- (3) The recipient determines that the applicant should be deemed to be eligible for services on the basis of one or more of the following factors that restrict the applicant's financial ability to afford private legal assistance:
- (i) The applicant s current income prospects, taking into account seasonal variations in income;
- (ii) Unreimbursed medical or nursing home expenses, but if an applicant's income is primarily committed to medical or nursing home expenses, the applicant may be served if his or her income is over 200 percent of the Federal Poverty Income Guidelines but does not exceed the recipient's annual income ceiling after such expenses are deducted;
- (iii) Fixed debts and obligations, including but not limited to, current Federal, state or local taxes withheld from salary or paid periodically, unpaid Federal, state or local taxes from prior years, child support or alimony payments made to a current or former spouse, custodial parent, guardian or other custodian of a dependent minor child;
- (iv) Child care, transportation, and other expenses necessary for employment, job training or educational activities in preparation for employment;
- (v) Unusual expenses associated with age or disability of a resident family member; or
- (vi) Other significant factors that the recipient finds are related to the applicant's financial ability to afford private legal assistance.
- (b) In the event that a recipient determines that it will provide legal assistance pursuant to § 1611.5(a), the recipient shall document the specific factor(s) relied on to make the determination. The recipient shall keep such records as are necessary to inform the Corporation as to the number of such cases and the specific factors relied on to make such determinations, consistent with the restrictions on disclosure contained in § 1611.8(d).

§1611.6 Asset ceilings.

(a) The governing body of the recipient shall establish guidelines incorporating reasonable asset ceilings to be utilized in determining eligibility for services under §§ 1611.3(b), 1611.4 and 1611.5. As part of the review required under § 1611.3(a), the recipient shall review its asset ceiling guidelines at least once every three years and adjust them as necessary.

(b) In establishing such guidelines, the recipient may consider asset exemptions which may be available under State or Federal law. (c) The asset ceiling guidelines may provide authority for the director of the recipient or the director's designee to waive the ceilings on maximum allowable assets in unusual situations.

(d) In the event such a waiver is granted, the recipient shall document the factors considered in granting the waiver. The recipient shall keep such records as are necessary to inform the Corporation as to the number and the specific factors considered in granting such waivers, consistent with the restrictions on disclosure contained in § 1611.8(d).

§1611.7 Group eligibility.

- (a) A recipient may provide legal assistance to a group, corporation, association or other entity if such group or entity provides information showing that it lacks, and has no practical means of obtaining, funds to enable it to obtain private counsel in the matter on which representation is sought, and that it:
- (1) Is primarily composed of persons who are financially eligible for legal assistance under the Act and this part; or
- (2) Has as its principal function or activity the furtherance of interests that benefit those persons in the community who would be financially eligible for legal assistance under the Act and this part, and the representation sought relates to such a function or activity.
- (b) This part does not prohibit a recipient from providing legal assistance to a group or entity that does not meet the requirements of this section if the legal assistance is supported in whole by funds from a source other than the Corporation.

§ 1611.8 Manner of determining eligibility.

- (a) A recipient shall adopt simple intake forms and procedures to obtain financial and other information from individuals and groups to determine eligibility in a manner that promotes the development of trust between attorney and client. The forms shall be preserved by the recipient and information contained in the forms may be disclosed only in a manner that is consistent with § 1611.8(d).
- (b) If there is substantial reason to doubt the accuracy of the financial or other eligibility information provided by an individual or group client or applicant for service, a recipient shall make appropriate inquiry to verify the information, in a manner consistent with the attorney-client relationship.
- (c) When one recipient has determined that a client is eligible for service in a particular case or matter, that recipient may request another recipient to extend legal assistance or

- undertake representation on behalf of that client in the same case or matter in reliance upon the initial eligibility determination. The subsequent recipient is not required to review or redetermine the client's eligibility unless there is a change of circumstances as described in § 1611.10 or there is substantial reason to doubt the validity of the original determination.
- (d) Information furnished to a recipient by a client or an applicant for service to establish eligibility shall not be disclosed to the Corporation or to any third party who is neither employed nor retained by the recipient, nor associated with the recipient as co-counsel in the representation of the client, without the express written consent of the client or applicant except as such disclosure may be permitted without violation of the attorney-client privilege or applicable rules of professional responsibility. Nothing in this paragraph would prohibit an attorney from revealing information provided by a client that is implicitly authorized to be revealed in order to carry out the representation.

§1611.9 Retainer agreement.

- (a) A recipient shall execute a written retainer agreement with each individual or group client or named class representative who is represented by the recipient, in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area.
- (b) The retainer agreement shall be executed when representation commences or as soon thereafter as is practicable.
- (c) The recipient shall retain the executed retainer agreement and shall make the agreement available for review by the Corporation in a manner that protects from disclosure any information protected by the attorney-client privilege or the applicable rules of professional responsibility.
- (d) A recipient is not required to execute a written retainer agreement when only providing limited advice, consultation, or brief service.
- (e) When one recipient has executed a retainer agreement with a client, another recipient acting as co-counsel may extend legal assistance or undertake representation on behalf of that client in the same case or matter at the request of the original recipient without executing a separate retainer agreement, as long as—
- (1) The additional legal assistance or representation is within the scope of the original retainer agreement; and
- (2) the client has received written notification that another recipient is