

External Opinion
File # 99-22

October 15, 1999

George Hausen
Legal Services of North Carolina
224 South Dawson Street
P.O. Box 26087
Raleigh, North Carolina 27611

Dear Mr. Hausen:

This is a response to your request for an interpretation of the definition of *income* in 45 C.F.R. Part 1611, the Legal Services Corporation's regulation on client eligibility. In our phone conversation last week, you informed me that Legal Services of North Carolina (LSNC) is interested in providing legal assistance to victims of the recent flood in your state which has left many citizens with ravaged farms and businesses, and without homes or employment. You specifically asked how to annualize a person's income in light of the use of the term *current* in the definition.

Income is defined in Part 1611 as:

actual current annual total cash receipts before taxes
of all persons who are resident members of, and
contribute to, the support of a family unit.

Section 1611.2. There is nothing in the text or the regulatory history of this provision that specifically addresses how to annualize income. However, the use of the term *current* in the definition indicates that recipients are to look at the current situation of an applicant at the time he requests legal assistance. In addition, the use of the term *actual* suggests that a recipient is to consider real income and need not speculate as to when an applicant might find a job in the future or how much income the job might provide.

Thus, it is reasonable and consistent with the language of the rule for a recipient to annualize by starting with the amount of actual income of the applicant on the date the applicant requests services and projecting forward twelve months. This especially makes sense for persons who have experienced major economic losses

due to natural disasters. Thus, if an applicant has no income because his job no longer exists after the flood, the annualized amount would also be zero.

Of course, if the client should become ineligible in the future while your program is still providing representation, LSNC may need to discontinue representation pursuant to §1611.9.

I hope this adequately responds to your inquiry. Please let me know if you need any additional assistance on this matter. You may call me at 202-336-8871.

Sincerely,

Suzanne B. Glasow
Senior Assistant General Counsel