

Information for Advocates on the Settlement of SSI Non-Disability Appeals Case, *Amin v. Kijakazi*

On Monday April 3, 2023, the Eastern District of New York approved a settlement agreement in the case *Amin v. Kijakazi*, 15-cv-07429 (EDNY). The agreement provides for wide-reaching relief on SSA's systemic failure to timely process the non-disability appeals of Supplemental Security Income (SSI) recipients.

Important Information on Benefit Continuation:

SSA has agreed to expand the *Goldberg Kelly* (GK) appeal period (within which an SSI recipient can receive ongoing benefits while their appeal is pending) from 10 to 60 days. In October 2021, SSA issued a new policy ([Emergency Message re: Goldberg Kelly Benefit Continuation Period](#)) providing for an automatic presumption of good cause for late filing where a reconsideration request is made up to 60 days after receipt of the Notice of Planned Action to suspend or reduce their benefits, allowing for an SSI recipient to continue receiving their benefits while their request for reconsideration is pending.

If an SSI recipient has filed a timely request for reconsideration, but does not continue to receive their benefits while their appeal is pending, then their representative should first contact the manager of their [local office](#) and reference the Emergency Message ([EM-21064 REV](#)) and the *Amin* settlement. If this does not result in the SSI benefits being paid within 30 days of the filing of a timely reconsideration request, then the representative should contact their [Regional Communications Director](#) (RCD), who serves as an ombudsperson for case-related service issues, including those related to timely and accurate processing of SSI post-eligibility non-disability reconsideration requests. Note that an SSI recipient's name and Social Security number should not be sent via email to the RCD. If, after contacting the RCD, the SSI recipient does not continue to receive their benefits while their reconsideration request is pending, then the representative should contact the *Amin* plaintiffs' counsel.

Codifying These Changes:

SSA will convert this Emergency Message to a Program Operating Manual System (POMS) instruction. Pending the transmittal of the POMS, SSA will renew the Emergency Message in its entirety. SSA will then initiate rulemaking to extend the continuation period in the regulations (currently limited to a 10-day filing deadline in 20 CFR § 416.1336). A Notice of Proposed Rule-Making has not yet been made public, but [the proposal is on SSA's Unified Agenda](#).

Changes to Systems:

Much of the relief under the settlement has already been rolled out over the past two years. SSA agreed to enhance its IT systems to improve the agency's processing of these appeals, including utilizing electronic fax receipt with automatic routing to a workload system, and using the workload system to track and assign documents. Some of these improvements were described in Emergency Messages in 2021 as technical changes to SSA programs "Banana" and Worktrack. SSA committed to maintaining these systems for three years from the date of the settlement agreement.

Important information on Timing of Appeals:

Notably, all non-disability requests for reconsideration received from SSI recipients between March 17, 2020 and April 7, 2022, in any field office and not yet entered into the SSI Claims System that do not have a date of submission indicated shall be considered timely filed for granting GK benefit continuation, and overpayment collection related to that request will be suspended.

SSA will start providing reports to Plaintiffs' counsel nine months after the effective date of the agreement to include national data and data specific to the New York Region, and continue reporting the data quarterly for three years.

The case was originally the brainchild of Michelle Spadafore of NYLAG, who filed the case at the end of 2015 with Ann Biddle and Ian Feldman (originally through Queens Legal Services and later the Urban Justice Center). Emilia Sicilia joined as co-counsel in 2017 (originally through UJC and later Empire Justice Center), and in 2019 Justice in Aging and pro bono law firm Arnold and Porter joined as co-counsel and expanded the relief sought nationwide.

[Read the Settlement Agreement](#)