

## **Defensoria asks the STF to create a group to discuss the review of the life of all the settlements**

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The Public Defender of the Union (DPU) asked the Supreme Federal Court (STF) to create a group to discuss solutions and guarantee the application of the decision of the Court that validated the so-called “review of life all the settlements.”

According to DPU, it is necessary to give “structural” treatment to the issue “through collaborative construction of solutions” to guarantee the effectiveness of the decision.

The Supreme Court authorized in December that a party two INSS insureds refaça the calculation of the value of their benefits, considering the contributions prior to 1994 – when the government altered the rules of calculation of two benefits after making a Social Security reform -, the Social Security reform of 2019.

In the case, the DPU said that the “reiterated administrative decisions” of the INSS would be disrespecting the decision of the Supreme Court on the review of all life.

According to the Ombudsman, the body responsible for health insurance has affirmed to residents that there is no possibility of making or recalculating two benefits.

According to the organization, in most cases the beneficiaries do not know for sure if the review will be really beneficial.

“The answer to this question depends, invariably, on the calculations, to the extent that, at the National Institute of Social Security (INSS) we will try, the interested parties have received as a response an indication of the impossibility of the calculation being carried out by autarchy, especially due to the volume of lawsuits resulting from the decision of the Court”, he told the DPU.

According to the Ombudsman, it is possible that the interested party provide the calculation by means of a private accountant.

This possibility, however, is not the fact that many people do not have financial conditions. Also said, “there is a second obstacle, because the INSS will not simply abide by the private calculation, I have to redo it to check if it is correct,” he told the DPU.

“Regarding the people assisted by the Public Defender, various units, especially minor ones – for example, the Unit of the DPU in Mossoró/RN -, do not have a technical accounting support team or specialized support capable of performing calculations, or that corresponds to there is no public orçamento intended for the correct operation of the legal assistance service”, declared the organ.

According to the DPU, the “only possible solution is to carry out the INSS own calculation or to carry out an agreement with this purpose”.

In addition to the creation of the debate group, which would count on the participation of its own Ombudsman, the organization also requested the STF to determine the suspension of two statutes of limitations for the individual actions of settlers “in order to avoid or overcrowd the justice system with the adjudication of thousands of processes aiming to determine the realization of the calculation by INSS”.

À CNN, o INSS disse que não comenta ações judiciais.

## **understand**

The STF’s decision validating the life review was all taken in December.

This legally formed gives one party two residents and pensioners of the INSS the right to review and increase their benefits, including the right to receive or retroactive payment of the difference of all the months past in which they received less.

The decision of the Court is valid for all the thousands of years on the subject opened by the courts of the country.

In May, the Advocacia-Geral da União (AGU) reviewed the decision on the “revision of all life”, asking that the Supreme Court clarify points.

The organization wants to know if this signed statement can benefit residents who have never been refusing to review it. The AGU also requested the suspension of two judicial proceedings on the subject at the end of the judging of two appeals filed with the STF.

Another point presented is a request for the Supreme Court to make the so-called “modulation of effects”, determining that the effects of the December ruling have effects only for the future.

In other words, AGU wants to prevent or recalculate for those who receive pension benefits that have expired, that have not had the request for revision denied by the Justice in a final decision (that there is no further appeal), and for situations in which the benefits paid obeyed the rules in force before the STF ruling.

The cited agency did not appeal or impact the public accounts of the decision of the Supreme Court in favor of the review of all life, apart from an “expressive administrative impact”.

If the AGU attends and opts for some modulation of effect, or the STF may restrict the role of people who may file a lawsuit for review, or decide, for example, that as soon as the action has been judged before the end of the judging, it will go directly to the recalculation.

The INSS had already asked the Supreme Court to suspend or proceed two judicial processes on the matter, arguing that there were no technical possibilities to recalculate the settlements based on the new rules. The autarchy estimated that the procedure should involve 51 million active and inactive benefits.

### **Veja is worth asking for “revisão da vida toda”**

According to specialists, the request for revision is only worth it for those who had high salaries before July 1994, the date on which the Plano Real came into force.

“The review of life is an action of excellence, or it is said, it is worth it for those who won more before the Real Plan. It is normal to receive less when you start your working life, therefore, obligatorily, or what must be done is a calculation to see if the review will bring relevant adjustments”, said João Badari, a pensioner lawyer, to CNN.

Since the decision was announced by the STF, companies have secured insurance to sell the belief that the review of life is worth anything for everyone.

Badari says that, in the case of workers who earned less in 1994, they will require a review with Justiça, it is possible that the old salaries decrease the value of the property. Therefore, he recommends that the insured seek specialists and lawyers to make an “artisanal and individualized calculation, to avoid losses.”

“I had a lot of people making links and sending letters, text messages, with an alleged value to which the insured would be right. Isso is a lie. All calculations must be made by the client, or at the request of the client”, he reinforces.

The Brazilian Institute of Social Security Law (IBDP) reiterates or warns. “The IBDP warns that the revision must be calculated before being distributed in justice. It is not recommended to enter with ‘not dark’ action, or say, without calculations. It may be that the review is not advantageous”, says Adriane Bramante, president of the scientific-legal institute, in a press release.

The IBDP has prepared a list of recommendations for insureds to avoid injuries and possible blows:

Do not pass data by phone and go personally to the local;

Inquire about the suitability of two professionals that you are hiring;

Check calculations with a specialized professional and confer the value to be reviewed.

### **What can I ask to review my whole life?**

According to the IBDP, in addition to having received higher salaries at the beginning of the career, it is necessary that the insured has settled in accordance with the previous rules to the social security reform — or so, before November 13, 2019.

Furthermore, only those who have made or started two payments (concession) in the last ten years, due to the so-called declining term, will be able to review the benefits. “If you have settled for ten years and one day, you are no longer right to review”, says Badari.

Pensioners and beneficiaries of doença assistance may also have rights to review.

If the insured wins the action, he will be entitled to receive the payments in arrears for the last 5 years and may still have an increase in the value of the monthly benefit, depending on the two contribution values ??before July 1994.

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