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Fact Sheet: *Held v. Colvin*

Gay & Lesbian Advocates & Defenders (GLAD), Justice in Aging and Foley Hoag LLP have filed a class action lawsuit against the Social Security Administration (SSA) on behalf of Supplemental Security Income (SSI) recipients married to someone of the same sex, charging that SSA discriminated against these individuals for months, and in some cases more than a year, after that discrimination was held unlawful by the Supreme Court in June 2013. SSA is now demanding that recipients refund benefits they were paid as a result of the discrimination.

The Case:

- As of June 26, 2013, when the Supreme Court struck down the Defense of Marriage Act on the grounds that it violated the equal protection clause of the Fifth Amendment, it became illegal for federal agencies to deny federal benefits to individuals who were legally married under the laws of their state.
- The Social Security Administration (SSA) is the federal agency charged with delivering Social Security, Supplemental Security Income (SSI), and Medicare benefits to beneficiaries who qualify based on age and/or disability. Benefits for married individuals are generally lower than for single individuals.
- This lawsuit charges that SSA discriminated against a class of legally married same-sex couples through its failure to recognize their marriages for many months, and in some cases for more than a year.
- Further, once SSA begin recognizing the legal marriages of these individuals, it determined that they had been overpaid SSI benefits and they must now have their benefits reduced and pay back the amounts they were overpaid through no fault of their own.
- In many of these cases, the individuals being discriminated against were proactive in informing SSA about their marriages and inquiring whether or not the Windsor case would affect their benefits.
- In all cases, these are people with extremely low incomes, and many are unable to work due to disability.
- None of the couples are disputing being paid at a lower rate going forward because of their marriages; they are disputing the collection of overpayments due to financial hardship.

The Plaintiffs:

Hugh Held

- Hugh Held lives in Los Angeles, CA, and has been married to his spouse, Orion Masters since 2008. Up until June 2014, Mr. Held's monthly benefit was \$877.40 a month.
- Beginning in June 2014, Mr. Held's monthly SSI benefit was reduced from \$877.40 to \$308.10. He also received a bill for \$6,205. He received no explanation about these changes for several months.
- Prior to June 2014, on three separate occasions, both before and after DOMA was struck down, Mr. Held inquired at his local SSA branch office whether his marriage would affect his benefits. The first two times he was told no; and the second time, he was told, possibly, but it was unclear how.
- Mr. Held is not disputing the reduction of benefits on the basis of his marriage. He is disputing the collection of overpayments from his future payments.
- If SSA were to collect the overpayment from Mr. Held's future SSI payments, Mr. Held and Mr. Masters will face extreme difficulty making ends meet, and the money will come from what the couple uses to pay for food and other basic necessities.
- Mr. Held was told he could pay back the benefits in \$20 increments per month. That would mean he wouldn't get out of this hole until he was 81 years old.

Kelley and Kena Richardson Wright

- Kelley and Kena live in Athol Massachusetts and were legally married in the Commonwealth of Massachusetts in 2007. Kelley receives SSI benefits because of multiple health problems that keep her from being able to work.
- Until November of 2014, Kelley received a monthly benefit of \$721. SSA was aware of her marriage to Kena from the time she started receiving benefits.
- Beginning in November 2014, nearly a year and a half after DOMA was struck down, Kelley began receiving a series of confusing and contradictory notices from SSA.
- The series of notices culminated with a Dec. 3, 2014, notice stating that she had been overpaid in the amount of \$4,129.88 for the months from Sept., 2013 through December, 2014; and another notice dated December 4 listing the same amount of overpayment, but stating that it was because her "spouse's wages are now taken into account and affect payment." None of the notices made reference to her marriage being the basis for overpayment.
- The final notice also stated that SSA would deduct \$73.30 from each of her SSI checks until the overpayment was paid back. That's an almost 20% loss of income over 4 and a half years before the money would be paid back.
- Ms. Richardson Wright is appealing the decision by SSA to collect overpayments when the only reason for the overpayment is SSA's refusal to acknowledge the legitimacy of her marriage until now.

To read the complaint visit www.GLAD.org/SSI