



December 8, 1999

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Assistant Director  
Legal Services of North Carolina, Inc.  
224 S. Dawson Street  
P.O. Box 26087  
Raleigh, NC 27611

Re: Income Eligibility for FEMA Cases

Dear Mr. Hausen:

Your December 6, 1999, letter requests an opinion on whether FEMA is the type of government program that permits client eligibility to be determined under § 1611.4(a)(2) of our regulations.

Section 1611.4(a) authorizes exceptions to the 125% of poverty income eligibility ceiling for clients whose income does not exceed 150% of the national eligibility level, provided they fall into one of two categories. The first category, which you indicate is being used to serve disaster victims, includes clients whose circumstances meet one or more of the factors in § 1611.5(b)(1). The second category includes clients who are seeking assistance to secure benefits provided by a governmental program for the poor. Your inquiry seeks guidance on whether FEMA assistance is a benefit provided by a “governmental program for the poor.”

Section 1611.2 defines a “governmental program for the poor” as one that provides benefits of any kind to persons determined to be eligible for such assistance on the basis of financial need. In other words, the programs referenced in § 1611.4(a)(2) are means-tested government assistance programs. A brief review of the major assistance provided by FEMA reveals that eligibility is based primarily on disaster-created need, whether for livable housing or assistance with other types of essential living expenses. As such, it is not a means-tested type of government assistance.

We did not do an exhaustive search of FEMA assistance. State and local disaster assistance may also have differing eligibility criteria. The eligibility criteria may also vary from one disaster to another. Therefore, if you are aware that the FEMA benefit – or the state or local disaster assistance – for which a client seeks your program’s assistance in obtaining considers an applicant’s financial need in

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determining the applicant's eligibility for the benefit, then such assistance would qualify as a "governmental program for the poor" for purposes of § 1611.4(a)(2).

I hope the above is helpful to you in attempting to serve the disaster victims in your area. If you have any questions or need further clarification, please feel free to contact me.

Sincerely,

Susan D. McAndrew  
Senior Assistant General Counsel