

MATTIE CONDRAY

From: Debra G. Deeb [d.g.deeb@iowa.gov]
Sent: Thursday, June 23, 2005 5:41 PM
To: MATTIE CONDRAY
Subject: Comment on 45 CFR Part 1611 - Family Educational Records

Dear Ms. Condray:

These comments are being submitted on behalf of Iowa Legal Aid. Iowa

Iowa Legal Aid supports the proposed revisions to this section. Under the proposed rule a recipient may provide legal assistance where an applicant has been receiving governmental benefits for low-income individuals and families and seeks legal assistance to maintain those benefits, regardless of income. This new provision will permit Iowa Legal Aid to assist clients who work but whose income is supplemented by public benefits to retain their benefits even if the total income exceeds LSC limits. Many of Iowa Legal Aid's clients who receive governmental benefits work and this change in the exception policy will allow Iowa Legal Aid the flexibility to provide assistance in selected cases so that clients can maintain needed benefits, such as Medicaid, while working. Iowa Legal Aid supports allowing an authorized exception where the applicant's income is primarily devoted to medical or nursing home expenses, which is similar to the current regulation. Iowa Legal Aid would request that this rule be amended to allow field programs to

on a household's disposable income.

A number of field programs have urged LSC to consider basic utility costs as fixed debts and obligations that can be considered when determining whether to make an exception to the income ceiling. Iowa Legal Aid recommends that the regulations provide the flexibility to local programs to make that determination. While it is true that basic utility costs could be considered as daily living expenses, there are times when utility costs have increased dramatically due to price increases and extremely cold weather. By allowing programs to grant exceptions on a case-by-case basis for utility charges, field programs could respond appropriately to local conditions.

Section 1611.6 – Representation of Groups

This section broadens the circumstances under which recipients can represent groups. Iowa Legal Aid supports this change. Allowing a program to represent a group when that group's primary activity is delivery of services to eligible persons in the community, is a very sensible change. In many cases, this may have a significant benefit to the client community. The new rule would allow field programs to provide assistance to newly formed domestic violence coalitions, or other organizations that help low-income persons. Many of these organizations may not be comprised of low-income people, but their primary focus is to assist

Iowa Legal Aid believes that the use of retainer agreements is a matter of good practice, but favors the proposal to give programs more flexibility in determining when they should be used. The proposed rule makes clear that retainer agreements are only required in extended service cases. The current rule was ambiguous as to whether retainer agreements were required in brief service cases. The proposed provision makes clear that no written retainer agreement is required for PAI cases. While it is likely that Iowa Legal Aid will continue to use retainer agreements in most PAI cases, there are instances where retainers cannot be obtained, so we support eliminating this requirement and believe it will assist in obtaining representation of additional low-income Iowans through the private bar. Iowa Legal Aid supports the proposed elimination of the requirement that LSC approve retainer agreements. We believe that it should not be a matter of regulation and should be up to each program to determine when and how retainers should be utilized. If LSC is going to continue to require this regulation, we believe that the proposed rule is better than the current rule and would support it.

Iowa Legal Aid concurs with LSC's decision to not include language in this rule pertaining to access to eligibility records and client names. Iowa Legal Aid believes that Section 509(h) of the LSC Appropriations Act, which gives LSC auditors and monitors access to records, is sufficient.

Iowa Legal Aid appreciates the opportunity to comment on the proposed regulations on financial eligibility.

Sincerely,

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