

Assessing Current Capacity of an Older Americans Act Legal Services Delivery System

Why Assess the Current Capacity of your System? One does so for the same reasons an assessment is made of anything else of value, whether that is your job, family, home, car, wardrobe, finances, etc.

What do you want to know?

- What is it supposed to do? Identify the purpose
- What's there? Identify the component parts
- How much is there? Identify the quantity
- What does everything do? Identify the roles
- How well does it work? Identify the quality of what you have
- What does it not do that it should? Identify the weaknesses
- What does it do very well? Identify the strengths
- What could cause it to fail? Identify the threats
- What could keep it from completing its purpose? Identify the challenges

Major Components of the Title III B Legal Services System:

STATE UNIT ON AGING

Staffing:

- Is there a Legal Services Developer?
- If there is no developer, who is tasked with the responsibility mandated by the OAA?
- What is the capacity of the developer? Attorney or Non-attorney? If the developer is not an attorney, is there a resource attorney accessible?
- What other personnel, if any to assist?

Responsibilities:

- What is the developer permitted/required to do?
 - Communicate directly with legal providers
 - Communicate directly with AAAs
 - Site visits, monitoring visits, technical assistance visits
 - Develop educational materials
 - Engage in advocacy
 - Provide training for legal providers and other professionals
- How much time is actually spent on legal services development? What other job title/duties does the developer have?

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Funding:

- What is the minimum % of Title III B funding set by the SUA for AAAs to use?
- Is there also a minimum funding level?
- Is there funding available to the developer for training, travel, development of educational materials?
- Is there a mechanism for regular reevaluation of funding levels?

Tools:

- Are there Legal Standards for operating the legal services program?
- Is there a statewide reporting system?
- Are there waivers in place already to excuse compliance with existing requirements?
- Is there a RFP for interested parties to use?
- Is there a monitoring tool for the AAAs to use for evaluating their legal providers?

AREA AGENCY on AGING

Selection of a Provider:

- What is required for to become a T.3B legal provider?
 - o demonstrate that they have the experience or the capacity to deliver the service;
 - o subject to the restrictions and regulations that apply to the program, i.e. LSC restrictions, except for those governing eligibility; and standards for the delivery of legal assistance to older persons;
 - o involve the private bar in the delivery of legal services, including pro bono and reduced fee services
 - o provide services to persons in greatest social or economic need without means testing

What services are required of them?

- o Legal Information
- o Legal Community Education
- o Direct Client Representation
 - Representation at administrative hearings
 - Representation in judicial forums

What level of funding is available to the providers?

- o Is there an opportunity to request additional funding
- o Can the provider apply for grant funding
- o Is there an avenue for approaching

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PROVIDER

Who?

- T.3 B legal services provider
- Hotline/Helpline

What type of Provider entity?

- o LSC grantee
- o Non LSC grantee
- o Law school clinic
- o Private attorney (by the hour; by the case; contract for a year; volunteers)
- o In-house attorney at AAA

How staffed?

- Program coordinator
- Designated staff attorney and/or paralegal

Level of Services Provided?

- Telephone assistance only
- Brief service and advice
- Document preparation
- Full service legal assistance
- Impact/systemic work

Service Area:

- Entire PSA
- Certain counties/regions within a PSA

Targeting

What categories are met?

- Greatest social need
- Greatest economic need
- Rural
- Minority
- Limited English Proficiency

Priorities

How are they selected?

- ♦ Predetermined by the State agency on aging
- ♦ Predetermined by the AAA
- ♦ Statewide Standards
- ♦ Provider priority setting mechanism

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Incumbent Providers

- Record of previous years' service
- Goals met? If not why?
- Goals consistently exceeded?
- Compliant with reporting, training, service requirements?

Other Provider Issues for Consideration

- ▢ Confidentiality
- ▢ Coordination/collaboration with other (elder rights') programs
 - LTCO
 - Elder Abuse Prevention
 - SHIP
 - ADRC
 - APS
- ▢ Avoidance of means-testing
- ▢ Conflicts of interest
- ▢ Grievance procedures

Conclusion

These are just some of the areas that need to be focused on and it is a brief outline of topics to consider. Obviously, each of these must be dealt with in more detail to thoroughly assess the capacity of an existing system. As stated initially, before any changes are considered to an existing system, it is critical to know what currently exists, in all of it's strengths and weaknesses to avoid changing what need not be changed and leaving what ought to be altered. Much like with anything else in life, always know where you are before you decide to go somewhere else or your new destination might be worse than your point of origin.

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