

# ANCSA benefits don't effect Social Security

A mentally retarded Native woman who lost her supplemental security benefits because she had not kept assets from the Alaska Native Claims Settlement Act (ANCSA) separate from other funds, has won her case against the Social Security Administration.

In a decision handed down June 29, the Social Security Appeals Council found that the Social Security Administration should not have stopped her benefits in 1981. The ruling is significant for Alaska Natives, because it reaffirms the intent of language in ANCSA, which says that payment received cannot be counted as income in eligibility determinations for other governmental programs.

Supplemental security income is a cash program for needy, aged and disabled persons who have little or no income or resources. To qualify for SSI, the person's monthly income must not exceed \$284.30 and total assets may not exceed \$1,500.

Although ANCSA money is exempt from taxes and is not counted in eligibility determinations, interest earned from ANCSA money is treated as regular income.

The case for the Native woman was brought by Protection and Advocacy for the Developmentally Disabled (PADD). PADD staff attorney Jeff Jessee said the woman was notified in December, 1982 that she was no longer eligible for SSI benefits because her guardian had not been withdrawn, the Social Security Administration included both the interest and principal as regular assets. By counting the principal, the SSA determined that the woman's assets exceeded \$1,500.

PADD filed a complaint on the woman's behalf and an administrative law judge ruled in her favor. The regional SSA office appealed the decision.

The Appeals Council upheld the ruling. The council noted that even though the woman's accounts were not kept separate, her records clearly showed which money was exempt and which was not. Since that was the point of keeping separate accounts, the council said, the SSA was wrong to lump them together and deny the proper exemption.

PADD's Jeff Jessee said the ruling represents a clear signal to people who received ANCSA benefits, and their guardians, "that ANCSA money can be deposited into interest-earning accounts, without losing the protections on the

original principal. But the interest should be withdrawn as soon as it is earned and that money is considered income," he added.

AFN President Janie Leask said the woman's case is not unique.

"Hundreds, if not thousands of elderly and medically disabled Alaska Natives are in precisely the same situation," she said. "If the cash distribution is deemed a resource for the purposes of SSI eligibility, merely because it has earned interest, the result of ANCSA will be that federal agencies are allowed to offset their own responsibilities by using money paid to Alaska Natives in settlement of their aboriginal claims. That is a blatant contradiction of ANCSA."

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