



STATE OF MICHIGAN  
OFFICE OF SERVICES TO THE AGING  
LANSING


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DIRECTOR

## MEMORANDUM

DATE: June 29, 2010

TO: AAA Directors, 4AM, State Advisory Council Members, Legal Assistance Providers and Elder Rights/Abuse Prevention Programs

FROM: Sharon L. Gire, MSW, Director 

SUBJECT: Proposed Revisions to OSA Operating Standards for Legal Assistance Programs

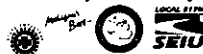
Please find attached, for your review and comment, proposed revisions intended to update the OSA Operating Standards for Legal Assistance Programs to promote a coordinated legal services delivery system and continue the legal service delivery enhancement efforts of Michigan's Model Approaches to Statewide Legal Systems grant.

The proposed revisions include both additions and deletions to the current standards. Additions are presented in underlined text. Deletions are presented as lined out text.

Please submit, in writing, any comments you may have no later than July 30, 2010. Comments may be submitted by fax, email or mail to Lynne Weinstein McCollum, OSA Legal Services Developer, (517) 373-4092 (fax) or [weinsteinL@michigan.gov](mailto:weinsteinL@michigan.gov). Lynne is also available to respond to questions or requests for additional information by telephone at 517.373.7692.

Attachment

SG/lm



Community

|                                     |   |
|-------------------------------------|---|
| <b>SERVICE NAME</b>                 | Legal Assistance  |
| <b>SERVICE NUMBER</b>               | C-10  |
| <b>SERVICE CATEGORY</b>             | Community   |
| <b>SERVICE DEFINITION</b>           | <p>Provision of legal assistance through cases, projects, community collaborations and other services that provide the most impact whether for an individual client or group of older adults. Such assistance may be provided by an attorney, paralegal or student under the supervision of an attorney. Legal Services is priority service under the Older Americans Act (OAA) <del>Advice and representation by an attorney (including counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and counseling or representation by a non-lawyer, where permitted by law.</del></p>  |
| <b>ALLOWABLE SERVICE COMPONENTS</b> | <p><b>Intake.</b> The initial interview to collect demographic data and identification of the client's legal difficulties and questions.</p> <p><b>Advice and Counsel.</b> Where the client is offered an informed opinion, possible course of action and clarifications of his/her rights under the law.</p> <p><b>Referral.</b> If a legal assistance program is unable to assist a client with the course of action that he/she wishes to take, an appropriate referral should be made. Referral may also be necessary when <u>a legal assistance program services providers observes individual needs that it is unable to resolve, that do not fit within the program's priority services or that can be appropriately addressed by another entity as part of the coordinated legal services system which they are unable to resolve, such as income maintenance, social service or health service needs.</u></p> <p><b>Representation.</b> If the client's problem requires more than advice and counsel and the case is not referred to another <u>entity source</u>, the <u>legal assistance</u> program may represent the person in order to achieve a solution to the legal problem. Representation may include legal research, negotiation, preparation of legal documents, correspondence, appearance at administrative hearings or courts of law, <u>comprehensive litigation</u> and legal appeals where appropriate.</p> <p><b>Legal Research.</b> The gathering of information about laws, rights</p> |

|                               |   |
|-------------------------------|---|
|                               | <p>or interpretation of laws that may be performed at any point after intake has occurred, to resolve an individual's legal problems. <u>This information is used to assist legal assistance programs in case work, client impact work and program and policy development. Such information will be used to assist providers of legal services in counseling individuals, in representing them in hearings and a court of law, or in negotiations with potential legal adversaries.</u></p> <p><b>Preparation of Legal Documents.</b> <u>Documents that serve to protect a client's individual rights. Writing documents that serve to protect individual rights, such as contracts, wills, powers of attorney, or leases, or other documents that which might later be used in a court of law may be prepared and executed by legal assistance programs.</u></p> <p><b>Negotiation.</b> As the client's representative, program staff may contact other persons concerned with the client's legal problem in order to clarify factual or legal contentions and possibly reach an agreement to settle legal claims.</p> <p><b>Legal Education.</b> <u>Legal assistance program staff may prepare and present programs to inform older adults. Preparation and presentation of programs to inform elderly persons of their rights, the legal system, and alternative possible courses of legal action.</u></p> <p><b>Community Collaboration and Planning.</b> <u>Legal assistance programs should participate in activities that impact elder rights advocacy efforts for older adults such as policy development, program development, planning and integration activities, and community collaborative efforts.</u></p> |
| <p><b>UNIT OF SERVICE</b></p> | <p>Provision of one hour of an allowable service component.</p>   |

Each area agency on aging (AAA) should contract with the legal assistance program with the capacity to perform the full range of allowable service components that is best able to serve the legal needs of the community given the resources available. AAAs are able to contract with Legal Services Corporation (LSC) grantees, non-LSC non-profit legal programs, private attorneys, law school clinics, legal hotlines or other low-cost legal services delivery systems. It is a conflict for any AAA to have in-house counsel serve as the Title IIIB legal services provider.

## Minimum Standards

1. Each legal assistance program shall have an established system for targeting and serving older adults ~~those~~ in greatest social and economic need within the OAA defined program target areas of income, health care, long term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect and discrimination. Each program shall complete and re-evaluate annually a program priority report and plan for targeting services to the most socially and economically vulnerable. This report shall be provided to the AAA and the Michigan Office of Services to the Aging (OSA).

2. Each legal assistance provider shall work to develop outcome measures to reflect the impact of legal services intervention on individual clients and older adults in the service area. These measures shall be used to establish benchmarks for contracting and program development. ~~Service shall be provided by, supervised by, or have direct contact with an attorney licensed to practice law in the State of Michigan who can perform or supervise any of the components listed above.~~

3. Services may be provided by an attorney licensed to practice law in the State of Michigan or a paralegal or student under the supervision and guidance of an attorney licensed to practice law in the State of Michigan. ~~A paralegal, defined as an individual trained in accredited paralegal courses or in the specific legal service subject areas in which they will be assisting an attorney or law student, with under 30 hours of course work under the supervision and guidance of a licensed attorney, may perform any of the components listed above with the exceptions of representation in court and final review of legal documents. Although a paralegal may represent client at an administrative hearing, representation in court shall be by an attorney. Preparation of legal documents may be assigned to a paralegal. However, all finalized documents shall be reviewed and approved by an attorney.~~

4. ~~Law students who have completed 30 hours of course work at an accredited law school may perform any of the service components under legal assistance acting under the guidance and supervision of a licensed attorney.~~

5. 4 .Legal assistance programs may support client impact work, including but not limited to class action suits where a large group of older adults are affected by a legal inequity. For client impact work, programs are encouraged to utilize technical assistance resources such as the Michigan Poverty Law Program (MPLP). ~~The program may support initiative of a class action suit when a large group of seniors are affected by a legal inequity.~~

6. ~~Each program shall provide at a minimum, advice and counsel, representation and education components. \*\*Note: incorporated into introductory paragraph above.~~

7. 5. Each legal assistance program shall demonstrate coordination with local long term care advocacy programs, aging services programs, Aging and Disability Resource Centers (ADRCs), elder abuse prevention programs and service planning efforts operating within the project area. ~~Each program shall demonstrate coordination with local long term care advocacy programs operating within the project area.~~

8. 6. When a legal assistance program identifies issues affecting clients that may be remedied by legislative action, such issues shall be brought to the attention of the AAA,

~~OSA, MPLP and the Michigan Legal Services legislative branch, as permissible and appropriate, and other programs offering technical assistance to legal providers.~~

9. 7. Each legal assistance program shall provide assurance that it operates in compliance with the ~~Older Americans Act~~ OAA, as set forth in 45 CFR Section 1321.

~~10.~~ 8. As part of an integrated legal services delivery system, each legal assistance program that is not part of a Legal Services Corporation (LSC) project grantee shall have a system to coordinate its services with the existing ~~Legal Services Corporation~~ LSC projects in the planning and service area in order to concentrate the use of funds provided under this definition to individuals with the greatest social and economic need. Each program shall also coordinate with the Legal Hotline for Michigan Seniors (LHMS), the Counsel and Advocacy Law Line (CALL), other low cost legal service delivery mechanisms, the private bar, law schools, and community programs to develop the targeting and program priority plan.

~~11.~~ 9. Each program shall make reasonable efforts to maintain existing levels of legal assistance for older individuals being furnished with funds from sources other than Title III Part B of the ~~OAA, Older Americans Act.~~

~~12.~~ 10. A legal assistance program may not be required to reveal any information that is protected by attorney/client privilege. Each provider shall make available non-privileged, non-confidential, and unprotected information which will enable the AAA to perform monitoring of the provider's performance, under contract, with regard to these operating standards.

~~13. Each program must give priority to legal assistance related to income, health care, long term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and discrimination. \*\*Note: incorporated into standard #1 above.~~

11. Each legal assistance program shall participate in statewide and local legal service planning groups including MPLP's Elder Law Task Force. Each legal assistance program is expected to participate in at least two (2) Task Force meetings per year. Participation by conference call is acceptable.

12. Each legal assistance program shall participate in elder law training and technical assistance activities provided by the MPLP and OSA.

13. Each legal assistance program shall report all program data through the Legal Services Information System (LSI) application of OSA's Aging Information System (AIS). Legal assistance programs will submit/post data in the LSI quarterly. Data shall be submitted no later than 30 days after the end of the quarter. AAAs will utilize the LSI to retrieve needed legal services program data and will consult with OSA prior to requiring additional reports or data from the legal provider. The requirement for legal assistance programs to report data through the LSI shall be included in AAA/legal assistance provider contracts.