

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Appellate Division

In the Case of:

Social Security Administration,

Petitioner,

- v. -

Clara Sloan,

Respondent.

DATE: February 9, 2004

Civ. Rem. Dkt. No. C-01-453
App. Div. Dkt. No. A-04-03

RECOMMENDED DECISION TO DECLINE REVIEW OF
ADMINISTRATIVE LAW JUDGE DECISION

This case is before the Board on a notice of appeal filed by the Respondent, Clara Sloan, challenging the decision issued by Administrative Law Judge (ALJ) Alfonso J. Montano in Social Security Administration v. Clara Sloan, CR1081 (2003). In his September 10, 2003 decision, the ALJ affirmed the civil money penalty (CMP) of \$35,000 proposed by the Social Security Administration Inspector General (I.G.) pursuant to section 1129 of the Social Security Act (Act).

The regulations governing appeals to the Board in cases brought under section 1129 provide that the Board "will limit its review to whether the ALJ's initial decision is supported by substantial evidence on the whole record or contained an error of law." 20 C.F.R. § 498.221(i). If it decides that further proceedings before the ALJ are unnecessary, the Board must issue a recommended decision to decline review or affirm, increase, reduce, or reverse the penalty or assessment determined by the ALJ. 20 C.F.R. § 498.221(h).

FILE COPY

The Board considered each of the contentions made by Ms. Sloan in the briefs accompanying its notice of appeal. The Board also examined the evidence relevant to the issues raised. However, applying the appropriate standard of review, the Board found no basis to disturb the ALJ's factual findings or legal conclusions. Consequently, the Board issues this recommended decision to decline review of the ALJ's September 10, 2003 decision.

When the Board recommends declining review, the ALJ's decision becomes, in effect, the recommended decision of the Board. The Board's recommended decision becomes the final decision of the Commissioner of the Social Security Administration unless it is reversed or modified by the Commissioner within 60 days after it is served on the parties. See 20 C.F.R. § 498.222(a). If the Commissioner does not reverse or modify the recommended decision, the Board will serve a copy of the Commissioner's final decision on the parties. If the Commissioner reverses or modifies the recommended decision, the Commissioner shall serve Ms. Sloan with a copy of the final decision.

Appeal Rights

Ms. Sloan may seek judicial review of the Commissioner's final decision by filing a petition for judicial review in the United States Court of Appeals for the Circuit in which the person resides or where the false statement or representation was made. See section 1129(d)(1) of the Act and 20 C.F.R. § 498.222(c)(1). The petition must be filed within 60 days after Ms. Sloan is served with a copy of the Commissioner's decision. If a petition for judicial review is filed, a copy of the filed petition must be sent by certified mail, return receipt requested, to SSA's General Counsel at the following address:

Social Security Administration
Office of General Counsel
Altmeyer Building
6401 Security Boulevard, Room 635,
Baltimore, MD 21235.

See section 1129, (d) (1) of the Act; 20 C.F.R. § 498.222(c) (2).

Judith A. Ballard
Judith A. Ballard

Cecilia Sparks Ford
Cecilia Sparks Ford

Donald F. Garrett
Donald F. Garrett
Presiding Board Member