

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JANET HEMMINGER,

Plaintiff,

ORDER

v.

08-cv-186-bbc

MICHAEL ASTRUE,  
Commissioner of Social Security,

Defendant.

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This is an appeal of an adverse decision of the Commissioner of Social Security brought pursuant to 42 U.S.C. § 405(g). Plaintiff Janet Hemminger has requested leave to proceed in forma pauperis and has supported her request with an affidavit of indigency dated February 26, 2008.

To determine whether a plaintiff qualifies for indigent status, the court uses the following calculation: From plaintiff's annual gross income, the court subtracts \$3400 for each dependent, excluding the plaintiff. If the balance is less than \$15,000, the plaintiff may proceed without any prepayment of fees and costs; if the balance is greater than \$15,000 but less than \$28,000, the plaintiff must prepay half the fees and costs; and if the balance is greater than \$28,000, the plaintiff must prepay all fees and costs. Substantial assets or debts require individual consideration.

Plaintiff has no dependents. She is married. Plaintiff's husband earns approximately \$2,900 per month, or \$34,800 annually. Applying the formula above, plaintiff falls into the category where she must pay prepay all fees and costs.

In the section of the affidavit asking the plaintiff to describe “other circumstances” she would like the court to consider, plaintiff asserts that she incurred charges of \$14,000 last year as a result of a two-day hospital stay. It appears from plaintiff’s listed expenses that she took out a loan to pay this debt and that she makes a \$500 monthly loan payment. Although this is a significant debt, it is not a basis for finding that plaintiff qualifies for indigent status. The debt is offset by a significant asset, plaintiff’s home, which is worth \$132,000. Accordingly, if she wishes to proceed with this action, plaintiff will have to pay the full filing fee of \$350, plus the costs of service.

#### ORDER

IT IS ORDERED that plaintiff’s request for leave to proceed in forma pauperis in this action is DENIED because plaintiff does not qualify for indigent status. Plaintiff may have until May 3, 2008 in which to pay the \$350 fee for filing her lawsuit. If, by May 3, 2008, plaintiff fails to pay the fee, the clerk of court is directed to enter judgment dismissing this case without prejudice for plaintiff’s failure to prosecute it.

Entered this 3<sup>rd</sup> day of April, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge