What Does the Older Americans Act Say about Legal Assistance – Selected Authorities

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December 7, 2017
Targeted Clients and Priorities for Representation

• “...older individuals with economic or social needs”, Section 102 (33)
  – Older individuals are aged 60+, Section 102(40)
• ...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.
  – Section 307(q)(11)(E), 42 U.S.C. 3027
Legal Assistance Provider Qualifications

- The legal assistance provider(s) shall have staff with expertise in specific areas of law affecting older persons in economic or social need, for example, public benefits, institutionalization and alternatives to institutionalization;
  - 45 CFR §1321.71
- The legal assistance provider(s) shall:
  1. Have staff with expertise in specific areas of law affecting older persons in economic or social need, for example, public benefits, institutionalization and alternatives to institutionalization;
  2. Demonstrate the capacity to provide effective administrative and judicial representation in the areas of law affecting older persons with economic or social need;
  3. Demonstrate the capacity to provide support to other advocacy efforts, for example, the long-term care ombudsman program;
  4. Demonstrate the capacity to provide legal services to institutionalized, isolated, and homebound older individuals effectively; and
  5. Demonstrate the capacity to provide legal assistance in the principal language spoken by clients in areas where a significant number of clients do not speak English as their principal language.

- 45 CFR Section 1321;71(c)
Coordination with LSC Programs

...any Title III-B legal assistance furnished under the plan will be in addition to any legal assistance for older persons furnished with funds from other sources (e.g. under Legal Services Corporation funded programs), and that reasonable efforts must be made to maintain existing levels of legal assistance for older people.

– Section 307(a)(11)(D), 45 USC Section 3027

• coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need, Section 307(a)(11)(B)
LSC Restrictions and Private bar involvement

• ... subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Assistant Secretary; and

• attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis
  – Section 307(a)(11)