



## Indiana Legal Services, Inc.

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Mattie Condray, Senior Assistant General Counsel  
Office of Legal Affairs  
Legal Services Corporation  
3333 K. St., NW.  
Washington, D. C. 20007-3522

June 22, 2005

Dear Ms. Condray:

Indiana Legal Services, Inc. (ILS) is a statewide LSC funded program. I am the executive director of ILS and offer these comments in response to proposed rule 45 CFR 1611, published on May 24, 2005.

The regulation as written will not allow programs to count the value of non-homestead real estate without first considering whether the real estate can be readily converted into cash. Proposed §1611.2(d) defines "assets" as cash or other resources "that are readily convertible to cash, which are currently and actually available to the applicant." Currently, ILS Eligibility Rules provide that "equity in any other real property shall be considered as an asset." As part of the intake interview, ILS intake interviewers question prospective clients about their assets, including non-homestead real estate. The client is asked the equity about their assets, including non-homestead real estate. The client is asked the equity value of the non-homestead real estate. If its value, together with other countable assets, is above the ILS asset limit, the prospective client is informed that he or she is financially ineligible for services and the interview is then concluded without obtaining further information.

Under the proposed rules, it appears that it would be improper for ILS and other programs to automatically count the equity value of non-homestead real estate without first determining if it can be readily converted into cash. This will complicate the intake process, as this is not an easy decision to make, particularly for intake interviewers. I believe that programs should have the authority to count the value of non-homestead real estate without making further inquiries. The definition of assets in §1611.2(d) should be amended by adding the following sentence: "The equity in real property which is not the household's principal residence and which is not used to produce income can be included as an asset."

A second problem with the proposed rule involves the definition of "brief service," which is then used to determine whether a client retainer agreement is needed. Brief services are defined as a discrete and time-limited service", including "the drafting of documents". There is no reference to brevity, so that the drafting of a lengthy and complicated document would be a brief service. There are also other services which are discrete and time-limited but are



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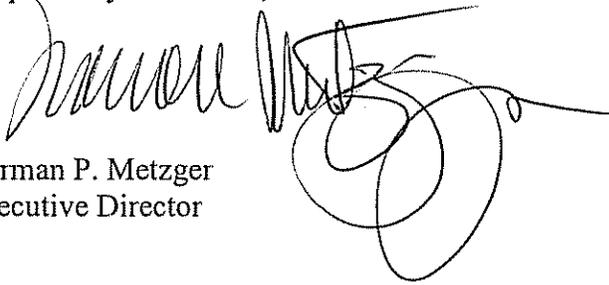
OFFICE OF ADMINISTRATION  
151 North Delaware Street, Suite 1640  
Indianapolis, Indiana 46204  
Phone (317) 631-9410 FAX (317) 631-9773  
Indiana toll free: 1 (800) 869-0212  
www.indianajustice.org

not necessarily "brief." In the context of this rule, this definition is actually favorable to programs, since for these services no retainer agreement is needed and therefore there is less chance programs will be in violation for not having a retainer. I am concerned that this same definition will also be used for case reporting, with the consequence that LSC will require more closed cases, even potentially time consuming cases, to be listed as Brief Services cases. The CSR Handbook defines "Brief Services" as "A case closed as a result of an action taken at or within a few days or weeks of intake on behalf of an eligible client, e.g., the preparing of a short letter, the making of a telephone call, or the preparation of a routine legal document such as a simple will." This definition does tie "brief services" to the brevity and lack of complexity of the assistance. I believe the definition in this rule should provide likewise, or in the alternative, the rule should state that this definition of brief services will not apply to Case Service Reporting.

Finally, the title of the rule, "Financial Eligibility," is incomplete, since the rule also includes retainer agreements. I suggest that the rule be titled "Financial Eligibility and Retainer Agreements."

Respectfully Submitted,

Norman P. Metzger  
Executive Director

A handwritten signature in black ink, appearing to read "Norman P. Metzger", with a large, stylized flourish extending from the end of the signature.