



SOCIAL SECURITY

Office of the General Counsel
Region VI

March 10, 2004

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This office previously indicated to attorneys representing Social Security claimants of the desire to reduce or eliminate litigation involving requests for attorney fees and costs pursuant to the Equal Access to Justice Act ("EAJA") following district court decisions favorable to claimants. We noted that several district courts in Oklahoma and New Mexico expressed a preference to have the hourly rate calculated on an annualized basis. Consequently, as further explained below, we can agree on the following maximum hourly rates to be applied for attorney work done during all months of the year involved. **These rates are ONLY applicable to cases arising in the district courts of Oklahoma and New Mexico:**

<u>YEAR</u>	<u>HOURLY RATE</u>
1996	\$125
1997	\$129
1998	\$131
1999	\$134
2000	\$138
2001	\$142
2002	\$144
2003	\$148
2004	\$149

The hourly rate for 1996 is based on Congress' March 29, 1996 amendments to the EAJA, which set the maximum hourly rate to \$125.00. To remain consistent with the computation method used in previous years in determining the COLA, the maximum hourly rates to be applied for attorney work done during the 1997 through 2003 calendar years are also based upon the yearly Average CPI-U. The maximum hourly rate for 2003 was increased to \$148.00 based on the newly published yearly Average CPI-U of 184.0. The current maximum hourly rate for 2004 is \$149.00, which is based on the January 2004 CPI-U (185.2). We will send a follow-up letter to your office after July 16, 2004, to update the maximum hourly rate to which we can agree based on the yearly Average CPI-U information available at that time.

As you know, an easy formula to use to compute the current hourly rate is to divide the current Average CPI-U by the CPI-U for the base month (*i.e.*, March 1996 CPI-U=155.7), and multiplying the result by the base hourly rate (*i.e.*, \$125.00). The formula looks as follows:

$$\frac{\text{Average CPI-U}}{\text{CPI-U for March 1996}} \times \$125 = \text{Current Hourly Rate}$$

The January 2004 CPI-U is 185.2. The 2004 hourly rate of \$149.00 is computed as follows:

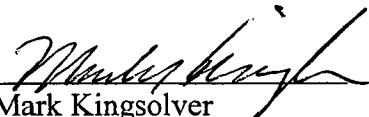
$$\frac{185.2}{155.7} \times \$125 = \$148.68 \text{ or } \$149 \text{ per hour rounded off to the nearest dollar}$$

Furthermore, Courts have held that attorney time should be billed in tenth of an hour increments, not quarter hour increments. Also, work which was or could have been done by support staff, regardless of who performed the work, should not be included in the EAJA application.

We believe that this computation method is equitable for all parties, and this office looks forward to a continued amicable working relationship with your office. Should you have any questions, please do not hesitate to call the undersigned at (214) 767-5587.

Sincerely,

Tina M. Waddell
Regional Chief Counsel

By: 
Mark Kingsolver
Branch Chief