

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

L.N.P., on his own behalf and on behalf of his )  
dependent children P.D.P. and L.D.P. )  
and on behalf of all others similarly situated, )  
)  
)  
)  
Plaintiff, )  
)  
)  
v. )  
)  
)  
FRANK BISIGNANO, )  
Commissioner of Social Security Administration, *et al.*, )  
)  
Defendants. )  
)  
\_\_\_\_\_ )

Case No. 1:24cv1196 (MSN/IDD)

**DEFENDANTS’ RESPONSE TO PLAINTIFFS’ MOTION FOR CLARIFICATION**

Pursuant to Local Rule 7, Defendants hereby responds to Plaintiffs’ Motion for Clarification (Dkt. 182). In that motion, Plaintiffs assert that “the Final Judgment Order is arguably ambiguous as to the exact scope of the class members entitled to the relief that was awarded.” Dkt. 182, at 1. The motion gives short shrift to the Court’s expression at oral argument that including individuals who merely received a cost-of-living adjustment (COLA) notice during the class period would “reach back [too] far,” *i.e.*, that receipt of a COLA notice does not salvage an otherwise untimely claim. *See* Dkt. 162 (March 13, 2026 hearing transcript) at 12.

Plaintiffs propose two options to “clarify” the Court’s order and reiterate their preferred position that individuals “who received COLA letters during the class period” are entitled to relief. *Id.* Plaintiffs’ motion seeks to significantly enlarge the judgment. By their own estimates, accepting their proposed change increases the past-due benefits from \$63 million to “approximately \$420” million. Dkt. 185, at 1-2.

**1. The Court Should Reiterate That Receipt of a COLA Notice Does Not Salvage An Otherwise Untimely Claim.**

Plaintiffs’ position was not accepted at the summary-judgment hearing. And the motion muddles two distinct concepts—reviewability and scope of review—focusing entirely on whether a COLA notice is an “initial determination” that can be challenged but never explaining why *this claim* could be brought in such a challenge. Even if the application of a cost-of-living adjustment is a reviewable “initial determination,” plaintiffs are not challenging the application of a cost-of-living adjustment. Plaintiffs want to challenge SSA’s methodology for applying the family maximum to their benefits, a legacy determination that was not timely challenged. Accordingly, the Commissioner respectfully suggests that the Final Judgment Order (Dkt. 176) be clarified as follows:

6. This Final Judgment applies to all members of the class, as defined in the Court’s Class Certification Order (ECF 72), **who, during the class period beginning May 10, 2024, received a notice of an initial determination regarding their benefit amount (excluding a cost-of-living-adjustment notice), and** to whom notice was sent, excluding those who timely requested exclusion from the class as set forth in the exclusion reports filed by Class Counsel.

**2. Even On Its Own Terms, Plaintiffs’ Proposed Modification Is Overbroad.**

If review of the application of a COLA extends to this claim, plaintiffs’ remedial language still sweeps too broadly. Consider a hypothetical class member who received a COLA notice in late 2024 explaining how the COLA affected that individual’s 2025 benefits. *See, e.g.*, Dkt. 155-1 (sample COLA notice). Even were review available to challenge the longstanding family-maximum methodology in such case, such review would extend only to the payments affected by the challenged COLA notice—payments in 2025—not all payments back to May 30, 2024.

While not advanced in this motion, plaintiffs previously argued a challenge to a COLA notice entitles the challenger to relief “back to the inception of their benefits.” Dkt. 182, at 3 n.4.

