The Legal Assistance Provider Program

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LEGAL ASSISTANCE DEVELOPER FOR ELDERS
Older Americans Act of 1965

- Congresses primary vehicle for providing services and funds to assist and meet the basic needs of older adults.

- Programs Include:
  - Meals-on-wheels
  - In-home services
  - Transportation
  - Elder abuse prevention
  - Long-term care ombudsman
  - Caregivers support
  - Establishes Title IIB Legal Assistance Providers and Legal Assistance Developer.
Overview of Aging Network & Legal Services

U.S. Administration on Aging

Regional Offices of the Admin on Aging

State Unit on Aging + Legal Assistance Developer + State LTCO

Area Agencies on Aging

Legal Assistance Providers (LAP)
The mission of the Colorado Legal Assistance Program is to:

- Protect and assist the older adult with services necessary for meeting essential needs, including, food, shelter and medical care;
- Protect the older adult’s right to autonomy in decision-making;
- Advocate on behalf of older adults who have been subjected to abuse, exploitation, or discrimination;
- Assist older adults in understanding or exercising their legal rights;
- Target Populations that will not be effectively served by other legal assistance programs;
- Assure a statewide base of accessible, quality legal assistance services to provided for the most frail and vulnerable older adults;
- Assist older adults or family members, through referral to appropriate legal and non-legal resources; and,
- Enhance systems advocacy with the Area Agencies on Aging, the State Unit on Aging, the Adult Protective Services Unit, the Colorado Long-Term Care Ombudsman Program, and other members of the aging network.

(SUA Policy and Procedure Manual, Section VII).
Legal Assistance Provider Requirements
45 C.F.R. 1321.71(c)

➢ Expertise in the areas of law affecting older persons in social and/or economic need.

➢ “Demonstrate capacity” to provide administrative and judicial representation.

➢ Capacity to support other advocacy efforts.

➢ Capacity to provide legal services to isolated, institutionalized or homebound older adults.

➢ Capacity to provide legal assistance in the principal language spoken by clients “in areas where a significant number of clients do not speak English.”
Colorado AAA Obligations

➢ Fund and Contract with a licensed attorney to be the Legal Assistance Provider.
➢ Ensure data is collected and provide data reports to the state.
➢ Monitor Provider to Ensure:
  ➢ Compliance with federal and state requirements.
  ➢ That services are available throughout the region.
  ➢ Priorities are identified in the area plan.
  ➢ LAP are focuses on serving those in the greatest social and economic need.
Title III B Legal Assistance

- Older Americans Act specifies priority areas for services and target populations

**Priority Areas**
- Income
- Health
- Long Term Care
- Housing
- Abuse, neglect, exploitation
- Defense of guardianship

**Target Populations**
- **Greatest economic need** (with particular attention given to low-income minority individuals);
- **Greatest social need** (with particular attention to low-income minority individuals and older individuals residing in rural areas);
- Older adults individuals with severe disabilities or dementia
- Limited English-speaking ability
Legal Assistance Provider Restrictions

- **Means testing is prohibited.**
  - A LAP may not require a potential client to disclose income or resources as a condition of representation. 45 C.F.R. § 1321.71(d).

- LAP may not use OAA funds to provide representation in a fee generating case. Unless... 45 C.F.R. § 1321.71(g).

- Prohibited Political Activities 45 C.F.R. § 1321.71(h).

- **Scope of Services**
  - Limitations on petitions for guardianship.
  - Limitation on simple will preparation.
Title IIIB Legal Assistance

Common Legal Problems:

- Medicaid
- Medicare
- Other government benefits – SSI/SSDI, veteran benefits, nutrition program.
- Protection from unnecessary guardianships
- Elder Abuse – physical or financial abuse
- Consumer Fraud
- Landlord/tenant
- Domestic abuse
- Wills and estate planning
Documentation

➢ Data reporting.
➢ Proof of Insurance.
➢ Case Priorities.
➢ Grievance Procedure.
➢ Any literature provided to clients.
Legal Assistance Developer
Responsibilities

▪ Provide technical assistance, training and legal resources to Legal Assistance Providers.

▪ Trainings and technical assistance to a range of individuals included adult protective service workers, AAA staff, nursing home staff, and community.

▪ Evaluate Legal Assistance Providers to assure OAA obligations are being met.
LAD Responsibilities

- Track and testify on legislation affecting Older Adults.
- Support pro bono and legal education activities.
- Tracking changes at the federal level, particularly Medicaid and Medicare.
- Coordinate with the State Long-term Care Ombudsman.
Questions???
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Thank You!

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