

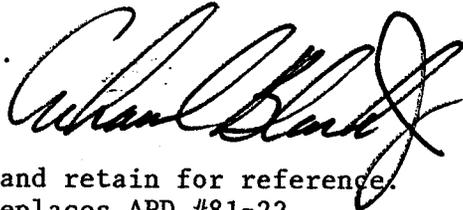
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF AGING  
Harrisburg, PA  
June 7, 1982

AGING PROGRAM  
DIRECTIVE #82-11  
85-18-01  
69

SUBJECT: AREA AGENCIES ON AGING PROGRAM OF LEGAL SERVICES TO  
THE ELDERLY

TO: EXECUTIVE STAFF DPW, OFFICE OF POLICY, PLANNING  
DIVISION OF FIELD OPERATIONS AND EVALUATION  
AREA AGENCIES ON AGING AGING GRANTEEES AND SUBCONTRACTORS  
PENNSYLVANIA COUNCIL ON AGING

FROM: GORHAM L. BLACK, JR.  
SECRETARY  
DEPARTMENT OF AGING



DISPOSITION:  Note well and retain for reference.  
 This APD replaces APD #81-22.  
 This APD becomes effective July 1, 1982.  
 This APD references APD's #82-6 and #82-7.

Section I PURPOSE OF THIS AGING PROGRAM DIRECTIVE

The purpose of this directive is to:

- (a) Set forth policies and procedures to ensure compliance by Area Agencies on Aging with Section 306(a)(2) of the Older Americans Act, as amended, which requires that each Area Agency on Aging expend some funds for providing legal services to the elderly.
- (b) Promulgate Departmental policy regarding waivers of the aforesaid requirement under Section 306(b) of the Older Americans Act, as amended.

I.1 General Requirements:

No Area Agency on Aging plan or Block Grant agreement will be approved by the Department of Aging unless that plan or agreement provides for the delivery of legal services to the elderly, utilizing some funds as required by Section 306(a)(2) of the Older Americans Act, as amended.

I.2 Definitions:

- (a) The "ACT" - Older Americans Act of 1965, as amended (42 U.S.C. Sections 3001 et seq.).
- (b) The DEPARTMENT (DA) - The Pennsylvania Department of Aging.
- (c) AREA AGENCY ON AGING (AAA) - An agency designated by the Pennsylvania Department of Aging to administer and develop an area plan for a comprehensive and coordinated system of services for older persons within the boundaries of a defined planning and service area.

- (d) LEGAL SERVICES - Legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student, under the supervision of an attorney), and includes benefits and rights counseling or representation by a non-lawyer to older individuals with economic or social needs.
- (e) LEGAL SERVICE PROVIDER - An organization or individual that has a legal services program for the elderly, or the capacity to develop one.
- (f) GREATEST ECONOMIC NEED - The need resulting from an income level at or below the poverty threshold established by the Bureau of Census.
- (g) GREATEST SOCIAL NEED - The need caused by non-economic factors which include physical and mental disabilities, language barriers, cultural or social isolation, including that caused by racial or ethnic status (for example Black, Hispanic, American Indian, and Asian Americans) which restricts an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently.
- (h) SOME FUNDS - That portion of the Area Agency's total Block Grant which is adequate to meet the legal services needs of the elderly persons within its planning and service area. To assist the Area Agency in determining the amount of "some funds", the Department acknowledges the inappropriateness of de minimus funding and the need for compliance with Section 307(a)(15)(D) of the Older Americans Act.

### I.3 Specific Requirements:

All Area Agencies on Aging are to allocate some funds to the delivery of legal services to older Americans with the greatest economic or social need within their planning and service area. Each Area Agency on Aging must ensure that legal services are delivered in accordance with the specific requirements of the Older Americans Act. An Area Agency on Aging which can demonstrate to the Department that the legal services being provided from other sources meet the needs of the older persons in its planning and service area may request a waiver from the requirement to budget some funds in this category in accordance with the waiver provisions established in APD #82-6.

### I.4 Goals of the Legal Service Program:

The goals of a legal services program for the elderly are: (a) to assure the further expansion and availability of legal services to the elderly; (b) to provide counseling, representation and training on legal problems confronting the elderly; (c) to disseminate information on these issues; (d) to assist the Area Agency on Aging in its advocacy program on behalf of the elderly; (e) to assist, where possible, with law reform, legislation, or changes in administrative regulations on issues of primary concerns to the elderly; (f) to utilize the resources of the local bar associations and state's law schools for legal services to the elderly; (g) to coordinate the cooperative participation of other



area legal service resources with the legal service providers under contract; and, (h) to otherwise assist the elderly in securing benefits and rights to which they are entitled.

Section II ORGANIZATION AND ADMINISTRATION

II.1 Selection of a Legal Service Provider:

Each Area Agency on Aging must, in the selection of a legal service provider:

- 1) ensure that said provider demonstrates the experience and capacity to deliver legal services in the planning and service area, and;
- 2) has the capacity to develop and administer a program designed to provide legal services to elderly individuals with the greatest social and economic need, and;
- 3) has agreed to coordinate its services with existing legal service projects in the service area, including members of the local bar association.

II.2 Contract Provisions

Each Area Agency on Aging (and/or its subcontractor) must:

- 1) abide by relevant regulations under the Older Americans Act, and;
- 2) attempt to involve the private bar in the legal services program, including groups within the bar association concerned with legal problems of the elderly, and;
- 3) coordinate its services with the Legal Services Corporation grantee so as to concentrate services to older persons with the greatest social or economic need.

In addition all contracts must ensure that: (a) legal services provided under this contract shall be in addition to services to older individuals being furnished with funds from other sources; (b) that legal services are targeted towards those elderly persons with the greatest economic or social need; (c) that legal services are provided at locations which ensure access to the greatest number of elderly persons with the greatest social and economic need; (d) that eligibility for legal services is not restricted on the basis of income; (e) that legal services are effectively delivered to institutionalized, isolated and homebound elderly individuals; and, (f) that a program of ongoing monitoring of any legal services subcontract is undertaken by the Area Agency on Aging.

Section III REQUESTING WAIVERS UNDER SECTION 306(b)

The Department has defined "some funds" and "legal services" to allow for maximum local flexibility, and has determined that the need for such services among the elderly is universal. Therefore, approval of waivers will be given only in those instances where an Area Agency on Aging, in accordance with the waiver provisions of APD #82-6, has fully demonstrated that the range of legal services needs of its older persons is being met from other sources. The existence and operation of a Legal Services Corporation program within the planning and service area is not, in and of itself, sufficient basis for a waiver application. Before applying for a waiver, an Area Agency on Aging must make reasonable effort to maintain existing levels of legal services for elderly persons (cf. Section 307(a)(15)(D) of the Older Americans Act, as amended).

Section IV REPORTING

Each Area Agency on Aging will be required to submit Program and Financial Reports to the Department on its legal services program in accordance with APD #81-16, APD #81-16A, and subsequent revisions. Each agency will be responsible for the development and maintenance of an information system which is sufficient to complete and document these reports. As with other programs funded by the Department of Aging, Area Agencies are responsible for monitoring legal service programs on an ongoing basis according to the terms of the current Block Grant agreement. Specific monitoring strategy shall be devised by the Area Agency on Aging to take into account the local aspects of its legal services program. Adherence to the confidentiality section of the Older Americans Act regulations (Section 1321.19) shall be ensured.

Inquiries regarding this Aging Program Directive should be directed to your appropriate Field Liaison Representative.

ORIGIN: Division of Health and Human Services, Bureau of Advocacy,  
Department of Aging.