

Notice of Instruction
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Notice of Instruction Number:

050610 – OAA Title IIIB Legal Services Delivery Standards – sa

TO: All OAA Title IIIB Legal Providers/PSA 6
FROM: Sarah Ardelean
DATE: May 6, 2010
SUBJECT: OAA Title IIIB Legal Services Delivery Standards

The purpose of this notice is to provide legal service delivery standards that define a quality legal assistance system in Florida and to ensure that legal services are targeted to underserved groups. It is only through a partnership of law and aging that true targeting can occur. These uniform standards are intended to be helpful to you in your development, oversight and implementation of your agency's legal program to ensure consistent quality of services.

The following language will be inserted into the July 2010 update to the *Program and Services Handbook*, allowing for a January 2011 implementation date.

PURPOSE AND GOAL

This legal assistance standard is intended to guide AAAs in working with their legal assistance providers and the state legal services developer in achieving the broad goal of the Florida Senior Legal Assistance Program – to build a collaborative and supportive network of key stakeholders in both the aging and legal services networks to ensure accessible, high impact, high quality legal services, which are targeted particularly to older Floridians in greatest economic or social need.

DEFINITIONS

- A. Legal Assistance – as defined in the OAA
 - a. Means legal advice and representation provided by an attorney to older individuals (age 60 and older) with economic or social needs; and
 - b. Includes –

- i. to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and
 - ii. counseling or representation by a non-lawyer where permitted by law.
 - c. Where legal assistance services are funded under Title III-E of the OAA, they are for 1) family caregivers under 60 and 2) grandparents and other older persons who are relative caregivers. Sections 372, 373 (OAA).
 - d. Legal Assistance does not include group legal education.
- B. Greatest Social Need – As defined in the OAA, the need caused by non-economic factors, which include a) physical and mental disabilities; b) language barriers; and c) cultural, social or geographical isolation.
- C. Aging Network – In Florida, the network of the Florida Department of Elder Affairs, Area Agencies on Aging, County Lead Agencies, Title VI grantees, and the organizations that are providers of direct services to older individuals.
- D. Limited representation – See Standard 3.4, American Bar Association Standards for the Provision of Civil Legal Aid¹.

PROGRAM STANDARDS

- A. Target Groups – Recognizing that OAA III-B resources are inadequate to meet the legal needs of older persons, legal assistance must be particularly targeted to older persons in greatest economic and social need.
 - a. The OAA specifies a number of target groups, with emphasis on low-income older persons, low-income minority older persons, older persons with limited English proficiency, and those residing in rural areas.
 - b. Consideration should be given at the local level to the necessity of prioritizing additional populations for legal assistance based on community need. Establishing additional target populations should be achieved by ongoing joint planning by the AAA and legal assistance providers and reflected in the governing service provider agreement.
- B. Priority Issue Areas –
 - a. AAAs and legal providers shall assure that the following broad categories of legal assistance are available in each Planning and Services Area, as specified by the OAA. These include: Income; Health Care; Long-term Care; Nutrition; Housing and Utilities; Defense of Guardianship; Abuse, Neglect and Exploitation; Age Discrimination; and Protective Services.

¹ The full text of the ABA Standards for the Provision of Civil Legal Aid can be found online at the following site: <http://www.abanet.org/domviol/trainings/Interpreter/CD-Materials/civillegalaidstds2006.pdf>

- b. Consideration should be given at the local level to the necessity of prioritizing specific legal needs within each broad category, based on the needs of the target groups. Establishing priority issue areas should be achieved by ongoing joint planning by the AAA and legal assistance providers as well as be reflected in the governing service provider agreement.
 - c. Simple wills and advance directives are not considered priority issue areas, unless legal assistance is justified in this area to meet essential needs.
- C. Mechanism for Reaching Targeted Groups and Addressing Priority Issue Areas –
- a. The Area Agencies on Aging and legal service providers shall not means test for services provided under the OAA.
 - b. The above prohibition tends to create a dilemma due to the need to balance targeting and priority-setting mandates with the means testing prohibition. Outreach becomes key to implementing targeting and priority-setting goals.
 - c. Consideration should be given at the local level to developing outreach mechanisms, based on the needs of the target groups and the priority issue areas. Establishing outreach mechanisms should be achieved by ongoing joint planning by the AAA and legal assistance providers as well as be reflected in the governing service provider agreement.

PROGRAM QUALIFICATIONS:

In order to achieve the goal of a coordinated and collaborative legal assistance program, the following roles and responsibilities of the state unit on aging, AAAs, and legal assistance providers are articulated in accordance with the OAA and Department policy:

- A. Department of Elder Affairs
 - a. Assign personnel (legal services developer) to provide state leadership in developing legal assistance programs for individuals throughout the state.
 - b. Provide leadership and foster communication and collaboration throughout the state among AAAs and legal assistance providers.
- B. AAAs are to
 - a. Select as their legal assistance provider the entity that is best able to provide the targeted legal services described in the Act
If AAA contracts with same legal provider as another AAA, agencies should coordinate with each other to ensure uniform contract standards and reporting and engage in joint planning so that the legal provider is not burdened with conflicting requirements across multiple contracts.

- b. If the AAA does not contract directly for legal services, but subcontracts through local entities, the AAA is responsible for a coordinated area-wide approach to legal services that meets these standards and ensures uniform contract standards and reporting so that the legal provider is not burdened with conflicting requirements across multiple contracts.
- c. Assure that legal programs are adequately funded in accordance with federal and state requirements and that legal assistance services are available throughout the Planning and Service Area.
- d. Engage in joint-planning and cross-training efforts with the legal assistance providers.
- e. Ensure legal assistance providers are an integral part of the AAAs advocacy efforts.
- f. Develop and maximize the use of other resources to expand the provision of legal assistance, with emphasis on partnering with the statewide Senior Legal Helpline.

C. IIB Providers

- a. Providers must be licensed in accordance with Chapter 454.021, Florida Statutes.
- b. If not an LSC project grantee, coordinate services with existing LSC in region.
- c. Engage in joint-planning and cross-training efforts with the aging network.
- d. Ensure high quality, cost-effective and high-impact services are delivered.
- e. Provide the full scope of services and limited representation as appropriate in applicable Florida and Federal courts and administrative forums.
- f. Demonstrate capacity and expertise in major priority categories or areas of law that affect the target populations.
- g. Develop and maximize the use of other resources to expand the provision of legal assistance, with emphasis on partnering with the statewide Senior Legal Helpline.

RECORD KEEPING AND REPORTING REQUIREMENTS:

Unit of Service: One hour of direct service with or on behalf of a client accumulated on a daily basis.

After you have reviewed the above standards, please feel free to contact your WCFAAA Program Manager with any questions or concerns.

Thank you for your attention to this important effort on behalf of Florida's seniors.