

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Appellate Division

In the Case of:

Social Security Administration,

Petitioner,

- v. -

United Seniors Association,
Inc.,

Respondent.

DATE: January 30, 2004

Civ. Rem. Dkt. No. C-02-061
App. Div. Dkt. No. A-03-100

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, United Seniors Association, Inc. (USA), challenging the decision issued on May 21, 2003 by Administrative Law Judge (ALJ) Steven T. Kessel. Social Security Administration v. United Seniors Association, Inc., CR1075 (2003). In his May 21, 2003 decision, the ALJ affirmed the civil money penalty (CMP) of \$554,196 proposed by the Social Security Administration Inspector General (I.G.) pursuant to section 1140 of the Social Security Act (Act).

The regulations governing appeals to the Board in cases brought under section 1140 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).

The Board considered each of the contentions made by USA 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 May 23, 2003 decision.

When the Board declines 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 USA with a copy of the final decision.

Appeal Rights

USA may seek judicial review of the Commissioner's final decision by filing a petition for judicial review in any United States Court of Appeals within 60 days after being served with a copy of the Commissioner's final decision. See 20 C.F.R. § 498.222(c)(1). 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 20 C.F.R. § 498.222(c)(2).


Judith A. Ballard


Cecilia Sparks Ford


Donald F. Garrett
Presiding Board Member