What is the Martinez Settlement and Who Will It Help?

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Social Security Benefits and Criminal Warrants

- The U.S. Congress passed laws making some people with outstanding criminal warrants ineligible for SSI or Social Security benefits
- This law was called the “Fleeing Felon” rule because some parts of the law were supposed to apply to people “fleeing” from justice.
- Social Security did not consider whether people with warrants were fleeing – only whether there was an outstanding warrant.

Social Security Benefits and Criminal Warrants

How Social Security applied the “Fleeing Felon” Rule

- An outstanding felony arrest warrant or warrant for a probation/ parole violation made you ineligible for SSI or Social Security benefits
- Once Social Security learned of the warrant, benefits would be suspended until the warrant was cleared
- Any benefits received while the warrant was outstanding was an overpayment and to be paid back
- If there was an outstanding warrant when you applied, your application would be automatically denied

Martinez Settlement

- National Senior Citizens Law Center sued the Social Security Administration in a national class action lawsuit, *Martinez v. Astrue*
- Settlement reached – called the "**Martinez Settlement**"
- The settlement changed the "fleeing felon" rule so that benefits can no longer be stopped or denied because of an outstanding arrest warrant in many cases.

Martinez Settlement

- Social Security must stop denying benefits because of most outstanding arrest warrants
  - **Exceptions**: Warrants for charges of Escape or Fleeing to Avoid Prosecution (determined by National Crime Information Center felony offense codes 4901, 4902, 4999)
- Social Security must stop collecting overpayments based on most outstanding warrants
- For some, Social Security must pay back all benefits it did not pay or collected as overpayments

Martinez Settlement

- The settlement applies to the following benefits:
  - Social Security retirement, dependents and survivors benefits
  - Social Security Disability Insurance (SSDI)
  - Supplemental Security Income (SSI)
  - Special Veterans Benefits provided by Social Security

Martinez Settlement

- **<u>The settlement does not apply to anyone with a warrant for violating probation or parole</u>**

- There is a separate pending lawsuit on behalf of individuals with outstanding probation/ parole warrants (**Clark v. Astrue**)

- **Social Security can still stop or deny benefits for individuals with probation/ parole warrants**. You must clear the warrant or request a good cause exception in order to receive benefits

Types of warrants

There are three basic types of warrants:

- **Straight warrant**
  - You are accused of a crime and the police are looking to arrest you but you have not been to court yet.
- **Default warrant**
  - You are accused of a crime and usually have been to court at least once in connection with that alleged crime. You subsequently missed a court date during the criminal proceeding.
- **Probation/ Parole Violation warrant**
  - You have been through the criminal process and were ordered to complete probation OR you were ordered to serve time in jail. You subsequently violated the conditions of your probation or parole.

What kind of warrants make you eligible under Martinez?

Martinez eligible warrants:

- Straight or Default warrants
  - The criminal proceedings are still open and the case has not been resolved

Not eligible for benefits under Martinez:

- Probation or parole violation warrants
  - The criminal case has been resolved and there is an alleged violation of probation or parole

Martinez Settlement

- 3 different categories of relief based on when benefits were suspended or denied and if/when you appealed the denial
  - **Group 1**. Benefits suspended or appeal pending on or after 1/1/07.
  - **Group 2**. Benefits denied or denial appeal pending on or after 1/1/07
  - **Group 3**. Benefits suspended or denied between 2000 and 2006, no appeal pending on or after 1/1/07.

Martinez Settlement - Groups

- **Note:** SSA does not use Group 1,2 & 3 to refer to Martinez class members.

- We have used the group system to help explain the different categories of people who will get relief under the Martinez settlement.

Martinez Settlement – Time Lines

- Some slides show times lines for Martinez relief to class members.
- **Note:** These time lines are estimates and may vary.
- **Note:** Class members in Group 1 and Group 2 are not limited by the time line and can get relief later if, e.g.,SSA did not reach them due to an incorrect address.

1. Benefits suspended or appeal pending on or after 1/1/07

- Most Social Security Insurance recipients will be reinstated automatically between 1/10 – 6/10
- SSI recipients will receive a letter to make an appointment with SSA to document continued eligibility, especially financial, between 4/10 – 9/10

2. Application denied or appeal of denial pending on or after 1/1/07

- Full retroactive benefits based on date of original application.
- Most Social Security Insurance benefits applicants will be reinstated automatically because most were determined disabled before being denied due to an outstanding warrant between 4/10 – 12/10.

2. Application denied or appeal of denial pending on or after 1/1/07

- Most SSI applicants will need to finish establishing eligibility because most SSI applicants with outstanding warrants were denied before disability, income, and asset eligibility were determined.
- If disability determined before the application was denied for the warrant, no new disability determination needed.
- Letters to this group between 4/10-9/10

3. Benefits suspended or denied 2000-2006, no appeal on 1/1/07

- Relief not automatic
- Will receive letter from SSA to contact SSA about Martinez Settlement
- Notices mailed to last known address
- **Must respond within 6 months**
- Limited retroactive benefits back to 4/1/09 – "protected filing date"

3. Benefits suspended or denied 2000-2006, no appeal on 1/1/07

- Collection on overpayments due to outstanding warrants will stop by 12/10
- SSA will not refund any amounts already collected on the overpayments
- Informational letters to Social Security Insurance recipients go out between 4/10 – 6/10.
- Informational letters to SSI recipients out between 4/10 - 9/10

WHAT CAN YOU DO?

1. HELP GET THE WORD OUT

2. Make sure SSA has your correct address

3. Ask your clients if they were ever denied or cut off from social security benefits due to a warrant

4. If possible, determine whether the warrant was a straight warrant or a warrant for a violation of probation or parole

WHAT CAN YOU DO?

5. If your client currently has a straight/default warrant or was previously denied benefits because of a straight/default warrant, make sure s/he goes to the local Social Security office to:

   (1) give SSA a current address and phone number

   and

   (2) ask to be placed on the "Martinez list"

WHAT CAN YOU DO?

6. Watch out for Medicare Part B problems

7. Watch out for limitations on retroactive relief where the individual reapplied for benefits after a warrant suspension and was found not disabled on the new application

QUESTIONS? Who do you call?

- **Call the Martinez Settlement Hotline at 617-373-3356.**
- The hotline will be open from June 24 through August 13
- After August 13, call the Legal Advocacy & Resource Center at 617-603-1700 or

  for ages 60 and over, Greater Boston Legal Services at 617-603-1776

More Information

- For more information, you can visit the website of the National Senior Citizens' Law Center (NSCLC)
- www.nsclc.org