

CHAPTER 8

LEGAL ASSISTANCE

8-1 LEGAL AUTHORITY

The Older Americans Act of 1965, as amended, designates legal assistance as a priority service. As such, legal assistance is mandatory and shall be accessible and provided throughout each of the planning and service areas in Tennessee. Legal assistance in Tennessee shall be provided in accordance with the Older Americans Act of 1965, as amended, regulations found in the federal register, and policies promulgated in this manual.

[OAA and 45 CFR § 1321]

http://www.aoa.gov/OAA2006/Main_Site/oa/oa_full.asp

http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.3.htm

8-2 DEFINITIONS 45 CFR Sec. 1321.3

(1) **Assessment:** The periodic process by which all available information is gathered and analyzed through use of a structured tool, during on-site visits, in order to identify the strengths and weaknesses and determine the efficiency and effectiveness of activities carried out under the contract. An assessment visit is followed up with a formal report.

(2) **Dementia:** A term used to describe the loss of cognitive abilities in an individual who was previously intellectually intact. It is a disturbance of memory and other cognitive functions severe enough to interfere with work or other social activities, and as diagnosed by a licensed physician.

(3) **Direct Representation:** Services offered by employee(s) of the Older Americans Act legal assistance provider such as judicial and administrative representation as well as legal advice and counseling.

(4) **Disability:** Disability refers to conditions attributable to mental or physical impairment, or to a combination of mental and physical impairment which results in substantial functional limitations in one or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning, and emotional adjustment.

(5) **Frail:** An older individual determined to be functionally impaired: (1) because of inability to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing; or, (2) because of a cognitive or other mental impairment which requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to him/herself or to others.

(6) **Greatest Economic Need:** Need resulting from an income level at or below the poverty line, as defined by the Office of Management and Budget and adjusted by the Secretary of Health and Human Services in accordance with Section 673(2) of the Community Services Block Grant Act.

http://www.ncaf.org/index.asp?Type=B_BASIC&SEC={AF56859A-E50F-4BAC-BFA9-A0E65AA23BAA}&DE={49B4ED07-C3B0-4D50-B629-147FFB6CFFD2}

(7) **Greatest Social Need:** Need caused by non-economic factors which include physical and mental disabilities, language barriers, and cultural, social or geographic isolation. Cultural, social and geographic isolation also includes conditions associated with racial or ethnic status which restrict an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently.

(8) **Homebound:** An individual who, due to a mental, emotional, and/or physical condition, is confined to his/her home, unable to leave it without extraordinary effort and/or assistance.

(9) **Institutionalized:** Includes persons under formally authorized, supervised care or custody in institutions at the time of enumeration. Such persons are classified as "patients or inmates" of an institution regardless of the availability of nursing or medical care, the length of stay, or the number of persons in the institution. Generally, institutionalized persons are restricted to the institutional buildings and grounds (or must have passes or escorts to leave) and thus have limited interaction with the surrounding community. Also, they are generally under the care of trained staff who have responsibility for their safekeeping and supervision.

(10) **Isolated:** An individual or a group of individuals set apart from other individuals, by choice or not by choice, due to social, cultural or geographic reasons.

(11) **Legal Assistance:** Direct provision of legal advice and representation by an attorney; other appropriate assistance by a paralegal or law student under the

direct supervision of an attorney; and, counseling and representation by a non-lawyer where permitted by law. [45 CFR § 1600.1]

http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1600.1.htm

(12) **Legal Assistance Coordinator:** State Agency staff person responsible for the development and oversight of legal assistance programs.

(13) **Legal Assistance Provider:** The institution, agency, or other entity receiving contract to provide Older Americans Act legal assistance within the planning and service area.

(14) **Legal Casework:** Activity performed by an attorney, paralegal, or law student supervised by an attorney. Legal casework activities may include intake, advice and counseling, direct representation, legal research, preparation of legal documents, negotiation, support of the long-term care ombudsman, and, support to public guardianship clients where there is no conflict of interest.

(15) **Legal Education:** Preparation and presentation of programs to inform older persons of their rights, the legal system, and alternative courses of legal action. This service comprises all speaking engagements, material development, media opportunities, and dissemination of literature.

(16) **Legal Referral:** Referral made to a private attorney, pro bono panel, lawyers referral, or the local legal aid organization, when the legal problem of the individual does not fall within the pre-determined case-handling priority guidelines, does not meet the special eligibility standards listed in the Tennessee Commission on Aging and Disability service description for legal assistance, or is otherwise appropriate for referral because other legal services are available.

(17) **Monitoring:** The ongoing process by which the area agency systematically gathers and assembles data about legal assistance activities and programs carried out under the area plan to assure that they operate within the constraints of legislative and administrative regulations, policies, guidelines, rules, and contractual agreements.

(18) **On-Going Legal Service Development:** Training for private attorneys in cooperation with the local bar association, American Bar Association, or the National Bar Association in areas of law relevant to older persons. Assistance in the development and recruitment of pro bono panels, lawyer referral panels, and private attorney involvement panels which specialize in legal problems of older persons.

(19) **Planning and Service Area:** An area designated by the State Agency for purposes of planning, development, delivery, and administration of services under an area plan.

(20) **Service Description:** The legal assistance service description, as promulgated by the Tennessee Commission on Aging and Disability, which details the required service activities each provider, is responsible for under contract.

(21) **Severe Disability:** A severe chronic disability attributable to mental and/or physical impairment or a combination of mental and physical impairments which:

- (a) is likely to continue indefinitely, and
- (b) results in substantial functional limitation in three or more of the

major life activities. These activities include: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning and emotional adjustment.

(22) **State Agency:** The Tennessee Commission on Aging and Disability.

(23) **Targeted Population(s):** Those older persons in greatest social and economic need with particular emphasis on low income minority and those living in rural areas.

8-3 ADMINISTRATIVE REQUIREMENTS

8-3-.01 STATE AGENCY

- (1) The State Agency shall provide for the development and coordination of the Legal Assistance Program throughout the state by the appointment of a legal assistance coordinator.
- (2) The State Agency shall develop uniform statewide standards for the provision of legal assistance to be implemented statewide. These standards shall include policies and procedures for monitoring, reporting, and service delivery pursuant to the Older Americans Act and its regulations.
- (3) The State Agency shall assess compliance with federal and state laws, regulations, policies, and the quality of service delivery.
- (4) The State Agency shall provide technical assistance to the area agency and legal assistance provider upon request or as indicated need.
- (5) The State Agency will sponsor statewide training relevant to the provision of legal assistance to older persons. Attendance by legal assistance providers at

designated events is mandatory.

8-3-.02 AREA AGENCY ON AGING

All administrative requirements must be met by each area agency unless a written waiver is granted by the State Agency.

- (1) Each area agency shall assess potential providers of legal assistance, make a finding based on the assessment that the provider selected is the entity best able to provide the required services and enter into a contract with the potential legal assistance provider which demonstrates the experience and capacity to meet the minimum federal requirements and State Agency program standards.
- (2) Each area agency shall document the provider selection process by which the area agency determined the provider best able to fulfill the legal assistance program requirements. [OAA 307(a)(11)(A)(i)]
http://www.aoa.gov/oa2006/Main_Site/oa/oa_full.asp#_Toc153957674
- (3) Each area agency shall insure that the provider has on staff at least one licensed attorney who has expertise in issues related to older persons and who will provide direct advice, counsel, and representation to older persons.
- (4) Each area agency shall insure that the provider has a system for involving the private bar through means such as pro bono, reduced fee, lawyer referral, and/or special panel(s) of expert(s) willing to accept referral cases from the legal assistance provider, or documentation of attempts for such a plan. [OAA 307(a)(11)(A)(iii)]
http://www.aoa.gov/oa2006/Main_Site/oa/oa_full.asp#_Toc153957674

- (5) Each area agency shall enter into a contract with a provider that has the demonstrated legal expertise, and will agree to provide legal assistance, within the statewide priorities.
- (6) Each area agency and the legal assistance provider shall concur on annual program goals and objectives prior to entering into the contract. These goals and objectives shall be filed with the contract.
- (7) Each area agency shall conduct monitoring responsibilities in cooperation with the State Agency to insure complementary evaluation efforts.
- (8) Each area agency shall conduct an annual on-site visit to monitor the provider's compliance with contract provisions/agreements and to follow up on the provider's progress in correction of program deficiencies identified in the most recent written State Agency assessment report. The uniform statewide assessment instrument will be administered as a means to document provider compliance with contract provisions.
- (9) Each area agency shall document the monitoring visit and copies of the written report shall be sent to the provider and to the State Agency.
- (10) Each area agency shall participate in all on-site assessment visits conducted by the State Agency. The State Agency assessments will include follow-up on the provider's progress in addressing recommendations in contract compliance as identified in the area agency on aging monitoring report.
- (11) Each area agency shall provide the legal assistance provider with:
 - (a) names of advocacy/service groups serving older persons located

within the service area with which service providers are required to coordinate, and

(b) an updated copy of any area agency procedures or policies that apply to providers in general and to legal assistance specifically.

- (12) Each area agency shall assure that the provider of legal assistance under the Older Americans Act is not required to reveal any information that is protected by the attorney-client privilege. [OAA 306(d) and 307(f)(1)(2)]

http://www.aoa.gov/OAA2006/Main_Site/oa/oa_full.asp#_Toc153957672

- (13) Each area agency shall assure that there is not intervention in the professional relationship of any client with any attorney or non-attorney advocate employed by, or volunteering for the legal assistance provider. [45 CFR § 1321.71(b)]

http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.71.htm

- (14) Each area agency shall assure that the area agency on aging will report annually to the State agency in detail the amount of funds expended for legal assistance during the fiscal year most recently concluded. [OAA 306 (2)(C)]

http://www.aoa.gov/OAA2006/Main_Site/oa/oa_full.asp#_Toc153957672

8-4 REQUIRED PROGRAM STANDARDS FOR PROVIDERS

All program standards must be met by each legal assistance provider unless a waiver is granted to the area agency by the State Agency.

8-4-.01 GENERAL STANDARDS FOR PROVIDERS

- (1) Each legal assistance provider shall adhere to the Tennessee Commission on Aging and Disability's Policies and Procedures for Programs on Aging and shall provide services in accordance with procedures.

- (2) Each legal assistance provider shall provide effective administrative and judicial representation. [45 CFR § 1321.71,(c)(2)]
http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.71.htm
- (3) Each legal assistance provider shall use Older Americans Act funds to increase the level of legal assistance available to eligible persons in the planning and service area. [OAA 307, (a)(15)(D)]
http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.71.htm
- (4) Each legal assistance provider shall provide services in the principal language spoken where significant numbers of clients do not speak English. [45 CFR § 1321.71(c)(5)] http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.71.htm
- (5) Each legal assistance provider shall assure that funds from other federal or non-federal sources do not supplant Older Americans Act funds.
- (6) Each legal assistance provider shall assure that the provision of legal assistance to any person is not conditioned on level of income or resources. The provider may question the client about financial circumstances as a part of the process of providing legal advice, counseling and representation, and for the purpose of identifying additional resources and benefits to which the client may be entitled.
[45 CFR § 1321.71(d) and (e)] [45 CFR 1321.65 (f)]
http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.71.htm
http://edocket.access.gpo.gov/cfr_2006/octqtr/45cfr1321.65.htm
- (7) Each legal assistance provider shall assure that there is no assignment or sub-contracting of any interest in or obligations arising under a contract with funding under the Older Americans Act without written agreement of the area agency and

approval of the State Agency.

- (8) Each legal assistance provider shall have sufficient funds to pay litigation costs for those cases which require filing fees, consultation fees, and/or other costs related to representation of clients unable to pay these costs.
- (9) Each legal assistance provider shall abide by the special provisions of the Code of Federal Regulations governing political activities of the provider and its employees. [45 CFR § 1321.71(h) through (k)]
- (10) Each legal assistance provider shall adhere to the Rules of Professional Conduct.
- (11) Each legal assistance provider shall assure that no information regarding individual clients which is protected by the attorney-client privilege in accordance with the Rules of Professional Conduct applicable to attorneys practicing in Tennessee is revealed.
- (12) Each legal assistance provider shall maintain malpractice insurance coverage and/or other professional liability protection.
- (13) Each legal assistance provider shall maintain a copy or have reasonable access to legal reference materials.
- (14) Each legal assistance provider shall effectively demonstrate the capacity to deliver services to institutionalized, homebound, and isolated older persons. [45 CFR § 1321.71(c)(4)] http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.71.htm
- (15) Each legal assistance provider shall make legal assistance accessible to targeted populations specified in the Older Americans Act throughout the service area.
 - (a) The providers shall provide intake for institutionalized and homebound persons.

(b) The provider shall make provision to accommodate the needs of frail, disabled and handicapped older persons.

(c) The provider shall make legal assistance available to targeted populations in such ways as:

1. Locating intake sites in areas where targeted populations are concentrated.
2. Locating intake sites near any available public transportation which is accessible to targeted populations.
3. Arranging either telephone intake or intake sites accessible to targeted populations not being reached.

(17) Each legal assistance provider shall furnish support to the Long-Term Care Ombudsman Program. The provider shall maintain current knowledge of changes in laws relative to long-term care facilities and available public assistance for consumers of long-term care. [45 CFR § 1321.71(c)(3)]

(18) Each legal assistance provider shall furnish support and assistance to the district public guardianship clients, unless there is a conflict of interest identified.

(19) Each legal assistance provider, when requested, shall assist the State Agency in assessing the legal needs of the targeted populations in the service area to assure the pre-determined sub-categories of priority legal services are addressing the needs of the older persons in the service area.

(20) Each legal assistance provider shall furnish legal education and training on legal

rights to groups of older persons, advocates for older persons, and providers of services to older persons.

- (21) Each legal assistance provider shall be available to provide training to local private attorneys in the area(s) of law relevant to the older persons.
- (22) Each legal assistance provider shall be available to assist in the development of local legal programs that strive to serve older persons such as pro bono and lawyer referral panels.
- (23) Each legal assistance provider, as an integral part of the contracted legal assistance program, shall initiate activities to identify individuals eligible for the service they provide with emphasis on those targeted by the Older Americans Act in order to encourage the use of existing services and benefits under the Older Americans Act. Such activities may include legal education regarding services available as specified in the service description. [See chapter 8-4-.01(20)] This activity will not be reported as outreach.
- (24) Each legal assistance provider shall furnish information and referral as an integral part of the contracted legal assistance. The provider shall provide information on, and referrals to, other agencies to assist older persons with non-legal problems.
- (25) Each legal assistance provider will publicize its services throughout the service area using methods that will reach the general public and the targeted populations to assure that older persons know of the availability of services.
- (26) Each legal assistance provider shall include on all publications written and distributed with funds provided through the Older Americans Act an acknowledgment as follows: "This publication is supported, in part, by funds

provided by the (AAA Name) Agency on Aging, the Tennessee Commission on Aging and Disability and the U.S. Department of Health and Human Services. The content herein does not necessarily reflect the opinions or policy of the (AAA Name) Agency on Aging or any agency of Tennessee or the U.S. government."

- (27) Each legal assistance provider shall include on all reproductions of previously developed materials and publications, credits to the person(s) or organization/agency that originally developed the material.
- (28) Each legal assistance provider shall give clients a free and voluntary opportunity to contribute to the cost of the services they receive and shall insure privacy with respect to any contribution made. At a minimum the provider will provide a statement regarding voluntary contributions on each retainer agreement.

[45 CFR § 1321. 67(a) (1)]

http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.67.htm

- (29) Each legal assistance provider shall document efforts to provide services to low-income minority older individuals as specified in the Older Americans Act.
- (30) Each legal assistance provider shall document effort(s) to supplement services funded under the Older Americans Act with funding from other public and private sources.
- (31) Each legal assistance provider shall document the time spent on legal casework as defined http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1635.3.htm
- (32) Each legal assistance provider shall document the time spent on legal referral, as defined in 45 CFR 1635.3.

http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1635.3.htm

- (33) Each legal assistance provider shall be familiar with, and maintain access to, a complete and updated copy of the policies and procedures of the area agency on aging, the Tennessee Commission on Aging and Disability Policies and Procedures for Programs on Aging and Disability found at <http://www.tennessee.gov/comaging/polman1.htm>.
- (34) Each legal assistance provider shall establish annual program goals and objectives and shall coordinate goal setting with the state and area agency on aging planning and plan update process prior to entering into the contract with the area agency on aging.
- (35) Each legal assistance provider that is not a Legal Services Corporation Project Grantee shall annually document coordination activities with the existing local Legal Services Corporation office. The documentation shall detail the type of cooperation and coordination each program shall expect of the other while providing legal assistance for older persons throughout the planning and service area. [OAA Sec. 307(a)(15)(B)].
http://www.aoa.gov/OAA2006/Main_Site/oa/oa_full.asp#_Toc153957674
- (36) Each legal assistance provider shall demonstrate a cooperative relationship with government and private agencies, service groups, community-based organizations established for the benefit of victims of Alzheimer's Disease and their families, and advocacy groups serving older persons in The planning and service area, which insures the availability of mutual referral and direct service. A memorandum of understanding shall be executed and kept on file with the District Ombudsman program.

- (37) Each legal assistance provider shall document and maintain on file efforts to involve the private bar in client representation through various programs such as local bar pro bono, reduced fee/no fee, lawyer's referral, and/or special panel(s) of expert attorneys. [45 CFR 1614.3]
- http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1614.3.htm
- (38) Each legal assistance provider shall develop a written procedure which describes the circumstances and criteria under which cases are not accepted. The procedure shall include:
- (a) The means by which the person requesting services receives an adequate explanation of the basis for not accepting the case;
 - (b) The means by which the person requesting services receives a copy of the client grievance procedure;
 - (c) The means by which an appropriate referral is made at the time the case is rejected; and,
 - (d) A documentation system that allows for tracking of the process as necessary.
- (39) Each legal assistance provider shall have a grievance procedure for individuals who believe they have been denied service improperly and/or those who are dissatisfied with the legal assistance provided. This procedure must be clearly posted at all intake sites. The procedure must include a simple and non-intimidating process to file a grievance and a system for investigating, resolving, and maintaining files on grievances. [45 CFR 1621]
- http://www.access.gpo.gov/nara/cfr/waisidx_07/45cfr1621_07.html

- (40) Each legal assistance provider shall have a written procedure that assures an effective and meaningful assessment of consumer satisfaction. The procedure should guarantee that the consumer does not return the assessment to the same person who provided the service. The procedure shall insure that each client be given an opportunity to evaluate anonymously the service received from the provider.

8-4-.02 PERSONNEL STANDARDS FOR PROVIDERS

- (1) Each legal assistance provider shall employ at least one licensed attorney who will provide direct advice, counsel, and representation to older persons. The attorney will possess expertise in issues related to older persons, and will be responsible to supervise directly any paralegal staff, law students, and/or volunteers working to fulfill the legal assistance contract.
- (2) Each legal assistance provider shall employ staff who is sufficiently qualified to meet the Older Americans Act requirements, and who demonstrate expertise in the specific areas of the law affecting older persons as set out in the program priorities. [OAA 307(11)(A)(i)]
http://www.aoa.gov/OAA2006/Main_Site/oa/oa_full.asp#_Toc153957674
http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr1321.71.htm
- (3) Each legal assistance provider shall document training of all staff supported by Older Americans Act funds on new developments in the law which affect older persons and which is appropriate to their function and responsibilities.
- (4) Each legal assistance provider shall insure the attendance of the legal assistance program director, managing attorney or other appropriate staff at training events

designated by the state legal assistance program coordinator.

- (5) Each legal assistance provider shall have a written system describing the supervision and annual evaluation of staff funded under the Older Americans Act.
- (6) Each legal assistance provider shall furnish direct personal access or telephone access to an attorney, on all work days, to all staff (paid and unpaid) who are non-attorneys working under the legal assistance contract.

8-4-.03 PRIORITY SETTING STANDARDS

- (1) Each legal assistance provider shall ensure that the following major categories of legal assistance are given priority to older persons throughout the service area and shall ensure that at least 51% of the legal assistance caseload will consist of cases from the priority subcategories starred (*) under each major category. [OAA, Sec. 307(11)(E)]

(a) INCOME/PUBLIC BENEFITS

- * Social Security (Disability/ Retirement)
- * Supplemental Security Income
- * Food Stamps (Nutrition Assistance)
- Veterans Benefits
- Unemployment Compensation
- AFDC
- Tax Relief

(b) HEALTH CARE/LONG-TERM CARE

- * Medicaid/TennCare
 - * Medicaid/TennCare Discrimination
 - * Medicare
 - * Nursing Home Care/Boarding
 - * Home Care
 - * Nursing Home Access
 - * Back-up/Support to L-T-C Ombudsman Program
 - * Health Care Power of Attorney/Living Wills
(For homebound, institutionalized, terminally ill)
- Medical Insurance

(c) FAMILY/DOMESTIC/PROTECTIVE SERVICE

- * Adult Abuse
 - * Adult Neglect/Exploitation
 - * Adversary Counsel/Guardian
ad litem (Conservatorship)
 - * Support/Assistance to Public Guardianship client
- Attorney ad litem

(d) HOUSING

- * Federally Subsidized (Include evictions, rent disputes)
- * Landlord/Tenant (prevention of immediate loss of shelter)
- * Home Repair Rip-offs

- * Home ownership/Real Property (Prevention of immediate loss of shelter excluding boundary disputes)

(e) **CONSUMER/FINANCE/UTILITIES**

- * Utilities
- * Medical Consumer (Bills threatening access to care)
 - Bankruptcy
 - Collection Practices (Include repossession, deficiency, garnishment)
 - Contracts/Warranties
 - Loans/Installment Purchase
 - Insurance (Specify type)
 - Unfair Sales Practices

(f) **INDIVIDUAL RIGHTS**

- * Age Discrimination
 - Disability Rights (Mental and physical)
 - Americans With Disabilities Act

(g) **PLANNING/PERSONAL AUTONOMY**

- Wills/Estates/Probate
- Preparation of Documents for Power of Attorney

http://www.aoa.gov/oa2006/Main_Site/oa/oa_full.asp#_Toc153957673

- (2) These cases shall be appropriate for referral either to a pro bono panel, reduced-fee panel or private bar in districts in which referral panels or private bar assistance is available:

Divorce	Wills	Taxes
Separation	Estates	Disability Planning
Annulment	Probate	Medicaid
Custody	Visitation	

- (3) The following listed cases may be appropriate for referral if they are fee-generating cases or if there is adequate availability of assistance in the district's legal community:

SSA Disability

Black Lung

Housing

Consumer/Finance (Including Bankruptcy/Collection)

Age Discrimination

Americans With Disabilities Act

Veteran's Issues

- (4) Each legal assistance provider shall assure that those clients with problems in the identified legal service priority categories are given service priority over clients with problems not in the priority categories. [OAA, Sec. 307(11)(E)]

http://www.aoa.gov/oa2006/Main_Site/oa/oa_full.asp#_Toc153957673

- (5) Required back-up to and support of the Long-Term Care Ombudsman Program (as specified in Chapter 8-4-.01(17)) shall be considered a Legal Assistance Program priority.

8-4-.04INTAKE/CASE HANDLING STANDARDS

- (1) Each legal assistance provider shall conduct all interviews (including telephone intake) and consultations in a manner which insures privacy. All case files shall be maintained in a secure confidential location.
- (2) Each legal assistance provider shall have written case-handling procedures. These procedures shall include information as outlined below.
 - (a) A uniform case acceptance process including:
 1. Age (eligibility);
 2. Type of legal problem/case merit;
 3. Order of sub-category/major category priority;
 4. Fee-generating possibilities;
 5. The extent of legal expertise necessary;
 6. Impact on present caseload;
 7. Immediacy of the problem; and,
 8. Available alternatives.
 - (b) A case assignment process to legal personnel including:
 1. Basis for assignment of specific legal issues; and,
 2. Other factors used in case assignment.
 - (c) A case closing process which includes:
 1. Completing Legal Assistance Case Closing Form;
 2. Computation of monetary benefit to client; and,
 3. A system to track any case, such as a case I.D. numbering system.
 - (d) Emergency case acceptance procedures including a definition of an

emergency case.

- (e) The means by which caseload and case mix for attorneys and paralegals is established, including a process for limiting case intake where necessary.
 - (f) The specific process for regular monitoring and supervision of cases being handled by staff attorneys and paralegals.
 - (g) The process by which records are maintained, including the specific documents required to be in each case file.
- (3) Each legal assistance provider shall assure that every client whose case requires preparation of documents and/or any action to be taken on the provider's part shall sign and be given a copy of a retainer agreement which shall clearly:
- (a) Identify the relationship between the client and the provider;
 - (b) Identify the specific matter in which representation is sought;
 - (c) State the nature of the legal assistance to be provided;
http://edocket.access.gpo.gov/cfr_2006/octqtr/45cfr1611.9.htm
 - (d) State whether the client shall be responsible for any costs or fees or, if advanced by the provider, for the reimbursement thereof;
 - (e) State that no attorney fee shall be charged by the provider for the representation;
 - (f) State the disposition of such fees if the representation involves the potential recovery of attorney fees from an adverse party; and,
 - (g) Identify any other rights and responsibilities of the parties.
- (4) Each legal assistance provider shall have a written procedure to guard against possible conflict of interest and for evaluating the potential for conflict in

particular circumstances.

8-4-.05 REPORTING STANDARDS

- (1) Each legal assistance provider shall maintain program data and statistics as required by the State Agency.
- (2) Forms utilized by providers shall include all information required by the State Agency.
- (3) Each legal assistance provider shall submit, electronically, case closing statistical reports to the State Agency, using the statewide computerized reporting system. Case closing reports are due in the state office no later than the twentieth (20th) day following the end of the quarter.
- (4) Each legal assistance provider shall submit quarterly reports to the area agency on aging with an electronic copy to the State Agency, using the statewide uniform reporting system. Quarterly reports are due in the state office no later than the twentieth (20th) day following the end of the quarter.
- (5) Each legal assistance provider shall submit electronically to the area agency on aging and the State Agency an updated list of employees funded under the Older Americans Act. This list shall be submitted each year and/or when changes occur in staffing.
- (6) Each legal assistance provider shall respond to special requests from the state legal assistance program coordinator for information, reports, and/or projects on local trends or legal issues affecting older persons.

8-4-.06 MONITORING/ASSESSMENT STANDARDS

Each legal assistance provider shall:

- (1) Make available to the State Agency all pertinent documentation, reports, procedures, and program policies required for monitoring and assessment purposes;
- (2) Prepare for, and participate in, any program assessment conducted by the state legal assistance program coordinator designed to measure compliance with federal and state laws, regulations, policies, procedures, standards for legal assistance, and quality; and,
- (3) Prepare for, and participate in pre-scheduled, regular monitoring and/or assessment visits by the Area Agency on Aging and Disability, designed to measure contract compliance as well as program progress toward correcting deficiencies identified in the annual assessment report.