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**Targeting Clients Most in Need**

This edition of *Best Practice Notes (BPN)* is devoted almost entirely to the critical and challenging issue of targeting limited Older Americans Act legal resources to those elders most in need of assistance, those who are least able to advocate on their own behalf.

The OAA was conceived in 1965 to address the needs of *all* older persons, and its purpose was broadly directed at giving them an opportunity for full participation in the benefits of society. Since 1965, however, as the scarcity of federal dollars became more apparent and the overall economic and social status of the older population improved, Congress increasingly directed that OAA resources be targeted to those elders with greatest social or economic need. For legal assistance, this targeting directive is even greater than for other OAA services. This is because, of all the service definitions in the Act, *only* "legal assistance" includes *as part of the definition itself*, an explicit directive that legal services are to go to "*older individuals with economic or social needs.*"

While the Act is clear regarding who should be given priority for legal services, the legislative history, the regulations, and since the 2000 Amendments, the Act itself, are equally clear that means-testing -- the use of income and resources in determining who is eligible to receive services -- is prohibited. Dealing with the dilemma of targeting without means testing can be a source of confusion and frustration, thus this *BPN* provides an approach to resolving the dilemma. As a first step, it requires the state legal services developer, legal providers, and AAAs to clearly identify who are the elders in greatest need, both across the state and in local service areas. It then requires establishing deliberate operational procedures to insure that targeted groups will in fact be reached and served. A wide range of approaches are presented in the hope that legal developers, AAAs and legal providers across the country will find solutions that fit their particular situation.

**Hitting Your Mark:  
Using Targeting  
Techniques to  
Reach Those  
Most in Need**

By:  
*Eleanor Crosby &  
Penelope Hommel<sup>1</sup>*

As our population ages, providers of legal assistance and other services under the Older Americans Act face the daunting task of meeting the needs of a rapidly growing client base with limited and sometimes stagnant funding. Recognizing that the resources of the Older Americans Act (OAA or the Act) are inadequate to meet the legal needs of all elders, providers of legal assistance -- in conjunction with state and area agencies on aging -- have sought to assure that services are effectively targeted to, and reach, those most in need, as directed by the Older Americans Act.

**Introduction**

This article highlights the critical importance of targeting limited legal services resources to those elders most in need. It examines the evolution of relevant language on targeting in the Older Americans Act and regulations, and traces the legislative history of targeting requirements in the Act, as well as the OAA prohibition on means testing, i.e., basing eligibility for services on a client's income. Finally, it explores a variety of ways to achieve this goal of targeting limited resources to the most needy, and doing so without using means tests.

**A. Targeting vs.  
Means Testing:  
The Dilemma**

Over the years, Congressional views regarding the federal government's responsibility toward older Americans have evolved, thereby creating uncertainty for providers of services under the Older Americans Act. As originally conceived in 1965 when very few special programs and services for older persons existed and a very large percentage of the older population lived below the poverty line, the purpose of the OAA was to test ways to address needs of *all* older persons; and its objectives were broadly directed at giving older persons an opportunity for full participation in the benefits of society. Since that time -- as the scarcity of federal service dollars became more apparent and the overall economic and social status of the older population improved -- Congress has directed that services provided with the limited OAA funds be focused on those older individuals in greatest economic and social need. And through successive reauthorizations of the Act, Congress has continued to refine and expand the requirements to target limited OAA services to the nation's most needy elders.

The targeting of certain groups was first mentioned in the 1973 Amendments to the Act, which created the network of state and area agencies and the comprehensive service delivery system for older persons. Title I, Declaration of Objectives, of the 1973 Amendments stated:

*SEC. 101. The Congress finds that millions of older citizens . . . are suffering unnecessary harm from the lack of adequate services. It is therefore the purpose of this Act, . . . , to --*  
*(1) make available comprehensive programs which include a full range of health, education and social services to our older citizens who need them,*  
*(2) give full and special consideration to older citizens with special needs . . . and pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need. (emphasis added)<sup>2</sup>*

Since 1978, increasing emphasis has been placed on targeting Title III services, and targeted individuals have been more fully identified in the Act. The Act presently requires that, with respect to all types of services, preference be given to serving those in greatest social and economic need, with particular attention to serving low-income minority individuals and older individuals residing in rural areas.<sup>3</sup> In addition to identifying targeted categories of individuals to receive limited OAA services, recent reauthorizations of the Act have called for coordination with others to meet needs of particular groups. For example, area agencies are now required to coordinate with other providers for planning, identification, assessment of needs, and provision of services for “*older individuals with disabilities, with particular attention to individuals with severe disabilities.*”<sup>4</sup>

For providers of legal services, targeting responsibilities are even greater than for other OAA service providers. This is because, of all the services defined in the Act, *only* “legal assistance” includes *as part of its definition* a specific directive that legal services are to go “. . . to *older individuals with social or economic needs.*”<sup>5</sup> However, despite this specific directive in the Act, many legal providers express concern about whether they need to make services available to *all* older persons, and some AAAs believe they must do so. This perception may stem from a high demand and need for services by older people who do not fall into the targeted groups. Also, these potential clients can be quite vocal with area agencies, which compounds the difficulty. Clearly, given limited funding and high demand, it is not possible, for legal providers to serve all elders, and the law does not intend them to do so. Rather, the Act addresses the problem by stating explicitly that “*(n)o legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need . . .*”<sup>6</sup>

As further guidance for targeting legal services, more recent reauthorizations have included examples of particular legal problems faced by targeted individuals and have encouraged state and area agencies and legal providers to develop expertise and resources to address these needs. For example, the Act encourages area agencies to contract with legal services providers who have expertise in certain substantive legal areas by requiring that area agencies “*will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.*”<sup>7</sup>

At the same time that targeting requirements have been strengthened with each reauthorization of the Act, Congress has made it clear that targeting efforts must *not* involve “means testing.” As will be discussed further below, historically, the prohibition against means tests was addressed in legislative history and in the regulations<sup>8</sup> which specify that providers may not require older persons to disclose information about income or resources as a condition for providing services. In the 2000 Amendments, a means testing prohibition was included in the Act itself.<sup>9</sup>

The following discussion will first examine the evolution and the current requirements in the OAA regarding targeting. It will then explore the prohibition against means testing and trace the purpose of the prohibition through the legislative history. Finally it suggests a variety of approaches to resolving the dilemma. For, while the means testing prohibition poses challenges for legal providers, particularly those housed in Legal Services Corporation agencies, means testing alone cannot assure that the targeted populations are reached. In other words, even if a provider *could* use a means test to determine whether to provide services to a particular client, it is not the most effective way to ensure that the targeted populations are reached and served. Instead, a more comprehensive approach is warranted, including outreach to special client populations, effective screening and intake procedures, and establishment of priority case types.

## **B. The Evolution of Targeting Requirements in the Older Americans Act**

As noted above, Congress first made broad mention of targeting in the 1973 Amendments in Title I, the Declaration of Objectives. In 1978, Congress included specific targeting language for OAA services. The 1978 Amendments contained requirements that State and area agencies give preference in providing services to older persons with greatest economic and social needs. Area agencies were required to *“assure the use of outreach efforts that will identify individuals eligible for assistance. . . with special emphasis on rural elderly, and inform such individuals of the availability of such assistance.”*<sup>10</sup>

The 1984 Amendments further strengthened preference requirements by mandating that state and area agencies pay “particular attention” to low-income, minority individuals when giving preference to those in greatest need.<sup>11</sup> The 1984 Amendments also included, for the first time, definitions of greatest economic and social need and required that State plans include the application of those definitions.

The current version of the Act, last reauthorized in 2000, defines greatest economic and social need as follows:<sup>12</sup>

- (27) *The term “greatest economic need” means the need resulting from an income level at or below the poverty line.*
  - (28) *The term “greatest social need” means the need caused by noneconomic factors, which include--*
    - (A) *physical and mental disabilities;*
    - (B) *language barriers; and*
    - (C) *cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that--*
      - (i) *restricts the ability of an individual to perform normal daily tasks; or*
      - (ii) *threatens the capacity of the individual to live independently.*
- \* \* \*
- (38) *The term “poverty line” means the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. §9902(2)).*<sup>13</sup>

As noted above, the Act's requirements to target services to those with greatest economic or social need, with particular attention to low-income, minority individuals have been in place for some time. As the Act evolved, Congress has placed even more emphasis on the requirements to target limited OAA services. In fact, targeting requirements are imposed on all levels of the aging network, from the Assistant Secretary of Aging, Administration on Aging to each local provider. At the federal level, targeting requirements are contained in the sections of the Act that address the Administration on Aging's (1) role in providing training and technical assistance to states, area agencies and providers, (2) role in evaluation of programs and services under the Act, and (3) responsibility for data collection and reporting.<sup>14</sup>

Following are examples of Congress' increasing emphasis over time on the need to target limited OAA resources. In the 1987 amendments, Congress particularly strengthened requirements to target low-income minority individuals, and it changed slightly the definitions of greatest social and economic need. State agencies, when dividing the state into planning and service areas, and area agencies, when developing service plans, were required to pay "*particular attention*" to low-income minority individuals.<sup>15</sup> The 2000 Amendments placed added focus on "older individuals residing in rural areas" to this mandate and to the other targeting requirements in the Act.<sup>16</sup> For example, in the section of the Act governing each State's organization to carry out the purposes of the Act, each State is to provide an assurance that preference will be given in the delivery of services to those "*older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals and older individuals residing in rural areas and include proposed methods of carrying out the preference in the State plan*" (underline highlights 2000 changes).<sup>17</sup>

Likewise, since 1987, State and area plans must assure that outreach efforts will place "*special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals),...*"<sup>18</sup> Later amendments expanded this language, and the current Act requires that both State and area plans:

*"(B) provide assurances that the area agency on aging will use outreach efforts that will--*

- (i) identify individuals eligible for assistance under this Act, with special emphasis on--*
  - (I) older individuals residing in rural areas;*
  - (II) older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);*
  - (III) older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);*
  - (IV) older individuals with severe disabilities;*

- (V) *older individuals with limited English-speaking ability; and*
- (VI) *older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and*
- (ii) *inform the older individuals referred to in subclauses (I) through (VI) of clause (i), and the caretakers of such individuals, of the availability of such assistance.*<sup>19</sup>

Clearly, as the Act has evolved, the targeting requirements have been expanded and clarified, and the Act today provides clear and specific guidance regarding the persons who should be given priority in the provision of legal assistance and other Title III services.

### **C. Prohibition on Means Testing**

As noted above, while Congress has made it clear that targeting is required, it has made it equally clear in the legislative history and the regulations -- and now in the Act itself -- that the use of income and resources to determine who shall be eligible to receive services under Title III is prohibited. The most current regulations prohibit the use of a "means test" for any services provided under the Act.<sup>20</sup> "Means test," as defined in the regulations, is *"the use of an older person's income or resources to deny or limit that person's receipt of services. . . ."*<sup>21</sup> With regard to legal assistance providers in particular, the regulations state:

*(d) A legal assistance provider may not require an older person to disclose information about income or resources as a condition for providing legal assistance under this part.*<sup>22</sup>

Although the means testing prohibition was not specified in the Act until the 2000 Amendments, legislative history repeatedly indicates that the prohibition in the OAA regulations accurately reflects congressional intent. For example, in connection with legal services under the 1978 Amendments, Congress stated that:

*"The conferees wish to emphasize that in carrying out its responsibility to concentrate on the elderly with the greatest need, no project shall, in any way, give a means test or asset test to any applicant; no applicant shall be questioned about his or her means or assets; and no applicant should be directed to seek services through a Legal Services Corporation Project."*<sup>23</sup>

Similarly, during his opening statement at a Joint Hearing on regulations to implement the 1978 amendments, Senator Thomas Eagleton stated with respect to all Title III services:

*"Another area of great concern has been the issue of means and income tests. The 1978 Amendments do require that preference be given to those elderly with the greatest economic or social need. However, Congress in no way intended to impose income as a determinant of eligibility under the Act. Congressional intent has been clear since*

1965 that these programs are not stigmatized by the “welfare” label.

*“However, in view of the fact that some 7 million older Americans have incomes which fall below the poverty threshold or within the “near poor” category, Congress did intend that preference in service delivery be targeted to low-income elderly. Similarly, since older members of minority groups tend to have special social concerns sometimes irrespective of income, but more often in addition to income limitations, they too, warrant special consideration.”*<sup>24</sup>

The prohibition against means testing for legal services has now been added to the Act itself; it is included in the section that addresses voluntary contributions. After much debate, in the 2000 Amendments, Congress added a new provision that begins to allow cost sharing -- which is a form of means testing -- for some OAA services. While space does not permit exploring the different sides of the debate around cost-sharing, the important point for purposes of this discussion is that the new provisions *specifically prohibit cost sharing* for certain essential services, such as *legal assistance* and other elder rights programs. Furthermore, for those services -- such as legal services -- where cost sharing is not allowed, but where voluntary contributions from clients are permissible and accepted, the Act now includes an *explicit prohibition against means testing*.<sup>25</sup>

As noted previously, the prohibition against means testing, can be problematic for providers who are housed in agencies that are also grantees of Legal Services Corporation (LSC), because LSC grantees are *required* to means test. That is they must condition the receipt of LSC-funded services on a client’s meeting LSC income and asset eligibility limits. For many years, LSC and AoA had an interagency agreement that helped clarify mechanisms for meeting requirements of both LSC and the OAA. Among other things, this facilitated LSC providers who are also receiving OAA funds in reporting/counting OAA cases without conducting an income and assets screen. That agreement is no longer in force. Thus, providers who receive funds from both LSC and AoA must be particularly careful in order to assure their compliance with the requirements of both funding sources.

**D. The Difference Between Means Testing and Screening for Benefits**

Fortunately, the Act and Regulations *do allow* a legal assistance provider to ask questions about income and assets as part of a benefits eligibility screen, so long as the provision of legal assistance services is not conditioned on the results of this inquiry. The relevant language is found in the OAA regulations governing legal assistance, the relevant part of which reads as follows:

*(e) A legal assistance provider may ask about the person’s financial circumstances as part of the process of providing legal advice, counseling and representation, or for the purpose of identifying additional resources and benefits for which an older person may be eligible.*<sup>26</sup>

So, it is permissible to inquire about a client’s income and assets for the

purposes of screening for benefits, provided the client understands that the purpose of the inquiry is not to determine eligibility for legal services but for any other programs and services for which a client may be eligible. Providers may find it helpful to conduct what is widely known as a “public benefits check up” with all clients and potential clients. This involves using income and assets information to identify whether the client is eligible for food stamps, Supplemental Security Income (SSI), public or private prescription drug benefits, local public housing, and Medicare buy-in programs, among others. Because of provider discomfort with asking a potential client for financial information (after all, in many cases we counsel our clients to avoid giving out this sensitive information), some providers choose to ask this as an “over/ under” question. Using this method, a provider may ask whether a client’s monthly income falls below a certain dollar amount. If the client answers in the affirmative, the provider may then inquire as to the exact amount of income and assets so long as the client (and the provider) understands that the purpose of the inquiry is limited to establishing eligibility for other benefits and services. In other words, it is acceptable to ask potential clients for this information, so long as the information is used to *extend*, rather than to deny, services.

In fact, the Act itself requires that the Administration on Aging:

*“encourage, and provide technical assistance to, States and area agencies on aging to carry out outreach to inform older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. §1381 et seq.) (or assistance under a State plan program under such title), medical assistance under title XIX of such Act (42 U.S.C. §1396 et seq.), and benefits under the Food Stamp Act of 1977 (7 U.S.C. §2011 et seq.), of the requirements for eligibility to receive such benefits and such assistance.”<sup>27</sup>*

Benefits screening can be an easy and low-cost way to increase income available to lower-income clients. Studies have shown that many older clients are eligible for benefits that they do not receive. In particular, Medicare buy-in programs, such as the Qualified Medicare Beneficiary Program (QMB), which uses Medicaid dollars to pay for Medicare monthly premiums, yearly deductible, and co-pay amounts, historically have been under-enrolled. Many clients are not aware of the program and do not know how to apply for the benefit. Web sites such as [www.benefitscheckup.org](http://www.benefitscheckup.org) from the National Council on the Aging (NCOA), provide an easy way to identify benefits for which clients may be eligible. Under the NCOA program, a provider (or client) enters information into the benefits check-up web site and receives a computer-generated list of all local, state and federal programs and services for which the client may be eligible. Providers who do not have ready access to the Internet, or who do not want to use the NCOA site, can do a basic version of the benefits screen by keeping income and asset eligibility information handy during intake discussions.



Even when a client has contacted the legal services program for an entirely different reason, a short conversation about benefits eligibility can result in a substantial benefit to the client. Many programs have begun to keep track and report on the amount of financial benefits obtained by legal clients as a result of the program's efforts. In short, despite the strong language prohibiting means testing under the Act, legal providers can inquire about income and assets, but in doing so, they must be careful not to appear to condition services as a result of such inquiry.

#### **E. Approaches to the Dilemma**

Legal Assistance providers and State and area agency staff sometimes express confusion and frustration at the tension created by the statutory requirement for preference to those in greatest need and the prohibition against means testing. The approach to resolving this dilemma lies in the legal providers first working with the State legal services developer, area agencies and others to clearly identify those persons who are in greatest need and should be targeted, and then establishing deliberate operational procedures to insure that targeted groups will be reached. As discussed below, these approaches include, but are not limited to:

- identifying target populations and their unmet needs in collaboration with state and area agencies;
- establishing priority issues for services;
- using an advisory board populated with members of targeted groups and agencies that serve them;
- developing secondary referral sources/coordinating with other service providers;
- assuring that program services are easily accessible to targeted groups;
- informing targeted groups of their legal rights and available services through publicity, media and outreach and community education;
- coordinating with LSC other legal and social service providers serving targeted groups;
- evaluating success of targeting and outreach efforts, that is, periodically assessing which target groups are being successfully reached and which are being missed, and what needs to be changed for more effective targeting.

Indeed, Congress has highlighted some of these approaches, stating, for example, in connection with the 1978 Amendments:

*“Concentration on the elderly with greatest need should be effectuated through such means as location of offices, referral of ineligible applicants from Legal Services Corporation Projects, development of expertise in certain areas of the law, or general guidelines which the project may post or give to an applicant providing information on the nature of the clientele usually served there and those eligible for services at the Legal Services Corporation project.”<sup>28</sup>*

1. Identifying Target Populations and Their Unmet Needs for Legal Assistance

Targeting requirements provide an opportunity for providers to develop cooperative relationships with State and area agencies to attempt to identify and serve those elders in greatest need of assistance. State and area agencies can provide valuable information on demographics of the service area and requests for services. As noted above, the OAA's targeting requirements extend to the development of state and area plans. As a result, these plans typically include a great deal of information about the numbers of socially and economically needy, low-income minority, and rural elderly in the region and where they live. This information can be extremely useful to providers to identify where target populations live, and to adjust operations to reflect demographic shifts over time. Examples of some of the more important target groups are those with limited English speaking ability, low literacy skills, disabled or socially isolated seniors.

Furthermore, as State and area agencies develop their information and assistance networks, more data has become available for use in tracking trends in requests for legal assistance and other services and emerging legal issues. Senior Legal Hotlines, operational in many states, can also provide useful information about unmet need and target populations. Providers can use this aggregate data to plan for services, identify outreach sites and methods, set priorities, and decide upon the location of offices and intake sites, and hours of operation. These steps, all useful in reaching targeted populations without means testing, are more fully discussed below.

2. Establishing Case Priorities

Simply stated, priority setting follows identification of target population groups, and is the identification of the types of cases/problems that are likely to be most significant for the target groups. From this, the legal provider can establish the types of cases/problems they will and will not handle. The identified target groups and case priorities should then drive and help shape other efforts to reach clients and make services accessible to them.

The thoughtful establishment of case priorities that reflect the most significant legal issues of targeted client populations, and the development of expertise in those areas of the law, are both extremely important in attracting and serving targeted clients without using a means test. Program priorities provide a method of targeting services to those most in need by focusing program efforts and expertise on those areas of law that affect the most socially and economically needy. A finely honed list of priorities that reflect the legal needs of targeted populations can provide a program with a fair and consistent way of rejecting certain types of cases (for example, wills) in favor of other types of cases (for example, Medicaid denials or terminations) without using a means test to do so. Further, if the case priorities drive publicity and outreach efforts so that the types of issues the legal program does and does not handle are clear from the start, older persons with non-priority issues are likely to seek help elsewhere.

- a. Priority Setting. Prior to establishing case priorities, and regularly thereafter, the provider and/or area agency should attempt to assess and identify the most significant legal needs of targeted

populations in the service area. While any elaboration on the topic of “needs assessments” is beyond the scope of this article, detailed guidance can be found in Chapter IV of TCSG’s *Comprehensive Guide to the Delivery of Legal Assistance to Older Persons*. What is important to mention, is that any needs assessment should be carefully planned so as not to exclude a significant portion of the targeted population (e.g., by doing only a telephone survey, needs of nursing home residents, particularly low-income persons who cannot afford private rooms with phones, will be missed). Changes in laws, regulations and policies affecting targeted populations may also affect case priorities.

The area agency and legal provider should work together to establish case priorities. If a program is not housed in a local Legal Services Corporation Office, the program should also work with the local LSC program to assure that the selected priorities for Title III services complement the work of the local LSC program.

Once established, these priorities should be used to guide publicity, outreach, and intake. Under this procedure, cases are accepted if they fall within a priority category, regardless of the client’s income. Many programs limit case priorities to areas of basic need, that is, assisting clients in maintaining or obtaining food, income, health care, and shelter. More specifically, this means that the priority areas in which they handle cases include such areas as Food Stamps, Social Security, Supplemental Security Income (SSI), landlord/tenant, public housing, Medicare, Medicaid, or nursing homes. Some of the priorities, of course, are likely to impact the economically needy (e.g. SSI, Medicaid, public housing), while others will impact the socially needy regardless of income (e.g., abuse, guardianship). Still other areas (e.g., wills) -- while they may be important for the program’s public image -- are unlikely to have particularly significant impact for either the most socially or economically needy, and therefore should not be program priorities for purposes of targeting.

Legal programs, along with the state legal services developer and AAAs, should revisit priorities on a regular basis, as client needs change and new laws and programs become established. Priorities should guide intake decisions, but they should not be used as rigid rules to turn clients away. A program should retain flexibility to accept compelling cases for the target client population, even if a particular case falls outside of the program’s stated priorities.

In the past, TCSG has received inquiries about the appropriateness of area agencies -- in response to the Act’s increased emphasis on targeting -- requiring their legal providers to establish priorities based on client type, rather than case type. For example, the area agency may require its provider to serve only protective services clients or to give protective services clients first preference. These two situations are somewhat different and will be discussed separately.

The requirement that a provider serve only a discrete group, such as protective services clients, is unlikely to meet the targeting requirements of the Act. While such a group may fit within one of the specified targeted groups (socially needy), it may not be representative of the others. In serving only protective services clients, it is unlikely that low-income minority populations or many of the economically needy will be adequately reached. Protective services clients may not even be the most socially needy as they are, by definition, receiving some services. Thus such restrictions seriously interfere with a provider's ability to meet the broad targeting requirements of the Act.

The requirement that a legal provider give first preference to a discrete group of clients is less troublesome, but still presents some problems. As above, there is a question of whether a group is representative of the various target populations. Furthermore, there is a question whether a more serious problem of a client who does not fall within the preference category should be rejected so that the program may handle a less serious problem of a priority client. To illustrate this point, consider a situation where an area agency requires protective service clients to receive priority over rural elderly. Under this system a protective services client might be assisted with a will or durable power of attorney, while the rural client's income maintenance case is rejected. This is not to say that any type of client or problem is unimportant, but that many factors (e.g., type of client, type of problem and its impact on the client, impact of the problem on a broader population, etc.) should be considered when deciding whether to accept a case. It may be very useful to establish client-type priorities in conjunction with case priorities, but client priorities alone will not serve the clients or the program well.

- b. Developing Expertise in Substantive Areas of Law. As providers focus on the priority issues that have particular impact on targeted clients, they should naturally develop expertise in those substantive areas. In turn, this expertise further aids the process of targeting clients. Providers become better able to recognize complicated legal issues and therefore are more aware of the needs of targeted populations. Providers also increase their ability to handle complex litigation and administrative matters. Their ability and success at resolving problems become more widely known -- through "word of mouth" or other forms of publicity -- and other targeted clients in need of assistance may be attracted to the program. As new problem areas arise for clients, programs should respond. For example, deregulation of public services such as gas or power, may result in unexpected high utility bills. This can be a major problem for clients on fixed incomes. Programs should be able to respond to new developments in laws and regulations that effect the target population.

### 3. Obtaining Input through an Advisory Board

An *ad hoc* advisory board or committee is an effective way to obtain input about the needs, interests, and preferences of target populations. Such a board or committee should be diverse, and should include

representatives of the target populations, as well as other service providers and community leaders who serve or represent targeted groups. The committee can be formal, or informal, and meet regularly, or as needed. Members of the group can serve as a sounding board for evaluating program publicity and descriptive material, outreach methods and sites, program priorities, and client materials. Advisory committee members can refer clients to the program, and alert program staff to emerging trends among the target populations. Finally, committee members can assist legal program staff with the evaluation and adaptation of targeting and outreach efforts.

#### 4. Developing Secondary Referral Sources; Coordinating with Providers of Other Services

Another effective means of reaching the targeted client populations is by coordinating with providers of other non-legal services who may be likely to come into contact with certain targeted populations, and who understand the particular needs and cultural sensitivities of the targeted groups. These other providers may be of great benefit by identifying potential clients as well as new problem areas that should perhaps become program priorities. They can also help legal assistance providers identify potential places and methods of outreach and can act as a focus group for reviewing program materials for cultural relevance and sensitivity. Linkages with other providers who serve your target audience benefit both legal assistance and social service programs by assuring that referrals between them are appropriate, and that potential clients are aware of the full range of available services. The following are examples of some productive linkages between legal programs and providers of other services that can help in targeting:

- (1) Coordinate with the local Long-term Care Ombudsman program to reach nursing home residents;
- (2) Train volunteers and staff who deliver meals and other home services on how to recognize priority legal problems and refer persons with legal needs to the legal provider;
- (3) Develop relationships with hospital discharge planners to reach Medicare beneficiaries who may have been prematurely discharged;
- (4) Coordinate with protective services so that protective services workers are better able to recognize and refer clients with legal problems; and
- (5) Solicit assistance from providers, such as Catholic Social Services, domestic violence shelters, the protection and advocacy agency, and others who serve special populations such as immigrants, victims of domestic violence and those with developmental disabilities.

Legal providers should include representatives from the above groups (or others relevant to the targeted population in a particular area) on Advisory Boards, where possible, and develop special outreach projects with social service providers to address priority areas of greatest unmet need. In addition, these linkages will help legal assistance providers to make effective and successful referrals to address the non-legal needs a client may have or to obtain assistance with transportation, interpretation, or other services that may enable a client to take full advantage of the legal provider's help.

5. Making Services Accessible to Targeted Groups

Legal providers should give serious consideration to implementing the following methods to make certain that services are easily accessible to targeted client populations.

- a. Location of Office and Intake Sites. The office and intake sites should be located within the targeted client communities (low-income areas, ethnic areas, etc.) or in areas easily accessible to them. And likewise, services should be designed to be accessible to those who live in rural areas. If the provider serves an area fortunate enough to have good public transportation, the office and intake sites should be located near it. It is extremely important that targeted clients not be afraid to come to the office or intake sites to seek needed assistance. The office and parking at the central office and intake sites must be accessible to the frail and disabled, or reasonable accommodations must be made so that these groups of targeted clients may receive services. Likewise, intake hours and scheduling should be designed to maximize accessibility of services. Programs may need to restrict intake in order to address concerns with case loads, but intake should be available at times and places most convenient to targeted groups.

While it is helpful to establish a routine for intake sites so clients will know when project staff will be available for intake and assistance, programs should be flexible and able to make changes to intake sites and procedures. Flexibility will enable a program to respond to natural disasters, react to changes among the client population, and otherwise provide intake at unusual sites if it is likely that targeted groups may be reached there. Some examples of non-traditional potential intake locations are disaster assistance sites, health fairs, community events, social security offices, and courthouses, among other places.

- b. Home and Institutional Visits. It is essential to make some home or institutional visits so that socially needy persons who are homebound, unable to travel, or in nursing homes will be reached. Where necessary, programs can work by phone or by mail in conjunction with home and institutional visits and, with the client's permission, work through agencies providing home visits or institutional services on a regular basis. For example, a visiting nurse may contact the legal program on a client's behalf, and assist with faxing relevant papers, etc., provided the program receives permission directly from the client to work with the third party.
- c. Overcoming Communication Barriers. Legal providers must have, or be able to obtain, the capacity to communicate with persons who are socially needy due to hearing impairments, language barriers, or mental disabilities. These communication barriers may be overcome by hiring of bi-lingual or multi-lingual staff, use of translators, and the ability to use sign language or other forms of communication. Translation services, through schools, local community centers or commercial programs such as Language Line<sup>29</sup>, can provide a relatively low-cost way to communicate with non-English speaking clients. Of course, programs with large numbers of non-English

speaking elders should develop a reliable way to reach and communicate with these potential clients. Outreach materials should be available in a wide variety of formats to better reach clients with communication barriers. Last year, the Administration on Aging partnered with web provider, Altavista, to enable users of their AoA web site to translate material from the website into a variety of languages, including Spanish, Chinese, French, German, Italian, Japanese, Korean, and Portuguese.

- d. “User Friendly” Offices. Providers should also keep in mind that many older persons are not comfortable or experienced with lawyers. Thus it is important to make the office “user friendly” and avoid unpleasant environments which might dissuade targeted clients from utilizing services. Client rapport may be enhanced if some staff are older persons and reflect the racial, ethnic or social backgrounds of targeted groups.<sup>30 & 31</sup>
- e. Telephone Access. A legal provider serving a large geographical area may need a toll-free number to enhance accessibility for clients in outlying rural areas. If a toll-free number is not affordable or the expense is not justifiable, the provider may want to establish and publicize a policy of accepting collect calls, and instruct the staff to obtain the caller’s telephone number and return the call immediately. In order to meet the needs of hearing-impaired clients, providers should obtain special telephone equipment, such as a TTY<sup>32</sup>, to facilitate communication with the hearing impaired or deaf. Finally, providers should have a phone system that enables a client to leave an emergency message during times when staff members are not available to answer the phone. Although an answering machine is critical, answering machines can pose barriers for some clients who may be reluctant to leave a message or who may not have a phone and therefore cannot leave a call-back number. Where resources allow, it is important to provide access by phone to a person, who can answer questions about the program and its services, or at a minimum, take a message.
- f. Internet Access. Providers should make use of technology to provide additional gateways to legal information and program services. Websites should list intake hours, procedures, and program priorities and providers should consider allowing requests for services to be made via the web, in addition to traditional methods. While the internet and other technology may be the future trend for service delivery in many places, many of the most needy and vulnerable clients do not have current meaningful access to this technology. A program’s targeting plan should consider those who are likely to be reached by (and those who will not be able to take advantage of) each delivery method employed or considered.
- g. Accessibility and the Americans with Disabilities Act (ADA). Under the ADA, providers must assure that services are accessible to clients with disabilities, or make reasonable accommodations to enable disabled clients to receive program services. As mentioned

above, the office must be accessible to clients with mobility impairments, and services must be accessible to those who have hearing impairments. Those who have one or more disabilities are among our most socially needy and vulnerable elders. Programs should be well equipped to serve these clients and should devise outreach to encourage utilization of services.

6. Informing Targeted Groups of their Legal Rights and of Available Services

Regardless of steps taken to make services accessible, those efforts may be wasted unless the targeted client populations are educated about their legal rights and are aware that a program exists to help resolve their legal problems. This requires well-designed program publicity, outreach and community education.

- a. Program Publicity. Publicity is necessary to inform potential clients and others associated with them (e.g. family, friends, neighbors) about available services. Publicity that clearly describes the types of problems handled and not handled by the program may aid the targeting process by enabling persons to make an educated decision about whether their problem is likely to be handled. Publicity must accurately reflect service priorities. It should not be so narrowly drawn as to discourage appropriate persons from pursuing services, but neither should it be so broad as to create unreasonable expectations of service. This risks ill will and animosity from rejected clients, as well as from other service providers and funders who make referrals to the program.

Publicity must be carefully planned to reach targeted client populations. Television and radio public service announcements and appearances by staff on talk shows geared to the elderly can be an effective means of reaching persons who are isolated or unable to read. It is important, however, to be aware of how targeted groups use and respond to different types of media. Different populations respond differently to different media. For example, a weekly paper or program may be particularly popular with some segments of the targeted population. Take time to get to know your target clients and disseminate your information to those popular forums. Where possible, try to get publicity at no cost to the program. Design an outreach project or media blitz that will resonate with the groups you want to reach. Consider getting feedback from a small focus group, or use members of your advisory board, to assure that your message is correctly perceived and received. Publicity that is not delivered in the manner in which a particular population is accustomed to receiving information will not be effective.

Printed publicity materials must be appropriate to the groups targeted. They must be written in a manner and at a level understandable to those targeted to read them. This may require the services of an expert in readability. Most word processing programs have a feature that will measure the number and length of words and sentences, and provide a readability score. Materials should depict persons who are racially and ethnically representative of the targeted clients. If a significant percentage of



the population is non-English speaking, then publicity must be made available in the appropriate language(s).

- b. Contacts with the Media. Programs should consider developing a working relationship with local media. Most papers and local TV or radio have special staff assigned to consumer issues. Some even have special staff assigned to aging issues, or columns, programs or publications geared to a specific population. Media contacts can be an effective way to spread the word about a particular scam, program, or change in the law.
- c. Outreach and Community Education. Outreach can effectively target certain client populations, if providers choose times and locations where those persons are likely to congregate. This may mean, for example, once-a-month Sunday outreach and intake at churches whose congregations are comprised of low-income minority individuals or intake in low-income housing projects.

The same principle applies to community education, although it is not enough simply to give talks at sites where targeted clients congregate. Providers must offer information about common legal problems of targeted clients which are priority issues for the program. By focusing on these priority issues, providers educate the targeted populations about their rights and generate cases in the areas determined to be of greatest importance to those populations. Community education can be an effective means of preventing legal problems from occurring. Give your clients information on common legal problems and how to avoid them.

As noted above, the requirement of appropriate outreach to low-income minority individuals was strengthened by the 1987 Amendments and remains strong today. Thus, as area agency and legal assistance budgets are cut or remain stagnant, outreach and community education programs that target these individuals should be maintained.

## 7. Coordinating Program Efforts

Coordination with the local Legal Services Corporation (LSC) program (if the provider is not a LSC grantee) and with other providers of service to the elderly or to targeted client populations, such as minority and non-English speaking seniors, are also necessary components in tailoring program services to reach targeted clients.

- a. Coordinating with LSC Programs. The Act mandates that Title III legal assistance shall be furnished “. . . *in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act.* . . .”<sup>33</sup> In other words, Title III dollars are to *supplement*, rather than supplant, other sources of service. The Act also requires that each legal program coordinate its services with the local Legal Services Corporation (LSC) program (if the Title III provider is not an LSC grantee) and with the private bar, including groups within the private bar furnishing services to older individuals on a *pro bono* and reduced fee basis.<sup>34</sup> It seems Congress intended the priorities of Title III legal assistance programs should

complement -- not duplicate -- those of the LSC program and services provided under the auspices of the local bar association (such as reduced fee wills).

The requirement to coordinate with the local LSC grantee may seem somewhat difficult to reconcile with the prohibition against means testing since the LSC Act requires use of a means test. In addressing this quandary, it is important to note that Congress added legal assistance as a priority service in 1975 after determining that needs of the elderly were not being met through either the LSC offices or the private bar. Title III money was to be used, at least in part, to develop programs with expertise in areas of law which were not usually priorities of LSC offices, so that more older persons could be assisted with a greater variety of legal problems. The Act clearly states that the purpose of this coordination is to assure that the funds provided under the Act are concentrated on those with greatest need.<sup>35</sup>

When the requirement to coordinate with LSC programs was added to the Act in 1978, the Conference Report language dealing with the prohibition against means testing stated: “. . . *no applicant should be directed to seek services through a Legal Services Corporation project.*”<sup>36</sup> This seems to indicate that Congress felt that directing applicants first to seek services from a LSC project before being assessed for eligibility for Title III would constitute an indirect means test and was therefore not allowed. It seems clear, however, that Congress did not intend that older, low-income clients could never be referred to a LSC program, since this would interfere with effective coordination.

Thus, it seems that the dilemma posed by the mandate to coordinate can be resolved by developing case priorities that complement those of the LSC provider. For example, most LSC offices handle public housing, domestic violence and family law cases, and landlord/ tenant problems, which are experienced by many low-income persons regardless of age. A Title III program would still have the flexibility to represent an older client with a landlord/tenant problem, if referred by the LSC office for not meeting eligibility guidelines. In every instance, it is essential to work closely with the local LSC program to avoid a client being bounced between programs or falling through the cracks.

Needs assessments, priority setting, and substantive law training all provide opportunities for coordination with local LSC offices and the private bar. This close coordination is essential to determine where unmet need and service gaps exist and to assure smooth and appropriate referrals between programs. Developing strong relationships with other civil legal providers in your state or area will help assure that limited OAA resources are effectively targeted to those in greatest need and that clients are better served by all components of the civil legal system.

- b. Coordinating with Other Non-legal Service Providers. As discussed under E.3. above, another effective means of reaching targeted client populations is by coordinating with providers of other non-legal services who may be likely to come into contact with certain targeted populations and who understand the particular needs and cultural sensitivities of the targeted groups.

## 8. Evaluating Targeting and Outreach Efforts

In order to determine a program's success at reaching a target population, it is important to obtain feedback from targeted clients and the other service providers who serve your target groups. As mentioned above, an advisory committee can be an effective tool in helping to reach out and to evaluate efforts to attract targeted groups to your program. Members can identify intake sites and opportunities, such as community fairs, review and evaluate outreach materials and methods, and carry your message to targeted groups.

Program data can also help evaluate success at reaching particular groups. Legal providers may want to consider collecting data on client ethnicity, disabilities, or living arrangements to determine whether targeted groups are being served. In addition, providers may wish to collect data on how the client learned about the service. They can use this information to identify the outreach methods that most effectively reach target populations.

It may be helpful to review periodically program data on clients served and to compare this data with the list of identified target groups to determine which groups are being reached, which groups are being missed, and where additional outreach or other targeting strategies might be needed. Technology advances have enabled many programs to generate maps which show where clients live. These maps, along with less formal strategies, can help a program determine the effectiveness of targeting efforts on a regular basis.

Finally, targeted clients should be given an opportunity to evaluate program services and material and this gathered data used to refine the outreach plan, materials and priorities. Evaluations should be done after work on the client's case has been completed. The evaluation should attempt to measure the client's satisfaction with program services and solicit information on how services may be adapted or improved to be accessible and to better meet the needs of targeted clients.

## Conclusion

The issues surrounding means testing, outreach, targeting and priority setting are complex and challenging. Yet, if one keeps in mind that one of the hallmarks of the Older Americans Act is its promotion of flexibility in State and local planning, it may be easier to reconcile some of the seeming inconsistencies in the Act, the legislative history, and the regulations. Through the prohibition against means testing and the requirements for targeting certain populations, Congress has imposed constraints on Title III legal assistance providers, rather than strict parameters. Area agencies and local providers must plan and work within those constraints, but otherwise have great flexibility to develop

and conduct legal programs that best meet the needs and fit the circumstances of their socially and economically needy clients and the particular service area.

<sup>1</sup> Eleanor Crosby is the former managing attorney of Georgia Senior Legal Hotline in Atlanta and serves as a consulting attorney to The Center for Social Gerontology. Penelope Hommel is the Co-Director of The Center for Social Gerontology.

<sup>2</sup> 42 U.S.C. §3003 (1973), *amended by* 42 U.S.C. §3003 (1981).

<sup>3</sup> 42 U.S.C. §3025, §3026, §3027 (2000).

<sup>4</sup> 42 U.S.C. §3026(a)(5) (2000).

<sup>5</sup> 42 U.S.C. §3002(31) (2000).

<sup>6</sup> 42 U.S.C. §3027(a)(11)(B) (2000).

<sup>7</sup> 42 U.S.C. §3027(a)(11)(E) (2000).

<sup>8</sup> All references to Older Americans Act Regulations are to the most recent regulations which were promulgated under the 1987 Amendments. The Administration on Aging is in the process of issuing new regulations for the 2000 Amendments. Until they are issued, the 1987 guidance is all that is available. When the new regulations are issued, The Center for Social Gerontology will publish commentary and an analysis of them.

<sup>9</sup> 42 U.S.C. §3030c-2(a)(5) (2000).

<sup>10</sup> Older Americans Act Amendments of 1978, Pub. L. No. 95-478, §306, 92 Stat. 1513, 1523 (1978) (current version at 42 U.S.C. §3026(a)(4)(A) – (C) (2000)).

<sup>11</sup> Older Americans Act Amendments of 1984, Pub. L. No. 98-459, §305 - §306, 98 Stat. 1767, 1773-1774 (1984) (current version at 42 U.S.C. §3025(a)(2)(E), §3026(a)(5)(A)(1) (2000).

<sup>12</sup> 42 U.S.C. §3002(27)-(28), (38) (2000).

<sup>13</sup> The use of the OMB poverty levels to define "greatest economic need" was new in 1987. Prior to that it had been defined according to the Bureau of the Census poverty threshold.

<sup>14</sup> 42 U.S.C. §3012(a) (2000).

<sup>15</sup> Older Americans Act Amendments of 1987, Pub. L. No. 100-175, §§305-306, 101 Stat 926, 939-940 (1987) (current version at 42 U.S.C. §3025(a)(1)(E), §3026(a)(1) (2000).

<sup>16</sup> 42 U.S.C. §§3025(a)(1)(E), 3026(a)(4)(C) (2000).

<sup>17</sup> 42 U.S.C. §3025(a)(2)(E) (2000).

<sup>18</sup> Older Americans Act Amendments of 1987, Pub. L. No. 100-175, §307, 101 State. 926, 940 (1987) (current version at 42 U.S.C. §3027(a)(24) (2000).

<sup>19</sup> 42 U.S.C. §3026(a)(4)(B)(ii) (2000). Nearly identical language about State Plans at 42 U.S.C. §3027(a)(16)(A) and (B) (2000).

<sup>20</sup> 42 U.S.C. §3030c-2 (2000).

<sup>21</sup> 45 C.F.R. §1321.17(f)(3) (1988).

<sup>22</sup> 45 C.F.R. §1321.71 (1988).

<sup>23</sup> H.R. CONF. REP. NO. 95-1618, at 65, (1978).

<sup>24</sup> *Joint Hearing before the U.S. Senate, Special Committee on Aging and the Subcommittee on Aging of the Committee on Labor and Human Resources: Regulations to Implement the Comprehensive Older Americans Act Amendments of 1978*, 96<sup>th</sup> Cong. (1979).

<sup>25</sup> 45 U.S.C. §3030c-2 (2000).

<sup>26</sup> 45 C.F.R. § 1371.71(e) (1988).

<sup>27</sup> 42 U.S.C. §3012(a)(20) (2000).

<sup>28</sup> H.R. CONF. REP. 95-1618 at 65, (1978).

<sup>29</sup> For information on Language Line's services and fees, see their web site at [www.languageline.com](http://www.languageline.com).

<sup>30</sup> Erica F. Wood & Penelope A. Hommel, *Communicating Effectively with Older Clients*, NEW JERSEY LAWYER, Feb. 1985, at 59.

<sup>31</sup> AARP, NATIONAL LEGAL TRAINING PROJECT, EFFECTIVE COUNSELING OF OLDER CLIENTS: THE ATTORNEY-CLIENT RELATIONSHIP (1995).

<sup>32</sup> For information on TTY, and other assistive communication devices, contact the Technology Access Program at Gallaudet University through their website, <http://tap.gallaudet.edu/>

<sup>33</sup> 42 U.S.C. §3027(a)(11)(D) (2000).

<sup>34</sup> 42 U.S.C. §3027(a)(11)(A)-(B) (2000).

<sup>35</sup> 42 U.S.C. §3027(a)(11)(B) (2000).

<sup>36</sup> H.R. CONF. REP. 95-1618, at 65 (1978).

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**Downloadable  
PowerPoint  
Presentations  
Now Available**

TCSG is pleased to announce that we have added a significant new feature to our web site -- downloadable PowerPoint presentations on legal services and elder rights issues. (See below for one example.) Over the coming weeks and months, we will add a variety of Power Point presentations for your use, so we encourage you to check the site regularly. Our intention is that policymakers and persons working in the fields of law and aging can utilize these existing slide presentations or adapt them to meet their needs.

**PowerPoint on  
Selecting a IIIB  
Legal Provider**

One of the first downloadable PowerPoints TCSG placed on our web site -- and one we hope will be particularly helpful to Area Agencies on Aging (AAAs) -- is titled *Selecting a Title IIIB Legal Provider*. It was prepared by Natalie Thomas, Georgia Legal Services Developer.

Selecting the 'best entity' as Title IIIB Legal Provider, as required in the Older Americans Act (OAA), has traditionally been a difficult issue for AAAs as well as legal service providers who are bidding on the contracts. Due to the difficulty in understanding and implementing the OAA selection requirements, results of the selection process have varied. In the worst cases, it has led to a lawsuit or threat of lawsuit by a losing bidder. In other cases, AAA staff may feel they have been bullied into awarding a contract to a provider they feel uncertain about, or they are simply uncertain what the OAA requires. While there are instances in which both AAA staff and legal providers understand and implement the OAA selection provisions flawlessly, there generally remains an overriding need for assistance in selecting the 'best entity' to provide Title IIIB Legal Services. To provide this assistance, Natalie Thomas, Georgia's Legal Services Developer prepared a 15-slide PowerPoint Presentation that addresses the requirements of the OAA, key issues that arise in selecting the 'best entity,' and helpful insights for AAAs implementing these tips in the selection process.

This PowerPoint presentation can be directly accessed at --  
<http://www.tcsg.org/powerpoint4/index.htm>

*Our extended thanks to Natalie Thomas for graciously permitting us to place this presentation on our website for the use of others.*

**Victory for Elders  
Severely Affected  
by Secondhand  
Smoke in HUD-  
Assisted Housing**

Under TCSG's Smoke Free Environments Law Project (SFELP) we receive numerous requests for assistance from older persons in elderly housing or in HUD-assisted housing whose health is severely affected by secondhand smoke. This led to our undertaking an analysis of how the federal Fair Housing Act (FHA) applies to secondhand smoke intrusion in apartments. (For the FHA analysis, see <http://www.tcsg.org/sfelp/apartment.htm>) However, because we then heard from tenants and landlords in Michigan that the views in our FHA analysis seemed not to be supported by the Dept. of Housing & Urban Development (HUD) office in Detroit, we undertook to get that office to reassess its position, since it was preventing some landlords from voluntarily adopting smoke-free policies. After nine months of work with HUD, TCSG was successful in obtaining a new legal opinion which was cleared with HUD's national office and represents an important policy opinion.

On July 18, 2003, the Chief Counsel of the (HUD) field office in Detroit issued an opinion, stating that

*"Currently, there is no HUD policy, by statute, regulation, handbook or otherwise that restricts landlords from adopting a prohibition of smoking in common areas or in individual units."*

The opinion goes on to state that there is nothing in federal law, including the Fair Housing Act or in Michigan law which prevents a landlord from making some or all of his/her apartment units smoke-free.

*"Similar to Michigan law, federal law does not prohibit the separation of smoking and non-smoking tenants in privately owned apartment complexes and in fact, does not prohibit a private owner of an apartment complex from refusing to rent to smokers."*

The only caveats to this policy listed in the opinion are: 1) if the apartment owner wishes to make the policy a condition of the lease, HUD approval is necessary to the extent that the owner is bound to utilize HUD's model lease; and 2) "if owners seek to make their complexes smoke-free they must take caution to grandfather in those smoking residents currently residing at the complex."

It is likely that this opinion is applicable to virtually all states since it is almost certain that no state has laws which make smokers a "protected class." Persons in states other than Michigan should check the laws of the applicable state and whether there exists a court decision(s) or an Attorney General opinion stating that landlords have the right to make some or all apartment units smoke-free.

This opinion was sought by TCSG's SFELP project when some landlords wanted to adopt absolute smoke-free policies. These landlords, some of whom had HUD-assisted units, wanted assurance that HUD would support them if a potential renter challenged their right to restrict smoking in the building, including within apartment units. In this opinion, the HUD legal counsel makes it clear that *this is not discriminatory*.

This HUD opinion can be found, along with the FHA analysis and other related information, in the section of the TCSG/SFELP web site titled "Environmental Tobacco Smoke & Apartments and Condominiums" at -- <http://www.tcsg.org/sfelp/apartment.htm>

**Landmark Study  
of State Legal  
Services  
Developers  
Available Online**

The landmark study -- "*State Legal Assistance Development Program Study*" -- published in October 2003 by Natalie Thomas, GA Legal Services Developer, and Richard Ingham, OK Legal Services Developer, is now available on TCSG's web site. Completed under a grant from the *Borchard Center on Law and Aging*, it compares the Legal Assistance Development Programs (OAA Title VII, Chapter 4) in various states to see where their strengths and weaknesses lie.

This study is the first-ever to take an in-depth look at the OAA-mandated State Legal Assistance Development Program. It examines the current status and identifies weaknesses and barriers, such as conflicts of interests, extended vacancies in the state position, and the absence of federal funding in spite of an authorization for funding in the OAA. Perhaps most important, it identifies what constitutes a *high quality* program and makes extensive recommendations for improvement, such as the importance of ensuring a full-time developer in each state, specifying a core set of duties for all developers, and adequately training and developing skills to ensure competence.

The study demonstrates the desperate situation of many developers, colorfully emphasized by the manner in which legal assistance development programs barely survived the 2000 reauthorization of the OAA. The Center for Social Gerontology is especially committed to the work of state developers and believes that this report adequately describes the current situation of developers who are extremely talented and committed yet often lack necessary support to fulfill their role as envisioned by the OAA.

The 150-page report can be accessed on a permanent basis on the "State Legal Services Development" section of TCSG's web site at <http://www.tcsg.org/lstdpage.htm>. Just scroll down to the "*Recent News*" section or the section titled "The Roles & Responsibilities of Legal Services Developers," and you'll be able to click on the report. To go directly to the report, which is in pdf format, go to -- [www.tcsg.org/borchardstudy\\_01.pdf](http://www.tcsg.org/borchardstudy_01.pdf)

Many people contributed to the preparation of this report, including many Legal Services Developers and key Administration on Aging staff. We at TCSG are proud to have been a part of this effort. Special congratulations to the authors, Natalie Thomas and Richard Ingham, for their devotion to this project, with special thanks to Natalie who devoted extraordinary time to the analysis and writing of the report. It is their hope, and ours, that this report will provide the foundation for increased focus by policymakers on the federal and state levels on this important program.

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