



OFFICE OF LEGAL AFFAIRS

W

OFFICE OF LEGAL AFFAIRS

EXTERNAL OPINION

External Opinion # EX-2008-1002

To: Alexander Beattie, II
Managing Attorney – Crownpoint Office

Crownpoint, N.M. 87313

Date: April 17, 2008

Subject: Attorneys' Fees in Social Security Cases

This opinion is in response to your e-mail message dated February 15, 2008. You inquired as to whether a recipient is permitted to accept attorneys' fees in Social Security

April 17, 2008
Page 2

reasonable fee, not to exceed 25% of the total past-due benefits.¹ This award of attorneys' fees is deducted from the total award.

Section 504(a)(13) of LSC's 1996 appropriations act prohibits any LSC recipient from claiming or collecting and retaining attorneys' fees.² This restriction has been incorporated in all subsequent LSC appropriations. LSC revised 45 C.F.R. § 1642 to implement this restriction. Furthermore, 45 C.F.R. § 1610.2(b)(9) includes the collection of

attorneys fee as an "activity prohibited by Section 504."

The prohibition on collecting attorneys' fees is found in 45 C.F.R. § 1642.3, which states that "no recipient or employee of a recipient may claim, or collect and retain attorneys' fees, or deduct fees on behalf of a client of the recipient." Attorneys'

April 17, 2008

Page 3

If you have any remaining questions, or if we may be of further assistance, please do not hesitate to let me know.

Sincerely yours,



A handwritten signature in blue ink, appearing to read "Victor M. Fortuna". The signature is written in a cursive style and is positioned above a yellow horizontal line.

VICTOR M. FORTUNA

Director of General Counsel

[Redacted]

[Redacted]