

## Program Operations Manual System (POMS)

Effective Dates: 07/19/2017 - Present

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TN 8 (10-16)

# GN 02615.100 *Clark* Court Order: Overview

## Citations: *Clark*

Social Security Act, Sections [202\(x\)\(1\)\(A\)\(v\)](#), [1611\(e\)\(4\)\(A\)\(ii\)](#), [1631\(a\)\(2\)\(B\)\(iii\)\(V\)](#); 20 CFR [416.202](#); [416.708](#); [416.1339](#);

*Clark v. Astrue*, No.06 Civ. 15521 (SHS), a case in the U.S. District Court for the Southern District of New York.

See Social Security Online: [Notice of Final Relief Order in Clark Court Case](#)

## A. Description of the *Clark* court order

On April 13, 2012, the Federal District Court for the Southern District of New York issued the final order in *Clark v. Astrue*. *Clark* challenged our practice of suspending or denying benefits and payments based solely on the existence of a probation or parole violation (PPV) warrant. On May 9, 2011, after the Court certified a nationwide class, we stopped suspending or denying Title II benefits and Title XVI payments based solely on a PPV warrant.

### 1. Definition of a class member

The court order defines *Clark* class members as:

All persons nationwide for whom an initial determination to suspend or deny SSI and/or OASDI benefits was made and/or an initial determination of overpayment of such benefits was made and such initial determination was based solely on the existence of a warrant for an alleged violation of probation or parole, provided: (i) the initial determination was made during the period from October 24, 2006 to and including such time in the future when final relief is entered in this action; or (ii) a timely administrative appeal of such initial determination was pending on or after October 24, 2006.

### 2. Identifying class members

We identified an individual as a class member if he or she is either a:

- Title II beneficiary who had an open or satisfied FUGITIVE data event on the MBR (status of VIOLATION)

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with a matching PPV warrant in the Fugitive Felon SSA Control File (FFSCF) and suspension action on the warrant was taken on or after October 24, 2006; or

- Title XVI recipient whose payments were suspended or denied (PSY N25) based on a PPV warrant in the FFSCF and action on the warrant was taken on or after October 24, 2006; or
- beneficiary or recipient who had an initial determination of overpayment made October 24, 2006 or later, which was based solely on the existence of a PPV warrant; or
- beneficiary or recipient who had a PPV suspension, denial or overpayment determination with an administrative appeal on this initial determination pending on or after October 24, 2006.

## **B. Terms of the *Clark* court order**

The following are the types of relief provided based on the terms of the court order.

### **1. Prospective relief**

Beginning May 9, 2011, we stopped suspending or denying Title II benefits and Title XVI payments nationwide based solely on the following PPV warrant offense codes:

- parole violation (offense code 5011),
- probation violation (offense code 5012),
- juvenile offenders – abscond while on parole (offense code 8101),
- juvenile offenders – abscond while on probation (offense code 8102),
- offense code 9999 with an offense charge symbol of probation or parole violation,
- offense code “blank” with an offense charge symbol of probation or parole violation.
- any other four-digit offense code (other than offense codes of 4901, 4902, or 4999) provided the offense charge symbol is “PROBATION/PAROLE VIOLATION.”

### **2. Retroactive relief**

The court order requires that we reinstate *Clark* class members’ benefits and pay any previously withheld benefits back to the first month of suspension (Title II and Title XVI) or denial (Title XVI only). When determining retroactive relief for PPV nonpayment months, all other normal payment, nonpayment, and reduced payment rules apply.

After reinstating benefits or payments, we may select class members for Continuing Disability Reviews (CDR) according to normal scheduling practices.

## **C. Planned timeframes for *Clark* relief**

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We implemented *Clark* retroactive relief according to a planned timeframe. We listed class members in the Civil Action Tracking System (CATS) after we identified them for retroactive relief. We sent class members an informational notice informing them of the court case. A sample of the notice is found in [GN 02615.160](#).

## 1. Title II relief

After identifying the class members, we expect to post the following Central Office Messages (CO MSG) and a Special Message (SP MSG) on the MBR:

- Clark Court Order – Case Selected for Clark Relief and Medicare Review
- Clark Court Order – Case Selected for Clark Review
- Clark Court Order – Automated Relief Processed

An automated systems operation resumed benefits to some beneficiaries in the 4th quarter of CY 2012. However, many class members required manual relief actions. Processing centers (PC) began manually processing relief in CY 2013.

## 2. Title XVI relief

### a. Suspended cases

We included currently eligible Title XVI class members who were potentially due *Clark* relief in the March 2013 scheduled redetermination (RZ) release and loaded their cases into Stars and Stripes the Next Generation (SSTNG). Field offices (FOs) contacted these class members to schedule an RZ prior to resuming payment. FOs included special *Clark* language in the RZ appointment letter. For an example of the RZ letter, see [GN 02615.160](#).

### b. Terminated cases

We could not load terminated cases into SSTNG thus the FOs had to control them manually. FOs contacted these class members to schedule an RZ prior to resuming payment. Some cases required a medical determination before determining payment eligibility.

## 3. Concurrent case relief

If a recipient or beneficiary had two *Clark* Court Case Identifiers (CCID), we processed the actions on these concurrent cases independently under each Title in accordance with instructions in [GN 02615.100D](#). in this section. We processed Title II first before we initiated actions on the Title XVI part of the case.

## D. *Clark* class members processing categories in CATS

We added all identified Title II and Title XVI class members potentially eligible for *Clark* relief into CATS with CCIDs.

The following five CCIDs indicate the possible processing categories:

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CCID	Processing Categories	Processing Instructions
C1	Title II Automated Cases	<a href="#">GN 02615.115</a>
C2	Title II Manual Cases	<a href="#">GN 02615.120</a> – <a href="#">GN 02615.140</a>
C3	Title XVI Single PPV Warrant Cases	<a href="#">GN 02615.180</a>
C4	Title XVI Multiple PPV Warrant Cases	<a href="#">GN 02615.180</a>
C5	Title XVI Cases with Appeals	<a href="#">GN 02615.185</a>

CATS is no longer available to technicians based on changes made by the Office of General Counsel (OGC). Only Central Office staff has access to **Clark** CATS records. If a beneficiary or recipient inquirers about **Clark** relief, follow the instructions in [GN 02615.190](#).

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0202615100>

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Batch run: 07/19/2017

Rev:07/19/2017

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