

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 93 – 6**

March 1, 1993

RE: Employee from the Kentucky Division of Disability Determination, which adjudicates medical disability claims for the U. S. Social Security Administration

When claims for disability are first filed with the Social Security Office, the medical disability claims are sent to the Division of Disability Determination (the "Division") for a decision whether the claimant is medically disabled. It should be noted that the cases are originally filed with the Social Security Office and not with the Division. Final resolution of the case rests with Social Security. The Social Security Office may appoint a representative to assist the claimant.

In the present case, the requestor would like to assist claimants after requestor leaves current employment, but is concerned with the one year requirement set forth in KRS 11A.040(8), which provides:

A former public servant shall not represent a person in a matter before a state agency in which the former public servant was directly involved, for a period of one (1) year after the latter of:

- (a) The date of leaving office or termination of employment; or
- (b) The date the term of office expires to which the public servant was elected.

The requestor argues that because the appointment of representatives for Social Security cases and accompanying regulations are federal, that KRS Chapter 11A is inapplicable. The requestor acknowledges that he is a state employee. However, requestor argues that the benefits received by the claimant, if any, and the entire program are federally funded.

KRS 11A.010(9)(j) includes all employees in the executive branch as public servants. KRS 11A.040(8) then provides that a former public servant shall not represent anyone before a state agency in which the former public servant was directly involved. The question arises whether a state agency is involved.

Although the U. S. Social Security Administration Office is not a state agency, the Division is. This fact is not changed because the Division administers a federal program. As a state employee, requestor is a public servant under KRS Chapter 11A.

However, KRS 11A does not provide for a blanket prohibition on this situation. Applying the same opinion reached in Advisory Opinion 92-8, the Commission concludes that the requestor may immediately represent clients before the requestor's former agency provided that for a period of one (1) year after leaving office, such representation does not pertain to matters in which the requestor was directly involved while a public servant.