

Social Security

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BASIC (11-12)

GN 02615.100 Clark Court Order: Overview

Citations: *Clark*

Social Security Act, Sections 202(x)(1)(A)(v), 1611(e)(4)(A)(ii), 1631(a)(2)(B)(iii)(V); 20 CFR 416.202; 416.708; 416.1339;

Clark v. Astrue, No.06 Civ. 15521 (SHS), a case in the U.S. District Court for the Southern District of New York. See Social Security Online: Notice of Final Relief Order in Clark Court Case

A. Description Of The *Clark* Court Order

On April 13, 2012, the Federal District Court for the Southern District of New York issued the final order in *Clark v. Astrue*. *Clark* challenged our practice of suspending or denying benefits and payments based solely on the existence of a probation or parole violation (PPV) warrant. On May 9, 2011, after the Court certified a nationwide class, we stopped suspending or denying title II benefits and title XVI payments based solely on a PPV warrant.

1. Definition Of A Class Member

The court order defines *Clark* class members as:

All persons nationwide for whom an initial determination to suspend or deny SSI and/or OASDI benefits was made and/or an initial determination of overpayment of such benefits was made and such initial determination was based solely on the existence of a warrant for an alleged violation of probation or parole, provided: (i) the initial determination was made during the period from October 24, 2006 to and including such time in the future when final relief is entered in this action; or (ii) a timely administrative appeal of such initial determination was pending on or after October 24, 2006.

2. Identifying Class Members

We are identifying an individual as a class member if he or she is either a:

- title II beneficiary who had an open or satisfied FUGITIVE data event on the MBR (status of VIOLATION) with a matching PPV warrant in the Fugitive Felon SSA Control File (FFSCF) and suspension action on the warrant was taken on or after October 24, 2006; or
- title XVI recipient whose payments were suspended or denied (PSY N25) based on a PPV warrant in the FFSCF and action on the warrant was taken on or after October 24, 2006; or
- beneficiary or recipient who had an initial determination of overpayment made October 24, 2006 or later, which was based solely on the existence of a PPV warrant; or
- beneficiary or recipient who had a PPV suspension, denial or overpayment determination with an administrative appeal on this initial determination pending on or after October 24, 2006.

B. Terms Of The *Clark* Court Order

The following are the types of relief provided based on the terms of the court order.

1. Prospective Relief

Beginning May 9, 2011, we stopped suspending or denying title II benefits and title XVI payments nationwide based solely on the following PPV warrant offense codes:

- parole violation (offense code 5011),
- probation violation (offense code 5012),
- juvenile offenders – abscond while on parole (offense code 8101),
- juvenile offenders – abscond while on probation (offense code 8102),
- offense code 9999 with an offense charge symbol of probation or parole violation,
- offense code “blank” with an offense charge symbol of probation or parole violation.
- any other four-digit offense code (other than offense codes of 4901, 4902, or 4999) provided the offense charge symbol is “PROBATION/PAROLE VIOLATION.”

NOTE: For new title XVI claims, the claimant still must answer the PPV questions. However, if his or her allegation results in a Systems-generated PPV denial, code the appropriate screen in the Modernized SSI Claims System (MSSICS) indicating good cause.

2. Retroactive Relief

The court order requires that we reinstate *Clark* class members' benefits and pay any previously withheld benefits back to the first month of suspension (title II and title XVI) or denial (title XVI only). When determining retroactive relief for PPV nonpayment months, all other normal payment, nonpayment, and reduced payment rules apply.

After reinstating benefits or payments, we may select class members for Continuing Disability Reviews (CDR) according to normal scheduling practices.

C. Planned Timeframes For *Clark* Relief

We are implementing *Clark* retroactive relief according to a planned timeframe. We plan to list class members in the Civil Action Tracking System (CATS) after we identify them for retroactive relief. For information on CATS, see MSOM CATS 001.001 through MSOM CATS 009.003. We intend to send class members an informational notice informing them of the court case. A sample of the notice is found in GN 02615.160. If a beneficiary inquires about the court case, see the instructions in GN 02615.190.

1. Title II Relief

After identifying the class members, we expect to post the following Central Office Messages (CO MSG) and a Special Message (SP MSG) on the MBR:

- Clark Court Order – Case Selected for Clark Relief and Medicare Review
- Clark Court Order – Case Selected for Clark Review
- Clark Court Order – Automated Relief Processed

An automated systems operation may begin resuming benefits to some beneficiaries as early as the 4th quarter of CY 2012. However, many class members will require manual relief actions. We expect processing centers (PC) to begin manual processing in CY 2013.

2. Title XVI Relief

a. Suspended cases

We plan to include currently eligible title XVI class members who are potentially due *Clark* relief in the March 2013 scheduled redetermination (RZ) release and to load their cases into Stars and Stripes the Next Generation (SSTNG). Field offices (FOs) will contact these class members to schedule an RZ prior to resuming payment. FOs will include special *Clark* language in the RZ appointment letter. For an example of the RZ letter, see GN 02615.160.

b. Terminated cases

We anticipate establishing a website to control terminated cases. This website should be available by the 2nd quarter of CY 2013. FOs will also contact these class members to schedule an RZ prior to resuming payment. Some cases may require a medical determination before determining payment eligibility.

3. Concurrent Case Relief

If CATS lists a recipient or beneficiary with two *Clark* Court Case Identifiers (CCID), process the actions on these concurrent cases independently under each title in accordance with instructions in GN 02615.100D.2. Verify that the title II has processed first before initiating actions on the title XVI part of the case.

D. *Clark* Class Members In CATS

CATS will record limited data for all identified title II and title XVI class members potentially eligible for *Clark* relief.

1. Personal Information Housed On CATS

CATS will include the following information for each person identified as a potential class member:

- SSN/CAN;
- BOAN (beneficiary's own account number);
- BIC(beneficiary identification code);
- Title (II, XVI);
- Name;
- Date of Birth;
- Date of Informational Notice(s);
- CCID (court case identifier);
- DOC (servicing field office code); and
- PCOC (servicing processing center code).

2. Processing Categories For Class Members

The following five CCIDs indicate the possible processing categories:

CCID	Processing Categories	Processing Instructions

C1	Title II Automated Cases	GN 02615.115
C2	Title II Manual Cases	GN 02615.120 – GN 02615.140
C3	Title XVI Single PPV Warrant Cases	GN 02615.180
C4	Title XVI Multiple PPV Warrant Cases	GN 02615.180
C5	Title XVI Cases with Appeals	GN 02615.185

3. Quick Guide To CATS

For CATS logon instructions, refer to GN 02613.830C.4.

a. To determine if we selected someone as a potential class member and the relevant processing category, take the following actions:

- Select Option 2 - Multiple CCID Involvement on the Query Menu. Press Enter.
- Enter the SSN on the Multiple Court Case Query screen. Press Enter. The screen displays the last name, date of birth and the CCID(s) for the SSN you entered.
- Select PF3 (previous menu) to return to the Query Menu.

For information on the Query Menu, see MSOM CATS 006.002. For information on the Multiple Court Case Query, see MSOM CATS 008.002.

b. To determine the date we sent an informational notice, take the following actions:

- Select Option 1 - SSN/Claim Number/Name on the Query Menu.
- On the SSN/Claim Number/Name Selection screen, enter “P” for Personal in the “P/C” field, the relevant CCID and SSN. Press Enter.
- The Personal Detail Query screen displays next. The date on the “Latest Mailing Number” field indicates the date we mailed the informational notice.

To Link to this section - Use this URL:
<http://policy.ssa.gov/poms.nsf/lnx/0202615100>

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