which appears at the top right on your notice of award or notice of disapproved claim, unless you know that your claim went to the Appeals Council or an Administrative Law Judge of the Office of Disability Adjudication and Review.
- If an Administrative Law Judge made the last decision in your case, write to him or her using the hearing office address.
- If the Appeals Council or a court made the last decision in your case, write to the Office of Disability Adjudication and Review, Attention: Attorney Fee Branch, 5107 Leesburg Pike, Falls Church, VA 22041-3255.

If you decide to call, visit, or write, act quickly so that your questions reach the correct office **within 20 days**.

For Your Protection

Until you receive notice that SSA has approved a fee, you should not pay your representative unless the payment is held in an escrow or trust account. If you are charged or pay any money after you receive your copy of this petition but before you receive notice of the fee amount your representative may charge, report this to SSA immediately.

What Happens Next

No matter what you may have agreed to in writing, SSA decides how much your representative may charge you for his or her services. SSA must decide what is a reasonable fee for the work your representative did, keeping in mind the purpose of the social security or supplemental security income program. **SSA does not automatically approve 25 percent of any past-due benefits as a reasonable fee.**

SSA must consider the (1) extent and type of services the representative performed; (2) complexity of your case; (3) level of skill and competence required of your representative in giving the services; (4) amount of time he or she spent on your case; (5) results achieved; (6) levels of review to which the representative took your claim and at

which he or she became your representative; and (7) amount of fee he or she requests, including any amount requested or authorized before but excluding any amount of expense incurred.

SSA also considers the amount of benefits payable, if any, but approves a fee amount based on all the factors given here. This is because the amount of benefits payable to you is determined by the law and regulations, not by your representative's efforts. Also, the amount of past-due benefits may depend on the length of time that has gone by since your effective date of entitlement.

What Happens Later

SSA will send you a written notice showing the fee amount your representative may charge you based on this request. If you disagree with the amount approved, you must write to say you disagree and to give your reasons, sending your letter to the SSA office address shown on the "Authorization to Charge and Receive a Fee" **within 30 days** of the date on that notice. **You may disagree with the fee approved, even if you do not disagree now with the fee amount your representative is requesting.**

Our rules say that part of any past-due social security or supplemental security income benefits payable to you, under Title II or Title XVI of the Social Security Act must be used toward the payment of your representative's fee if he or she is eligible for direct fee payment. To be eligible for direct payment, the representative must be an attorney or a non-attorney who is participating in the direct fee payment demonstration project. In addition, if you appointed your representative after December 31, 2006, your representative also must register for direct payment before we effectuate the favorable determination.

The amount SSA may pay your representative directly is the **smallest** of the following:

- twenty-five per cent (25%), or one-fourth, of the total past-due benefits payable to you as a result of the claim;
- the fee amount approved; or
- the amount which you and your representative agreed upon as the fee for his or her services (shown on the reverse in item 2 of this petition).

SSA will not pay a fee to a non-attorney representative who is not participating in the direct payment project. In addition, SSA will not pay a fee to a representative if you discharged the representative; the representative withdrew from representing you; or you appointed the representative after December 31, 2006, and the representative did not register for direct payment.