

LEGAL SERVICES ADVISORY COMMITTEE

Statutory Interpretation and Financial Guidelines

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Statutory Interpretation

The provisions of Minn. Stat. § 480.242, subd. 2(b) concerning the discretionary 15% are as follows:

"...15%...(1) to other qualified legal service programs for the provision of legal services in civil matters to eligible clients, including programs which organize the private bar to perform services and programs for qualified alternative dispute resolution, (2) to programs for training mediators operated by nonprofit alternative dispute resolution corporations, or (3) to qualified legal services programs to provide family farm legal assistance for financially distressed state farmers. The family farm legal assistance must be directed at farm financial problems including but not limited to, liquidation of farm property including bankruptcy, farm foreclosure, repossession of farm assets, restructuring or discharge of farm debt, farm credit and general debtor-creditor relations, and tax considerations."

The definitions are as follows:

Eligible client. "Eligible client" means an individual that is financially unable to afford legal assistance, as determined by a recipient on the basis of eligibility guidelines established by the supreme court pursuant to section 480.243, subdivision 1.

For Family Farm Programs: "A person is eligible for legal assistance under this section if the person is an eligible client as defined above or:

- (1) is a state resident;
- (2) is or has been a farmer or a family shareholder of a family farm corporation within the preceding 24 months;
- (3) has a debt-to-asset ratio greater than 50 percent;
- (4) has a reportable federal adjusted gross income of \$15,000 or less in the previous year; and
- (5) is financially unable to retain legal representation."

Qualified legal services program. "Qualified legal services program" means a nonprofit corporation which provides or proposes to provide legal services to eligible clients in civil matters and which is governed by a board of directors composed of attorneys-at-law and consumers of legal services.

Recipient. "Recipient" means a qualified legal services program that receives funds from the supreme court to provide legal services to eligible clients.

Committee interpretations of the statutory requirements are as follows:

1. All of the funds, even those for alternative dispute resolution, must go to qualified legal service programs that provide legal services to eligible clients. This means that every program must be:
 - a nonprofit corporation;
 - governed by a board of directors composed of attorneys-at-law and consumers of legal services;
 - providing or proposing to provide legal services;
 - for eligible clients. For family farm legal assistance, client eligibility is determined by the specific family farm legal assistance eligibility statutory criteria. For other programs, the attached Financial Eligibility Guidelines apply.
2. The words, "legal services," with respect to alternative dispute resolutions, do not require that attorneys be involved in the dispute resolution process or that the program also provide other "legal services."
3. "Consumers of legal services" should be interpreted to mean consumers of legal services who would be "eligible clients."
4. The word "qualified" before alternative dispute resolution is redundant and refers to the fact that the program must be a "qualified legal services program" which is a defined term.
5. The terms "programs which organize the private bar to perform services" and "programs for qualified alternative dispute resolution" are only illustrative and not the only types of eligible programs.
6. In reviewing grants seeking funds pursuant to Minn. Stat. § 480.242, subd. 2(b), LSAC has adopted the following interpretations and approach based on the overall statutory framework:
 - (a) LSAC will not consider grant applications from recipients of the 85% funds (those distributed pursuant to Minn. Stat. § 480.242, subd. 2(a)), unless there are insufficient acceptable applications for the 15% funds; and
 - (b) Further, LSAC will generally not award grants from the 15% funds for grant applications from an affiliate or other organization closely related to or in partnership or joint venture with an 85% program. However, exceptions to this general rule for affiliates or other organizations related to or in partnership or joint venture with an 85% program can be made to meet important legal needs that cannot otherwise be met. Some considerations may include:
 - (i) Is the applicant's program meeting a documented need for legal services and does the program provide services that go beyond what the 85% programs provide and cannot be met by other applicants?
 - (ii) Is the applicant's program offering the service throughout the state or in a part of the state that is historically underserved?
 - (iii) Can the applicant program provide clear and separate accounting for the program

utilizing a grant from the 15% funds?

If it is determined that the grant application meets these criteria, it will be considered for funding along with other applications seeking funding under Minn. Stat. § 480.242, subd. 2(b).

Financial Eligibility Guidelines

A recipient may use funding from other sources to provide legal services as provided by law and determined by the recipient board of directors. For purposes of determining client eligibility for legal services with funding provided by the Legal Services Advisory Committee, a recipient of funds from the Legal Services Advisory Committee shall use reasonable efforts to:

1. Develop a policy adopted by the governing body which establishes financial income eligibility criteria consistent with the following:
 - a. The financial eligibility criteria shall provide that the annual income ceilings for individuals and households may not exceed 200% of the official Federal Poverty Guidelines published annually by the Legal Services Corporation.
 - i. “Income” means actual current annual total cash receipts before taxes of all persons who are resident members and contribute to the support of an applicant’s household, as that term is defined by the recipient. Total cash receipts include, but are not limited to, wages and salaries before any deduction; income from self-employment after deductions for business or farm expenses; regular payments from governmental programs for low income persons or persons with disabilities; social security payments; unemployment and worker’s compensation payments; strike benefits from union funds; veterans benefits; training stipends; alimony, child support payments; military family allotments; public or private employee pension benefits; regular insurance or annuity payments; income from dividends, interest, rents, royalties or from estates and trusts; and other regular or recurring sources of financial support that are currently and actually available to the applicant. Total cash receipts do not include the value of food or rent received by the applicant in lieu of wages; money withdrawn from a bank; tax refunds; gifts; compensation and/or one-time insurance payments for injuries sustained; non-cash benefits; and up to \$2,000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.
 - b. The financial eligibility criteria shall establish reasonable asset ceilings for individuals and households exclusive of a household’s principal residence, vehicles used for transportation, assets used in producing income and other assets which are exempt from attachment under state and federal law.

- i. In assessing the income and assets of an applicant for services who is a victim of domestic violence, the recipient program shall consider the assets and income of only the applicant and members of the applicant's household other than the alleged perpetrator or assets held by the victim, or household members of the victim, jointly with the alleged perpetrator.
 - c. A recipient program may determine an applicant to be financially eligible without making an independent determination of income or assets if the income is solely derived from a governmental program for low income individuals or families if the recipient program has determined that the governmental income standards are at or below 125% of the Federal Poverty Guidelines and that the governmental program has eligibility standards that include an assets test. A governmental program for low income individuals or families means any Federal, State or local program that provides benefits of any kind to persons whose eligibility is determined on the basis of financial need.
 - d. A recipient program may provide legal assistance to a group, corporation, association or other entity if it provides information showing that it lacks or has not practical means of obtaining funds to retain private counsel and either:
 - i. The group is primarily composed of individuals who would be financially eligible under these criteria for legal assistance; or
 - ii. The group has a principal activity the delivery of services to those persons in the community who would be financially eligible for legal assistance under these guidelines and the legal assistance sought relates to such activity.
 - e. The recipient policy must address procedures to determine and document client eligibility.
 - f. The recipient's board of directors must review the financial eligibility guidelines at least every three years.
2. For purposes of determining client eligibility for legal services to financially distressed state farmers, the legal services must be directed at farm financial problems, including but not limited to, liquidation of farm property including bankruptcy, farm foreclosure, repossession of farm assets, restructuring or discharge of farm debt, farm credit and general debtor-creditor relations, and tax considerations. A person is eligible for family farm legal assistance under Minn. Stat. 480.242, subdivision 2 if they meet the income eligibility criteria above or:
- a. is a state resident;
 - b. is or has been a farmer or a family shareholder of a family corporation within the preceding 24 months;

- c. has a debt-to-asset ratio greater than 50 percent;
- d. has a reportable federal adjusted gross income of \$15,000 or less in the previous year;
and
- e. is financially unable to retain legal representation.

Qualifying farmers and small business operators whose bank loans are held by the Federal Deposit Insurance Corporation are eligible for legal assistance from programs funded by the Legal Services Advisory Committee.

3. A recipient program supported by funds from the Legal Services Advisory Committee may provide legal assistance only to individuals or groups whom the recipient programs has determined to be financially eligible for such assistance or who are recognized exceptions under these guidelines.