



legal hotline

QUARTERLY

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NATIONAL ASSOCIATION OF SENIOR LEGAL HOTLINES CREATED

The managers of the senior legal hotlines and other interested parties have joined together to create an association devoted to advancing the legal rights of seniors and increasing legal resources available to seniors through statewide telephone hotlines.

The mission of this new association is to facilitate the sharing of relevant information to strengthen the role of statewide hotlines in the provision of legal services for seniors. If your program has a senior legal hotline that operates or hopes to operate statewide, this Association is for you..

Membership is open to Senior Legal Hotlines that serve, or aspire to serve, seniors statewide. Interested individuals may also join as supporting, non-voting members. Program membership is \$200 annually and individual memberships are \$25 annually.

Benefits of memberships include:

- An email group that enables information sharing
- An opportunity to interact with other senior legal hotline staff
- A unified voice to strengthen and expand senior legal hotlines through the county

To join, fill out the membership application at <http://www.legalhotlines.org>.

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Shoshanna Ehrlich, Editor

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The AARP Foundation is AARP's affiliated charity. Foundation programs provide security, protection and empowerment for older persons in need. Low-income older workers receive the job training and placement they need to re-join the workforce. Free tax preparation is provided for low- and moderate-income individuals, with special attention to those 60 and older. The Foundation's litigation staff protects the legal rights of older Americans in critical health, long-term care, consumer and employment situations. Additional programs provide information, education and services to ensure that people over 50 lead lives of independence, dignity and purpose. Foundation programs are funded by grants, tax-deductible contributions and AARP.

Utah Seniors Name Legal Hotline as the Service They Most Want

The Final Report of the **Planning for the Legal Needs of Utah's Seniors Study** was presented at the **National Aging and Law Conference in October, 2004**. The study provides strong statistical support for the value of legal hotline services for seniors. The surprise for the researchers as well as conference attendees was that Utah seniors want a legal hotline more than any other legal service. 69% of Utah's seniors chose a legal hotline as the service that would be most helpful to them in addressing their legal needs. Everyone expected "free attorney" would be the most requested service, but only 44% of seniors chose that option.

Those of us working to promote the hotline model to expand access and convenience to seniors hope this report will prove to be on-target ammunition for the goal of establishing a senior legal hotline in each state. The Utah Study also collected important information about seniors' legal needs. Excerpts from the Report are published with the kind permission of the authors.



Planning for the Legal Needs of Utah's Seniors

Excerpts from the Final Report by Alan Ormsby, Utah Division of Aging and Adult Services and Jilenne Gunther, Borchard Foundation Center on Law and Aging; Statistical Analyst: Nathan Stephens, B.S. Center for Statistical Consultation and Collaborative Research, Brigham Young University

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I. Executive Summary

Utah's senior population is booming, and consequently, the demand for legal services is increasing. Utah's legal services providers need a clear vision of the legal problems seniors face to plan for the future. The limited resources for legal services programs should be allocated in the most helpful and beneficial way. This study assesses the legal needs of Utah's seniors, their perception and experiences with attorneys, their awareness of current legal services, and the barriers to obtaining legal assistance.

In the spring of 2004, the investigators sent a self-completion survey to 989 seniors throughout Utah. The response rate was a stunning sixty-seven percent (67%).

- Eighty-six percent (86%) of Utah's seniors have experienced a legal difficulty within the last three years.
- A significant number of Utah's seniors indicate legal difficulties in the following areas: telemarketing (58%), the new Medicare Drug Card (53%), estate and advance planning (28%), health insurance (27%), and problems with salespersons (25%).

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- Fifty percent (50%) of seniors have used an attorney's services in the past ten years, and of these, seventy-three percent (73%) found the attorney's service to be very helpful.
- Seniors who have used an attorney in the past are more likely to call an attorney they know for future legal needs (55%).
- The majority of seniors (56%) have never heard of any legal services or senior advocacy organization, such as Utah Legal Services, Adult Protective Services, or Legal Aid Society.
- The top legal issues seniors want help with are estate planning (44%), government benefits (43%), and advanced planning (40%).
- Seniors indicate the most needed services are a legal hotline (69%), a legal guidebook (60%), and free or low-cost attorneys (44%).
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- Twenty-six percent (26%) of seniors live on a low-income, less than 150% of poverty.

II. Introduction

A. The Importance of Legal Needs

At present, about one in eight Americans is age 65 or older. However, because of the baby boom population, it is projected that by 2030 about one in five Americans will be age 65 or older. Utah will also experience explosive growth in its senior population. From 2000 to 2030, this population will increase by 155%. Utah has the sixth fastest growth rate in the nation for people age 65 and older.

This tremendous growth will impact Utah in many ways including a greater demand for legal services. It is important for Utah's legal

services community and policymakers to prepare for the current needs of seniors and for the upcoming changes.

It is essential to recognize legal needs as part of the spectrum of senior services. Often gerontology experts do not understand the importance of addressing legal issues, detrimentally affecting seniors. Seniors who go without legal assistance can suffer financially, emotionally, and physically. For instance, many seniors deeded their homes to their family while still living in their home. The family may borrow against the home, the bank forecloses, and the senior is evicted.

Attorneys can assist and educate seniors on how to keep, protect, and properly convey their property. In addition, with legal assistance seniors can plan ahead for medical incapacity and decision-making. Attorneys can protect seniors from consumer and telemarketing fraud, abuse, and financial exploitation. And as advocates they can help guide seniors through health insurance and government benefit problems.

B. Current Funding of Legal

Utah has very limited resources for Senior Legal Services. The Older Americans Act, ..., requires free legal assistance for persons 60 and older regardless of income. But the federal government does not provide adequate funding for legal assistance, and at present, the State of Utah does not provide any funding for Senior Legal Services.

C. The Need for a Legal Assessment Survey

Utah's seniors need legal services, and many organizations do their best to provide those legal services. But what are the legal needs of Utah's seniors? What services do seniors need? How should Utah's legal services providers allocate resources to be more effective? What programs and initiatives should be pursued to meet the legal needs of seniors?

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There is very little state specific data to answer these questions or suggest the types of legal problems seniors face. According to other Legal Service Developers, no state has ever specifically surveyed seniors' legal needs.

Utah's senior network has very little data on the legal needs of Utah's seniors. Thus, legal programs and services are being created for seniors based solely on client interactions and national data. The senior population is being served based on what the senior network thinks is needed, rather than what seniors really need.

As funding becomes scarcer, it is important to develop programs around the true needs of seniors. And to attract further funding, it is essential to show that there is a need. Thus, this survey has three goals – (1) to obtain a clear picture of the needs of Utah's seniors, (2) to focus resources to provide legal services with the greatest impact, and (3) to provide information that will be helpful in obtaining additional funding for new legal service programs and initiatives.

D. Study Purposes

This report is a detailed summary of the findings from a statewide survey of older Utah residents conducted by Jilene Gunther of the *Borchard Foundation Center on Law and Aging*, and Alan Ormsby of Utah's *Division of Aging and Adult Services*. The purposes of the study are to assess (1) Utah's seniors' legal needs, (2) their awareness of available legal services, (3) their experiences with lawyers and perceptions of lawyers, (4) the barriers seniors have with using a lawyer, (5) the legal issues that concern them, and (6) the legal services that would benefit them most.

E. Study Design

The study involved the administration of self-completion mail questionnaires to 989 Utahns ages 60 and older throughout the state. These seniors were drawn from an original random stratified probability sample of over 6,000 Utah seniors who were surveyed in 2001. These seniors indicated a willingness to participate in

future surveys. Although these seniors self-selected, the Brigham Young University (BYU) Center for Statistical Research confirmed that the sample size of 989 seniors provided a representative sample.

The questionnaire was drafted specifically to address seniors' legal needs. In doing so the principal investigators also reviewed other legal needs surveys, including Washington State's 2003 Civil Legal Needs Study. The survey instrument included questions involving demographics, health insurance, government benefits, housing problems, consumer issues, family problems, abuse issues, estate planning, awareness of legal services, experiences and perceptions of lawyers, and legal services seniors want. Seniors were asked to report problems they had experienced in the past three years.

III. Excerpts from Findings

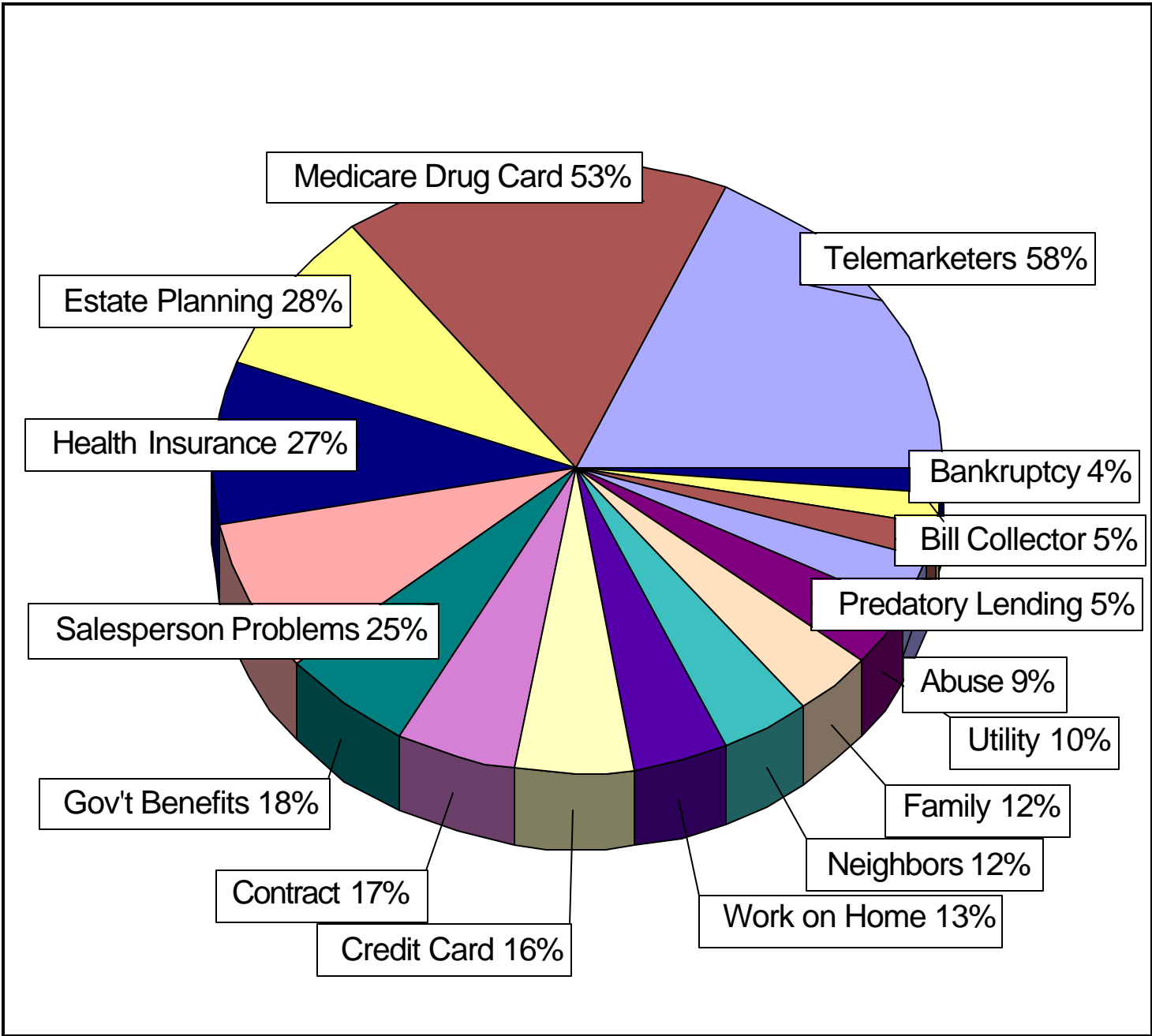
Reported Legal Problems

Overall Legal Problems

The survey addresses several areas of need such as: health insurance, government benefits, housing problems, consumer issues, family problems, abuse issues, and estate planning. Survey respondents experienced a wide range of legal needs in the past three years. The figure below details the percent age of seniors who reported a particular legal problem. Seniors top legal problems are (from most reported to least reported): Telemarketer problems (58%) and Medicare Drug Card Program questions (53%). However, note that Estate and Advance Planning (28%), Health Insurance Problems (27%), and Salesperson Problems (25%) are also cited very frequently.

Other legal issues that are of concern to seniors are - conditions in the home (18%), government benefits (17%), contract problems (16%), credit card problems (13%), and unsatisfactory work on your home (12%). In addition, problems with neighbors (12%), family problems (12%), utility issues (10%), abuse problems (9%), predatory lending (5%), bill collectors (5%), and bankruptcy (4%) are also notable.

Legal Problems of Seniors



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Awareness of Legal Organizations

Awareness of Existing Organizations

Seniors were asked to indicate the legal services organizations they were aware of. Only 44% of seniors have heard of at least one legal services organization. This indicates a need for more advertisement of legal services available to seniors. A Bear River woman in her nineties said, "We need more articles concerning where legal services are available for folks who cannot afford them." Twenty-two percent (22%) of seniors have heard of Adult Protective Services, thirty-four (34%) Legal Aid Society, twenty percent (20%) Utah Legal Services, fourteen percent (14%) free legal clinics, eight percent (8%) ombudsman, and six percent (6%) free legal clinics.

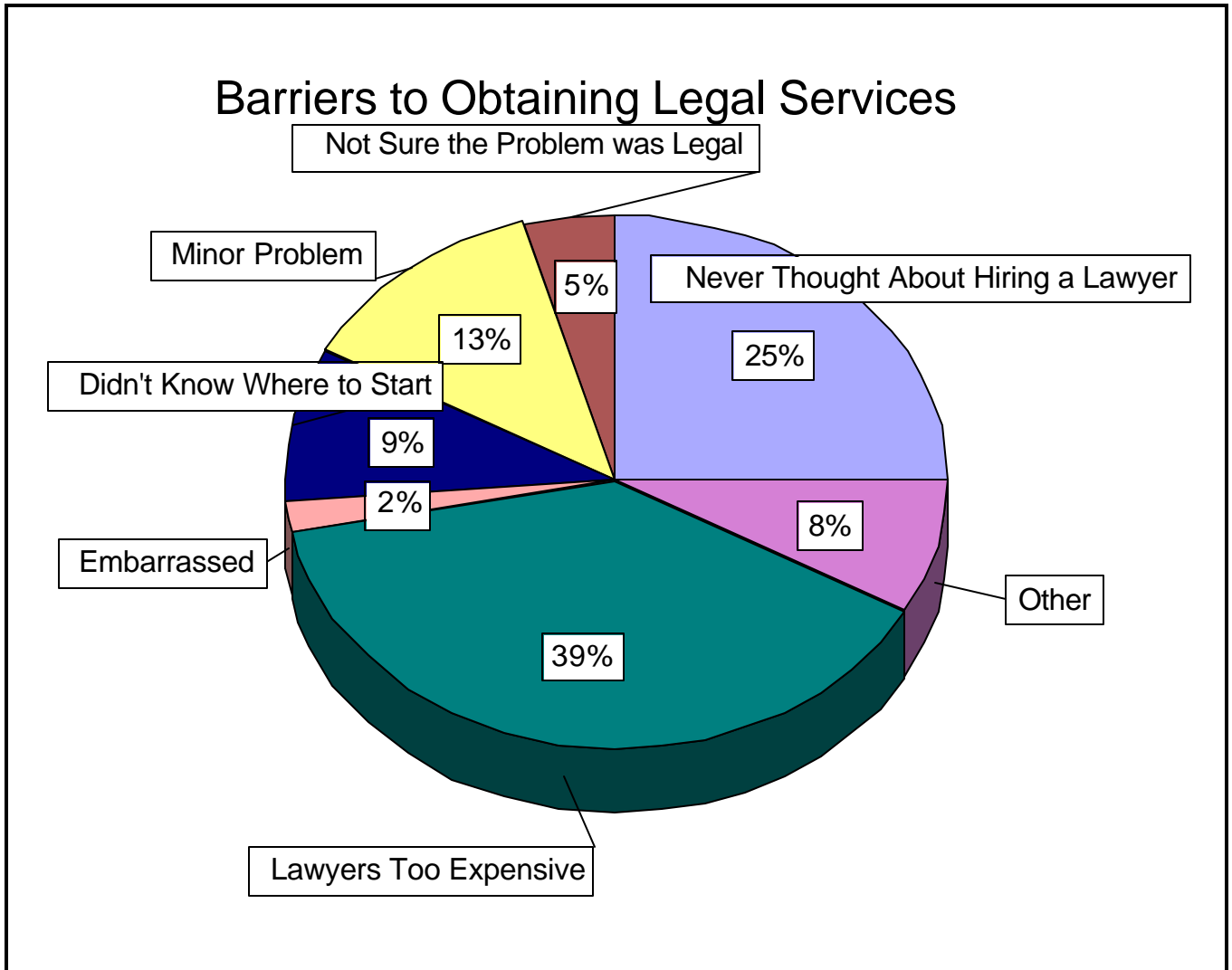
Getting the Word Out

Seniors said the best way to get the word out about a new legal service is by advertisement (58%) and senior center (32%).

Barriers to Legal Services

Seniors were asked if they had ever thought of using a lawyer and if so why they didn't get a lawyer. The most common answer is they never thought about hiring a lawyer and they think lawyers are too expensive.

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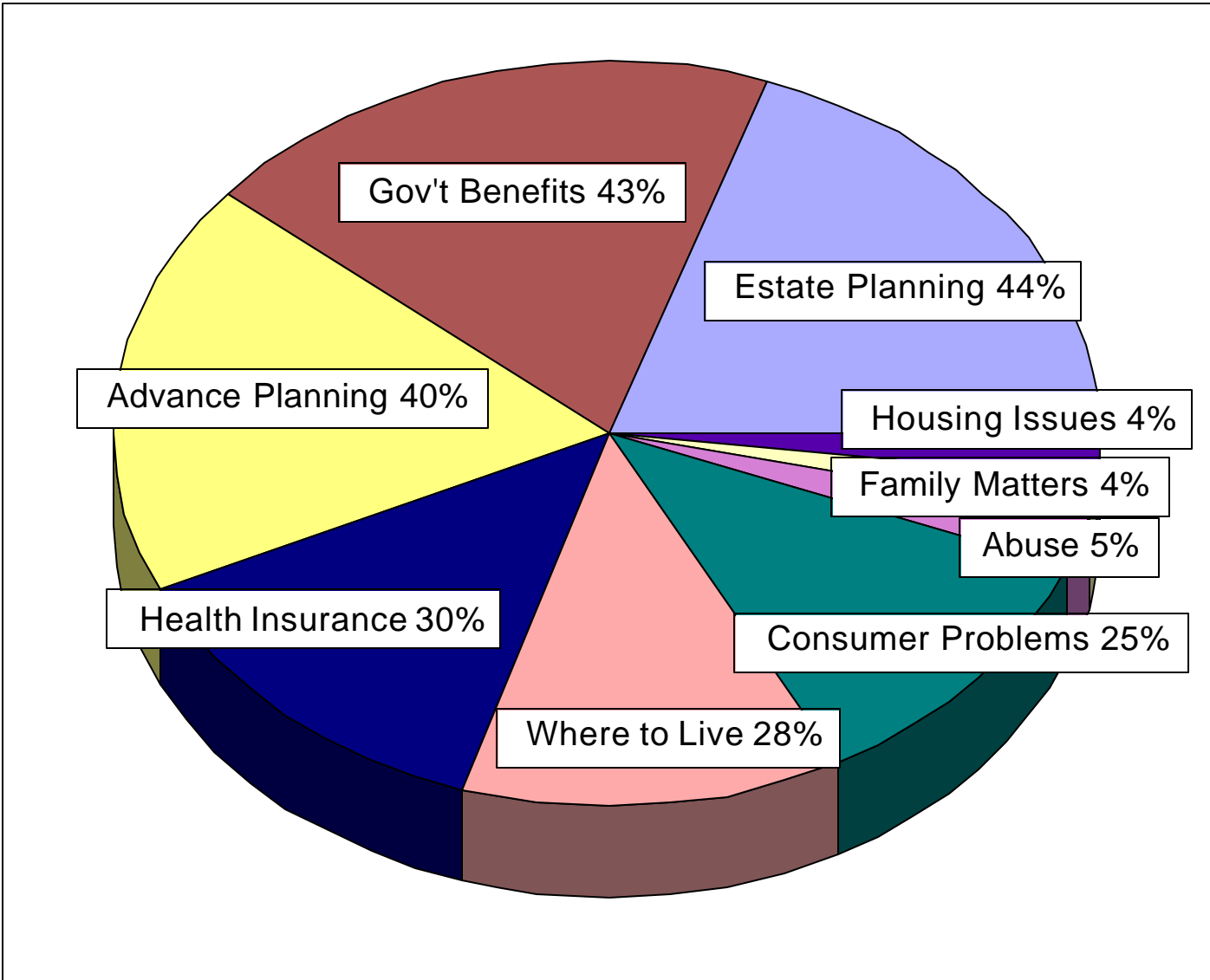
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Legal Issues of Concern

Seniors were asked to name the top three legal issues that were of concern to them. The top issues are Estate Planning (44%), Government Benefits (43%), Advance Planning (40%), Health Insurance Problems (30%), Where to Live Issues (28%) and Consumer Problems (25%). Lower responses include Family Matters (4%), Housing Issues (4%), and Abuse (5%).

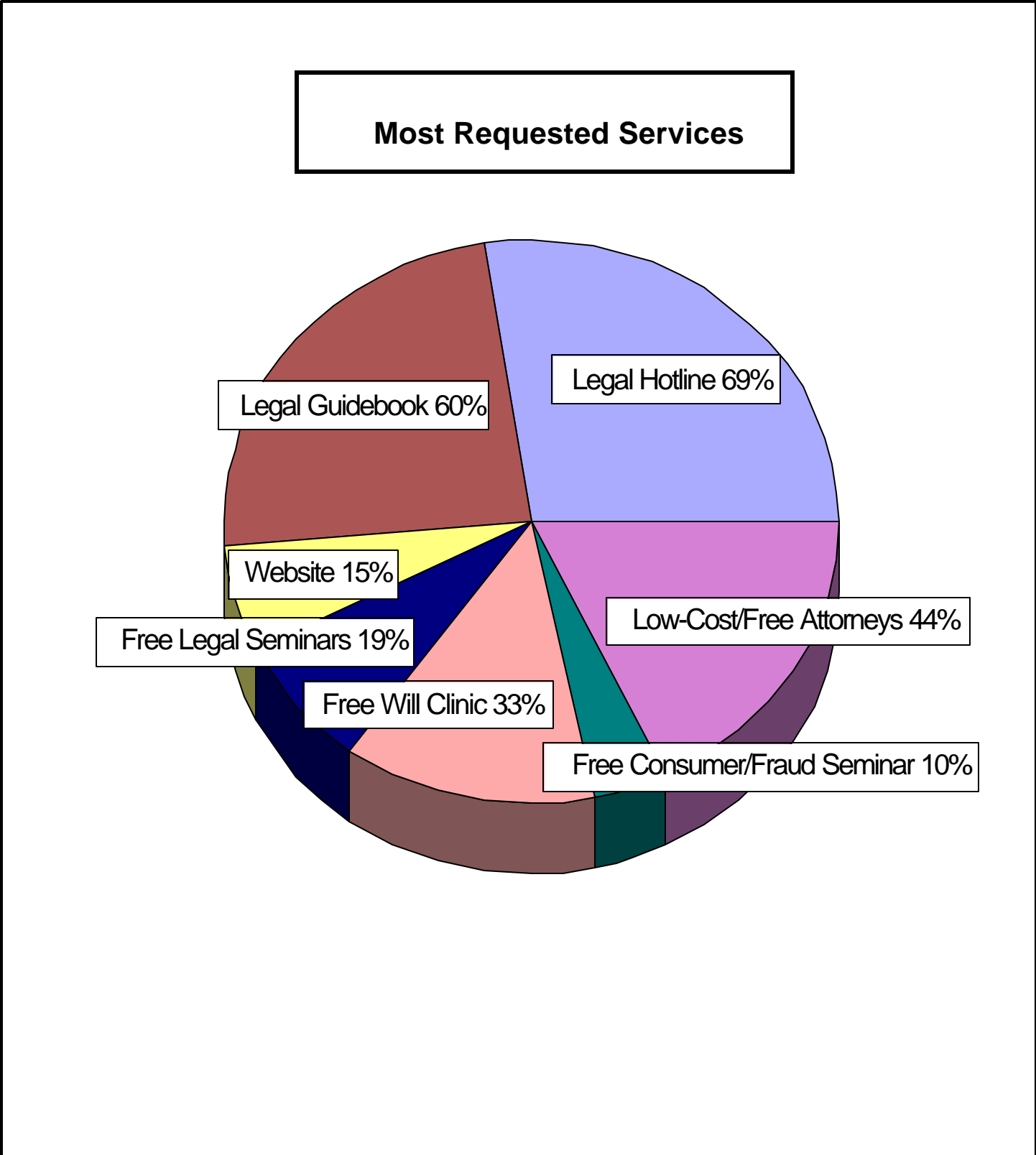
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Legal Issues of Concern



Most Needed Services

Seniors were asked to name the three services that would be most helpful. The three most requested services are a hotline (69%), a legal guidebook for seniors (60%), and free or low-cost attorneys (44%).



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IV. Key Recommendations and Conclusion

A seventy-one-year-old woman in the Southeastern Utah area said, "There is a lot of suspense in aging and some quite delicious surprises." Timely and appropriate legal services can go a long way to ensure that all aging surprises are "quite delicious." This report provides a glimpse into the current state of seniors' legal needs. Utah must now address and prepare for these needs. Here are some key recommendations to do just that:

1. The creation of two new services -- a hotline and legal guidebook.

a. Hotline - Utah currently does not have a legal hotline for seniors. Seniors have overwhelmingly (69%) indicated that a legal hotline is the service they want most.

b. Guidebook – Sixty percent (60%) of seniors requested a legal guidebook. One is currently in print. However, more funding is needed to print additional copies and distribute the guidebook.

2. Senior legal services can be focused in the following ways:

a. Consumer law - More needs to be done to prevent the abuses of unscrupulous telemarketers and salespersons. Seniors need more education on consumer law, especially how to get rid of unwanted telemarketers.

b. Health Insurance - More advocacy and legislation is needed to lower the cost of medical care for seniors.

c. Medicare prescription drug cards - Seniors need more education to understand the new Medicare law and how to determine which Rx card is best for them.

d. Estate and Advance Planning - Attorneys are needed to help with a variety of estate planning needs, especially the creation of a will and living will.

3. The majority of seniors are unaware of any legal services providers. Utah's legal community can do more to let seniors know about the current legal services provided. Seniors stated that advertisement in the media and at senior centers is the best way to let them know about legal services.

4. More resources are needed to satisfy the legal needs of Utah's seniors. Long-term, ongoing funding will be necessary for a successful hotline. And getting the word out to seniors about the availability of legal services will be of no use if there are no services available due to a lack of funding. Seniors have clearly indicated that legal services are a priority for their happiness and well-being.

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NASLH Hot Practice Tips

This NALSH Tip in this issue comes to us from Cathy McConnell, Executive Director of West Virginia Senior Legal Aid, Inc., home of the West Virginia Senior Legal Hotlines Rural Outreach Partnering With Title V Programs.

FALL 2004 TIP

Telephone access to elderlaw information and advocacy can be especially valuable to needy rural seniors. Disabilities, lack of transportation, and personal pride can make it very hard for these seniors to go in person to a legal services office. Though a hotline can be key to delivering services to these folks, they are often the hardest population for a hotline to reach.

At West Virginia Senior Legal Aid (WVSLA) we have learned through trial and error that targeting our outreach to local community service providers can effectively connect our neediest clients with us. We still do a variety of direct outreach to seniors, but this secondary approach to client referral yields the most efficient results for us. One benefit of secondary outreach is that we can educate these local providers to screen for not only the clients we seek most, but also the casetypes where we can really have the best impact.

Among our best ongoing rural outreach partners are the Title V senior employment programs. Many of these low-income 55+ participants work in local senior programs and therefore have direct contact with some of our target senior populations. Many are also 60+ themselves, and are qualified for our services. The Title V programs here typically cover 8 counties or fewer, and provide their participants with at least a half-day of training each quarter.

Each month I choose counties and areas in which to focus outreach, and contact the Title V program or programs in those areas. I offer to produce a training for their participants in exchange for mileage costs. Topics I have presented include dealing with debt, intestate succession, Medicaid estate recovery and planning, and capacity and legal decision making tools. I begin each training with a description of the services we provide, and distribute outreach materials encouraging each participant to share with a senior they know who may need our help. We see immediate increases in our calls from the areas where I do these trainings, and we have developed good community relationships during the process.

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Brief Services Units:

A Preliminary Report

by Amy Mix, Yvonne Tobias, Cecilia Isaacs-Blundin and Jan May*

Providing legal services to those of limited means is complex. While debates continue to rage regarding the merits of hotlines, *pro se* and other discrete delivery systems, it should come as no surprise to anyone that there is really no one 'delivery system' silver bullet to address the legal problems of our clients and the client community. Instead, to meet the varied needs of clients in an effective manner requires the provision of a continuum of services involving a series of interdependent systems ideally operating in a seamless fashion.

The effectiveness of any one delivery system in this continuum is not easily or quickly measured. The first hotlines in legal services, for instance, were implemented at Legal Counsel for the Elderly in the mid eighties. It was only until very recently, however, that comprehensive studies were done (*see Project for the Future of Equal Justice, Hotline Outcomes Assessment Final Report, 2002, and Phase I, III and III Reports, www.legalhotlines.org*) which showed the real promise and the real limitations of hotlines as a delivery mechanism.

In 2002, LCE started a Brief Services Unit ('BSU'), staffed with an attorney, paralegal, and volunteers. The BSU is specially designed to free the hotline from handling anything beyond advice; this helps more clients get advice more quickly, and also gives litigators more time to work on in-depth legal matters.

Preliminarily, we have shown various ways that a BSU appears to be effective at least in terms of freeing up hotline staff, making effective use of volunteers, and tackling in effective and high volume fashion, specific areas of law that lend themselves to this kind of delivery mechanism. The remainder of this article will explore our progress to date along these fronts.

*Amy Mix is a staff attorney with AARP LCE's Brief Services Unit; Yvonne Tobias is a paralegal with AARP LCE's Brief Services Unit; Cecilia Isaacs-Blundin is a law student at George Washington University; Jan May is the Director of AARP LCE. LCE is a 501(c)(3), located in Washington D.C., and affiliated with AARP.

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As with any legitimate experiment, some of LCE's preliminary findings about BSUs are not surprising, while others are a bit of an eye-opener. Following is a list:

(1) A BSU should be thoroughly integrated into the rest of the program and should operate seamlessly with a hotline, pro bono project, and staff attorneys. The process of deciding exactly what cases go where, especially in the early stages, involves close interaction among various aspects of a program. Having said that, LCE has found it helpful to have the client sign a separate BSU-specific retainer agreement so that the client is clear about what steps the Brief Services staff will take on his or her behalf.

(2) Though the legal work is "brief," it is not necessarily "simple." Brief Services can present thorny issues of law with many of the challenges that any other aspect of representation presents. A BSU should be staffed with or supervised by seasoned practitioners who can easily identify the issues and any potential consequences of litigation or alternative courses of action.

(3) In-house volunteers working with Brief Services staff can provide valuable assistance on a wide range of Brief Service activities. Trained volunteers supervised by an experienced attorney can effectively interview clients, do fact investigation, write letters, make telephone calls, and develop cases. Experienced volunteers (especially attorney volunteers) can draft pleadings (e.g., small claims), negotiate with third parties, and conduct legal research.

(4) Special systems can be set up effectively to deal with public benefits cases. LCE has devised systems to assist older persons in completing necessary forms for Social Security, such as benefits applications, an overpayment waiver form, or a request for reconsideration.

(5) Special systems can be set up to deal with consumer debt cases. LCE has also worked out an effective system for handling a large volume of consumer debt cases in which bankruptcy is not the best option.

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- (6) Brief Services staff and volunteers can be used to follow-up on hotline advice or suggested action where the hotline attorney has identified a client who may need further reminders or assistance. Hotline studies have shown that many hotline callers do not follow up on the information or advice given. With a follow-up call, however, LCE has found that the caller is much more likely to follow through.

All the answers to how staff and volunteers specializing in Brief Services cases can improve the effectiveness of a legal services program are not yet resolved. The above findings hold promise, especially by carving out discrete subject areas in which specialized staff is particularly helpful. In hopes that managers across the country can take some of its ideas in order to experiment, LCE has compiled the above ideas as well the following step-by-step accounts of how its BSU handles Social Security Administration, debt collection, and prescription drug assistance.

Legal Counsel for the Elderly's Brief Services Unit at Work:

1. Social Security Administration Assistance

In 2000, LCE created its Hotline Advice Follow Up Program ('HFP'). The HFP gives LCE the ability to use volunteers to measure the effectiveness of advice given by the LCE hotline attorneys. LCE then took its next step: streamlining the client intake process, with the creation of the BSU. Like the HFP, the BSU utilizes non-attorney volunteers who help resolve cases and develop cases to be referred to LCE's Volunteer Lawyer's Project.



In implementing the BSU, LCE found that it could not determine if older District residents' needs were being met by its assistance in public benefit cases, especially Social Security cases. With the Social Security process averaging 100 days per claim, it was inefficient and costly to allocate paid staff resources to monitor the cases for such an extended time. Monitoring the cases involved making periodic calls to both the Social Security Administration ('SSA') and the client regarding the status of a case. Using the HFP as a model, LCE has created and implemented a new approach in handling Social Security cases.

Under the new approach, Social Security overpayment and disability cases are transferred to the BSU at an early stage by hotline attorneys. A non-attorney volunteer then interviews the client and assists the client in preparing necessary documentation. This includes completion of Request for Waivers, Request for Reconsideration, and applications for benefits. The BSU then closes the case after completion of the documentation. (The BSU also assists clients in the completion of Request for Administrative hearings; however, these cases remain open and are referred to our Volunteer Lawyer's Project for placement with a pro bono attorney.)

LCE understands that the Social Security process can sometimes be a daunting and exasperating experience. As such, LCE foresaw that some clients would not have the ability to pursue a case on their own behalf. Therefore, LCE established criteria in which it would assess a client's ability to pursue his or her case and called upon its non-attorney volunteers to make this assessment. A client's inability to pursue a case might be due to several factors including but not limited to:

- a) inability to read or write
- b) incapacity issues, such as dementia
- c) physical and/or mental impairments that impede the client's ability to interact with the SSA

If evidence shows a client may have difficulty pursuing a case on his/her own behalf, documentation is filed on behalf of the client and the case remains open in the BSU.

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If a client is found able to pursue the matter on his/her own behalf, BSU assists the client in completing the documentation, explains the Social Security process to the client, and gives the client the documentation to file on his/her own behalf. If for some reason the client is found to be able to pursue the matter on his/her own behalf but unable to file the necessary documents, BSU will file the documentation on behalf of the client and will send the client a copy of the date stamped document for his/her records. BSU completes the case by sending the client a letter explaining the Social Security process and advising the client to contact LCE if (s)he should receive a denial or if recovery of the overpayment resumes without a decision (Appendix A). BSU then closes the case and “tickles” the case for follow up in 90 days.

If BSU has not heard from the client before the “tickle” date, a BSU volunteer will call the client and complete a Social Security questionnaire developed by LCE (see Appendix B). In developing the Social Security questionnaire, LCE used its questionnaire previously designed for the HFP. The questionnaire was revised so that it would ask specific questions that would track the ability of the client to monitor his/her own case, evaluate the effectiveness of counsel/ advice in Social Security cases, and determine if the services of a legal service organization (i.e. calling to the Social Security Administration each month) are necessary to expedite the resolution of a case.

The results of LCE’s new approach are still being compiled. However, LCE hopes that its new approach of handling Social Security cases in a manner that gives clients an opportunity to pursue matters on their own will become a mechanism that involves clients more in the process; hopefully, this involvement will result in client empowerment and a more cost-efficient methods of delivering services.

2. Debt Collection Assistance



The number of debt collection cases legal service programs handle will likely increase as clients find they are unable to pay mounting debt in today’s economy. LCE has found that the Brief Services Unit is well-suited to handle a high volume of these cases. Many prospective clients will approach legal services specifically requesting to declare bankruptcy; however, there are several approaches for working with clients in debt, and the BSU first reviews the client’s financial situation in order to determine if another course of action, such as negotiation or “judgment proof” and “cease and desist” letters, that is more appropriate.

While bankruptcy is the ultimate source for discharging debts and ceasing collection attempts, time-intensive bankruptcy cases may unnecessarily drain the already thin resources of legal services offices. As such, all other avenues should be explored before taking steps towards bankruptcy. This section addresses what courses of action are available to advocates representing clients in debt, when those actions should be taken, and how to evaluate a prospective client to determine the course action that will provide the most effective representation. The goal of a legal services office representing clients in debt is to devise a system that best meets the needs of the client, while protecting limited program resources.

Financial Interview

The BSU’s first step is to gain a complete understanding of the client’s financial circumstances through a financial interview. This intake covers every facet of the client’s finances, including all debts owed, all assets owned, and all sources of income. Because financial interviews can be time consuming, BSU volunteers work directly with the client to complete a detailed financial intake form (Appendix C).

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After a review of the completed financial intake, BSU staff makes a determination on the appropriate course of action. That determination is made in consideration of many factors, including the type of debts, the client's income and

assets, the potential effect on the client's future ability and need to obtain credit, and the choice or special needs of the client. BSU volunteers then assist in carrying out the action plan in every instance.

Negotiation and Credit Counseling

If the financial interview reveals excess monthly income, the client may be a good candidate for negotiation with creditors in order to work out a payment plan, sometimes referred to as a "hardship plan." Many creditors are willing to work out a plan if the client is able to make some minimum payment on the debt, especially if the debt is unsecured. Typical features of a hardship plan include a reduction in the interest rate, a small monthly payment, or a reduction in the amount owed. These plans are usually limited in duration, from six months to one year.

Volunteers are an invaluable resource in the negotiation and credit counseling process. A volunteer can assist the client by making calls and negotiating with the credit company on the client's behalf. These calls can be made with the client in the office, on speaker phone, or even by conference call with the credit card company and the client at home.

Judgment Proof Clients

State and federal exemption laws protect certain types of income and property from seizure by creditors. BSU staff and volunteers should be familiar with various exemptions to which a client may be entitled. Following are several examples:

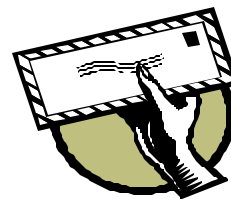
- a) Public assistance and federal benefits payments are generally exempt from the claims of creditors under state or federal law.

- b) Otherwise exempt income may lose its protected status if it is commingled in a bank account with unprotected funds. If a client has both protected and unprotected income, the client may consider opening a separate account into which *only* the protected income is deposited.
- c) Federal and state wage garnishment rules protect a portion of a client's weekly take-home pay.
- d) Federal or state laws may protect a client's interest in some personal property or consumer goods.

There are many other exemption rules under federal and state law, and BSU advocates must have a clear understanding of these rules in order to determine the consequences of debt for a particular client.

If the BSU determines that a client is judgment proof, then sending "judgment proof letters" to creditors is often an effective and efficient means of assisting the client. These letters advise the creditor that the client does not have any attachable income or assets and that the creditor should stop collection efforts for that reason. The letter informs creditors that a continued collection effort on the client's account is not likely to produce any pay-off.

Judgment proof letters are prepared by a volunteer under the supervision of BSU staff. The letters are then signed and mailed by the client (Appendix D). This method conserves staff resources and involves the client in the process.



Although judgment proof letters do not carry any legal weight, many creditors will stop collection efforts after receiving the letter because the creditors understand that continued effort is a waste of resources. The BSU should inform clients that credi-

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tors may continue to send the client monthly bills or even pursue a court judgment against them (Appendix E). However, the client should also understand that because he or she is judgment proof, there are no assets or income which the creditor could take to satisfy the judgment. The client should also be aware that if his or her financial circumstances improve, the creditor may at that point collect on the outstanding judgment. Finally, the client should be advised that a court judgment can also adversely affect his or her credit rating, which may hamper his or her future access to credit.

There may be particular implications for judgment proof homeowners if the creditor obtains a judgment against the client. If the client is a homeowner, the judgment may become a lien against the client's home. This lien would need to be paid before the client could sell or refinance their home. Clients must be advised of these possibilities (Appendix F).

Cease and Desist Letters

Because judgment proof letters do not carry legal weight to stop collection efforts, creditors may still contact the client to collect on a debt. This contact can become particularly burdensome when clients receive numerous phone calls everyday from creditors. To stop the phone calls, "cease and desist" letters should be sent to each creditor and/or collection agency that contacts the client, pursuant to state or federal laws which require that the creditor/collection agency stop contacting the client upon receiving a written request to that effect.

In an effort to limit, as quickly as possible, the number of calls a client receives, LCE includes "cease and desist" language in the standard BSU judgment proof letter (Appendix D). Depending on state law, the "cease and desist" language may not be effective against creditors (as opposed to debt collectors), and the letters are probably only effective against recipients – meaning that clients usually have to request additional letters from the BSU as the debt is bounced from collector to collector. BSU staff must have a thorough understanding of the federal

and state debt collection laws, including when and to whom each law applies, the details of which are outside the scope of this article.

Bankruptcy

In some circumstances, bankruptcy may, in fact, be the best option for a client. For example, if a client has non-exempt income or assets or is unable to mentally or emotionally deal with repeated collection attempts and outstanding debt, bankruptcy deserves consideration. Bankruptcy is also an important tool to stop imminent actions, such as utility disconnection or foreclosure of a home.

Although the BSU does not typically file bankruptcy on behalf of a client, the BSU can play an important role in developing the bankruptcy case for a staff or volunteer attorney. The BSU is the first line of client contact in debt collection cases and is in a position to weigh all of the informal alternatives before resorting to bankruptcy. If BSU staff determines that bankruptcy is the best option for a client, then a BSU volunteer can work with the client to complete a bankruptcy interview and questionnaire, the results of which will be used by an attorney to complete the bankruptcy schedules.

3. Prescription Drug Assistance

LCE has recently begun a new project aimed at assisting clients to obtain free or reduced-cost prescription drugs through patient assistance programs at pharmaceutical company. As part of this new project, the BSU developed a prescription drug questionnaire as a tool to gather the necessary information to assist clients in applying for discounted or free prescription drugs (Appendix G). This questionnaire can be completed during a client interview by BSU volunteers, but it was created also with the goal of being user-friendly enough for a client to complete the questionnaire at home and then return it to the BSU for data input.



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Once the BSU has compiled the necessary data, a BSU volunteer can enter the data into a computer program which returns a list of available drug programs for which the client may be eligible. It is important to note that the Medicare Prescription Drug Improvement and Modernization Act of 2003 may provide additional resources for reduced-cost prescription drugs, but an analysis of that Act and its effect on legal services providers is outside the scope of this article.

Currently, the LCE uses the website www.benefitscheckup.org, maintained by the National Council on the Aging, to analyze the data provided by the client. Once the BSU volunteer has logged onto this website, the data from the questionnaire can be entered in about 20 - 30 minutes. The website's program then generates a list of possible assistance programs to which the client may apply, including local medical assistance programs as well as patient assistance programs run by pharmaceutical and other companies.

The BSU volunteer then prints out applications for each of these programs and completes the patient portion of the application for the client. These partially completed applications are mailed to the client to take to a physician to complete the prescription portion. The client also receives a closing letter with a detailed description of each application and program specifics (Appendix H).

For Copies of the Appendices please contact the Legal Hotline Technical Support Project or look for the entire article at <http://www.legalhotlines.org>

**Equal Justice Conference
2005
Celebrating *Pro Bono*
and Legal Services
Partnerships
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**Register online at:
[http://www.abanet.org/
legalservices/ejc/home.html](http://www.abanet.org/legalservices/ejc/home.html)**

**Some Hotline Related Workshops
we have planned:**

- **Effective Use of Volunteers to Staff the Hotline**
- **Legal Hotlines: What's in a Name**
- **Checklists, Scripts and Outlines for Hotline Advocates**
- **Training and Evaluation for Hotline Advocates**
- **Legal Hotlines, Pro Bono and the Bar**
- **Operating a Brief Services Unit**

And other fantastic presentations.



Designing and Developing Readable Client Education Materials

By Jennifer Minkowitz, Managing Attorney, Maine Legal Services for the Elderly Helpline



The **Legal Services for the Elderly (LSE) Helpline**, previously known as the Legal Services for the Elderly Hotline, is a statewide hotline that provides legal information, advice, referrals and brief services to Maine seniors. The LSE Helpline also provides centralized intake for Legal Services for the Elderly, Maine's Title IIIB legal services provider. Currently in its third year of a Title IV grant from the Administration on Aging, the LSE Helpline recently developed a series of easy-to-read client education materials about legal issues that affect seniors.

Search the Internet, and you will quickly find legal information developed for the public that is inaccessible to the average adult. Consider this example from a page about Medicaid on an elder law firm's website:

An institutionalized person (that is, a person in a nursing home or receiving equivalent services in a hospital) is ineligible for Medicaid coverage for a period of time after a gift or transfer of resources by the person or his or her spouse. The person is ineligible for a period equal to the value of the resource divided by the average cost of nursing facility services to a private patient in the community.

This was written at the college level. Even if it is accurate, is it helpful to a wide spectrum of readers?

Limited literacy skills are a barrier for many of our clients. According to the National Adult Literacy Survey (NALS) conducted in 1992, nearly fifty percent of adults in the U.S. reads at or below the eighth grade level. One-fifth reads at or below the fifth grade level.

NALS found that seniors and adults with low-incomes have even higher rates of functional illiteracy. More than forty percent of people age 65 and older read at about the fifth grade level or less. About the same proportion of those living in poverty read at or below the fifth grade level.

Written client education materials have become an increasingly important component of legal services delivery. But can our clients read and use the materials we develop for them?

A few years ago, after attending a workshop about writing for those with limited literacy skills, I realized that there was a major gap between the reading level of the client education materials we had developed and the reading abilities of many of our clients. I have written client education pieces that resemble the above example, and I am guessing that many of you have, too.

Limited literacy is not an insurmountable barrier to our clients. So how do we, as legal services advocates, develop materials that reach our clients? Here are some of the tips that I've learned.

Plan before you write.

Ask yourself:

- **Who:** Who is the target audience? What are the readers' concerns? What are their feelings and beliefs about the topic? What will make them read the materials?
- **What:** What is the purpose? What do you want the reader to do? What will get

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the reader's attention? What will motivate the reader to take the desired action? What does the reader need to know to accomplish the purpose?

- **When & How:** When and how will you distribute the materials?

Will you send the materials to clients before or after you have discussed the topic? Will you distribute the materials in mass quantities at outreach events? Will you give the materials to clients you have already had some contact with?

Clarifying all of this before you write will help you to shape the message and give the reader what he needs.

Engage the reader.

- Let the reader know why the information is important to him.
- Use a conversational tone and speak directly to the reader using personal pronouns.
- Use a Q&A format or include a short vignette to make it interesting.
- Use examples where appropriate.

Write simply and clearly.

- Limit content to basic, key concepts. If you're writing about Medicaid eligibility, does the reader really need to know that Medicaid is a joint federal-state program?
- Use short, familiar words and sentences. Instead of writing "institutionalized spouse," the author of the example at the beginning of this article could have used "spouse in the nursing home" or even better, "you" or "your spouse," depending on the context.
- Define acronyms and key words that the reader may not be familiar with. But don't overwhelm the reader with too many definitions like the author of this example did:

"A person who dies with a will is said to have died **testate**. A person who dies without a will dies **intestate**. In either case, the person who dies is called the **decedent**, and the property the person leaves at death is called the **estate**."

- Avoid legalese. Words like "hereinafter" and "heretofore" just sound stuffy and overly formal.
- Prefer the concrete to the abstract. Instead of writing "nursing homes are expensive," tell the reader the average monthly cost of a nursing home.

Organize the information to maximize readability.

- Give the reader a brief overview for short documents. Bullets work well for this.
- If the document is long, include a table of contents. Make the table of contents brief.
- Prioritize the information. Place the most important first. Order the information to reflect how the reader will use it.
- Use a Q&A format or headings to guide the reader. Chunk the information into short sections. Most people scan written materials, so using "navigational aids" like headings help the reader to find the information he needs.
- If you use a Q&A format, word the questions as clients typically ask them. For example, in a piece about Medicaid eligibility, you might use "How do I get Medicaid?"

Use a reader-friendly layout and design.

Text layout affects readability. There are several formatting techniques you can use to increase the readability.

- Use columns instead of long lines of text. Two columns work well for text printed on letter-size paper.

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- Left justify the text. Limit centered text to titles and headings.
- Use at least 12 pt. font. 14 pt. font is even better if you are writing for seniors.
- Use a serif font like Times Roman or Garamond for large amounts of text. Limit the use of sans serif to titles and headings.
- Avoid using all uppercase letters in text. Include graphics to add interest. Just don't get carried away
- Use ample white space.

Responding to the Skeptics

Convincing colleagues who develop written materials to adopt a more reader-centered approach can be challenging. Some people think that writing easy-to-read materials means “dumbing down” the information. It doesn't. Writing clearly and simply, in a way that readers can relate to, enables us to reach people with limited literacy skills.

Contrary to what some think, writing in plain language doesn't have to come at the expense of technical accuracy. As Joseph Kimble, a champion of the plain language movement in the U.S. states, “plain language is an ally in that cause, [referring to accuracy] not an enemy.”

Legal Services for the Elderly's Experience

We recently collaborated with a plain language consultant and a graphic design team to create *Know Your Rights*, a series of ten plain language client education pieces. It was a humbling experience. It took a lot of time and effort, but it was well worth it.

If you would like to see a sample of the plain language materials we created, please call me at (207) 621-0087 or e-mail me at:

jminkowitz@mainelse.org

Additional Resources

The Plain Language Association International (PLAIN)

www.plainlanguagenetwork.org/

PLAIN's website is loaded with resources, including a page devoted to legal writing.

LStechie eJournal, February 2004

www.lstech.org/news/journal/news/journal/04Feb

The National Technology Assistance Project (NTAP) and LStech.Org. publish this journal for the poverty law community. The February 2004 issue features articles about creating readable and useable content for the Web.

Clarity International

Clarity promotes plain legal language. They publish a quarterly journal, and some of the past issues are available in PDF on their website.

<http://www.clarityintl.com/intro.html>

From the Frontline,

By *Sophaleena San*

The Asian Pacific American Legal Center (APALC) established The Asian Language Legal Intake Project (ALLIP) in 2002 to provide intake, counsel and advice to limited English proficient (LEP), low-income Asian communities in Los Angeles and Orange County. Through a partnership between APALC, Legal Aid Foundation of Los Angeles, Neighborhood Legal Services, and Legal Aid Society of Orange County, ALLIP has served more than 8000 clients since its inception. The Cambodian hotline was added in 2003. More than 400 Khmer clients have been served by the hotline, and more than 150 outreach presentations have been conducted to the Khmer community.

“Sophaleena’s Story”

Sophaleena San is the Khmer-speaking Community Legal Advocate for ALLIP. Born in 1972 in Phnom Pen, she is the youngest of five children. In 1975, she escaped from Cambodia with her mother and siblings during the Pol Pot regime. Sophaleena and her family settled in Boston after immigrating to the U.S. as refugees in 1981. After only eight months in Boston, the family boarded a bus to Long Beach, home of the largest Khmer population in the United States, where she has lived and worked with ever since.



Having no choice but to wear the winter clothes donated by the church, my mother, my four siblings, and I waited in the stifling New England summer heat for a bus to the local welfare office. We were all hoping that this day would be a better day than the day before, as it was the seventh time we had made the long and arduous trek.

**Sophaleena San is Legal Advocate for the Asian Pacific American Legal Center in Los Angeles*

My family was always the first in line and the last to leave after being shuffled from one worker to the next. We did not understand a word of English and there was no staff at the office that spoke Khmer (Cambodian).

We did not know how to fill out the forms necessary to apply for cash aid. Grudgingly, we had to continue making the grueling journey to the local welfare office knowing that with each trip, we would end up with less food on our table after having used up all of our savings on bus fare.

Looking back, I can still see my mother’s sad eyes. She was frustrated and tired. But worst of all, she was becoming desperate with no income, quickly diminishing savings, and the rent due. All we had was an incomplete application for cash aid. My mother went from house to house looking for someone who would help her with the forms. By chance, she ran into a Cambodian man who charged her \$850 just to help her fill out the forms. Out of sheer desperation and the desperate need to feed, clothe, and provide shelter to her five children, my mother was forced to accept his absurd demand. Eventually, it would take her nine months to pay off this unreasonable debt with her meager welfare checks.

Long Beach has one of Los Angeles County’s highest concentrations of Asian and Pacific Islander (API) communities. Between 20,000 and 60,000 Khmer people live in Long Beach, comprising a significant percentage of the Long Beach overall population. Khmer people are among the poorest of all API communities. According to Census 2000 data, 39% percent of Khmer people receive public assistance, and 68% are at 200% of the federal poverty line. More than half (57%) speak a language other than English at home, and 33% live in linguistically isolated households.

My experiences gave me a firsthand understanding of the incredible hardship, obstacles, and challenges faced by LEP immigrants and refugees. I made up my mind at an early age to work hard to hold on to my birth language while learning to speak

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English fluently. It became my mission to use my bi-lingual and bi-cultural skills and experiences to help and empower my community.

I am very proud to be a part of ALLIP and to have contributed to the creation of a legal hotline and intake system staffed by bilingual and bicultural attorneys and community legal advocates, like myself. ALLIP has four hotlines, each serving a specific Asian community: Chinese (both Mandarin and Cantonese), Korean, Vietnamese, and Khmer. Each caller is able to discuss their legal issues with an attorney or community legal advocate, and obtain legal assistance in their own languages. ALLIP staff have received extensive training to assess an array of legal issues and provide legal information on a wide range of topics, such as family, immigration, public benefits, housing, employment, and consumer law. ALLIP's mission is to help and empower each community by providing legal information and assistance in the most culturally competent and linguistically appropriate manner.

To achieve the mission that ALLIP and I both share, I have worked tirelessly to introduce our services to the Khmer people, so as to increase the range and accessibility of services available to my community. Due to the history of the Khmer people and the evil nature of the Pol Pot regime, the wounds are still quite fresh for many in the Khmer community. It is tremendously difficult to obtain trust within the Khmer community. During the first year of the project, I conducted grassroots outreach at least twice a week. My outreach included targeting temples, supermarkets, schools, restaurants, churches, Cambodian community organizations, and local Asian and Khmer TV stations throughout the Long Beach and Los Angeles region.

It has been a very slow process, and I have learned from my outreach efforts that members of the Khmer community must see me a dozen times before they feel they can share their personal information. Consequently, we set up an office in Long Beach, where I work two times a week. Our hope is to address the need for face-to-face encounters to establish a positive history with the community and

gain the trust of people. Through my grassroots outreach efforts and continuous presence in the community, I am happy and proud to see quantifiable results in the increased numbers of calls to the hotline and personal visit to my office in Long Beach.

While each client's story is absolutely heart-breaking, it is the sadness in their eyes, the frustration in their voices and the desperation in their body language that conjures up personal recollections of my own mother. It is this frustration and desperation that drives me to continue using my bicultural and bilingual skills to promote a better understanding within the Khmer community of the existing legal and social system in hopes to find practical solutions to their legal problems. Because of ALLIP, my clients are able to receive the kind services that my family desperately needed but never received.

Though my job requires an incredible amount of hard work, perseverance and patience, it is one of the most personally, professionally, emotionally and spiritually rewarding experiences in my life. I truly feel that I have achieved my own Khmer-American dream despite the odds, and sincerely hope that my work at ALLIP will help members of my Khmer community reach their own piece of the American dream.

