



November 1, 1999

morgenstern@juno.com
Inquirer
LSC Web Site

Re: Client Eligibility under Part 1611

Dear Inquirer:

This is an opinion in response to your October 14, 1999, inquiry regarding the receipt of a social security benefit and whether the benefit counts as income for the purposes of determining eligibility for legal services. According to the information you presented, the specific Social Security benefit is allocated to the Plan for Achieving Self Support ("PASS").

The applicable LSC rule for determining eligibility of a client is 45 C.F.R. Part 1611. Part 1611 implements §2996f of the LSC Act.¹ Pursuant to Part 1611, "income" is the primary factor in the determination of eligibility. Income is defined in §1611.2 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.

"Total cash receipts" are defined in §1611.2 as:

money wages and salaries before any deduction, but do not include food or rent in lieu of wages; income from self-employment after deductions for business or farm expenses; regular payments from public assistance; **social security**; unemployment and worker's compensation; strike benefits from union funds; veterans benefits; training stipends; alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; public or private employee pensions, and regular insurance or annuity payments; and income from dividends, interest, rents, royalties or from estates and trusts. They do not include money withdrawn from a bank, tax refunds, gifts, compensation and/or one-time insurance payments for injuries sustained, and non-cash benefits.

Thus, the regulations clearly state that, in the calculation of "income," social security benefits are included in that total.

¹ 42 U.S.C. 2996f(2)(B)(i) (This section of the LSC Act requires LSC to, "establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include – (i) the liquid assets and income of the client").

Please be advised, however, that the decision whether to represent a client rests with a program. LSC cannot compel a program to represent a client.

I hope I have sufficiently addressed your inquiry. I encourage you to contact your local program to determine your eligibility for legal services. If I may be of any further assistance, please feel free to contact me.

Sincerely,

/s/ Kelline A. Carroll
Attorney