

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS



August 2005

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

TABLE OF CONTENTS

I. BACKGROUND.....	4
A. Introduction	4
1. Purpose of Standard.....	5
B. Definitions.....	6
II. LEGAL AUTHORITY	9
III. PROGRAM PURPOSE	9
IV. ANNUAL ELDER RIGHTS PLANS	10
A. The Process.....	11
B. Examples of Activities.....	11
C. Suggested Format of an Elder Rights Plan.....	12
V. THE TARGET POPULATIONS.....	13
Means Testing Prohibition.....	14
VI. PRIORITY ISSUE AREAS.....	14
A. Mandated Priority Areas.....	14
B. Listing of Specific Priority Areas.....	14
C. Case Coding Sheet	18-22
VII. MECHANISMS FOR REACHING TARGETED GROUPS AND ADDRESSING PRIORITY ISSUES.....	23
A. Background.....	23
B. Means-Testing.....	25
C. The Mechanism	26
1. Accessibility	26
2. Outreach	26
3. Community Legal Education	27
VIII. ELAP PROVIDER ROLES AND RESPONSIBILITIES	27
A. Staffing Requirements	27
B. General ELAP Provider Requirements.....	28
C. Coordination with the Long-term Care Ombudsman Program.....	30
Referral Process.....	32
D. Other Coordination Requirements.....	34
Georgia Cares Referral Process.....	34
E. Ethical Standards for Providers.....	39
F. Professionalism Standards	40

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

IX. AREA AGENCY ON AGING ROLES AND RESPONSIBILITIES40

- A. General Area Agency Requirements40
- B. Specific Area Agency Requirements40
- C. Coordination, Training and Support Responsibilities43

X. DIVISION OF AGING SERVICES RESPONSIBILITIES43

- A. General Responsibilities43
- B. State Training Responsibilities45
- C. Other Responsibilities45

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

I. BACKGROUND

The *Georgia Elderly Legal Assistance Program Standards for the Provision of Legal Services* (ELAP Standards) were originally developed in response to a need on the part of providers of Legal Assistance, Area Agency on Aging personnel, and State agency staff for guidance and assistance on a variety of topics related to the development and provision of Title III funded Legal Assistance in Georgia. In June of 1989, meetings for ELAP providers and Area Agencies on Aging were conducted by The Center for Social Gerontology (TCSG) of Ann Arbor, Michigan and the State Unit on Aging, the Georgia Department of Human Resources Division of Aging Services (DAS) (formerly the Office of Aging), to identify issues of concern to be addressed in Legal Assistance Standards. In the fall of 1991, a task force was formed consisting of Legal Assistance Providers and Area Agency on Aging Directors representing the three models of delivery of legal assistance at that time in Georgia. Also included in the task force were the Legal Services Developer, the State Long-term Care Ombudsman and the Program Operations Unit Manager for the Division of Aging Services, the Executive Director of the Georgia Legal Services Programs and a representative of the Office of General Counsel for the State Bar of Georgia. The group met for three days and developed a draft of Standards, relying on the issues identified previously. The draft standards were circulated throughout the aging network and among other interested groups and comments were incorporated into the standards, where feasible. The original Standards became effective, July 1, 1993.

In 1997, four years after the implementation of the Standards, consistent with the mandate of the Older Americans Act to take responsibility for the development of quality Title III B legal programs, the State Legal Services Developer revised the Standards to accurately reflect changes in service delivery and to address needed technical corrections and clarifications. A small work group was assembled representing the current models of delivery of Legal Assistance in Georgia, along with a Program Manager from the Division's Social Services & Employment Section who acts as a liaison between the Division and the Area Agency on Aging and the Legal Services Developer. The group met, discussed and developed the amendments to the Standards and reviewed the draft of those changes for final approval.

Periodic reviews and revisions of the Standards are performed and the standards are amended as necessary in order to keep them relevant to the all those that depend upon quality elderly legal assistance programs in Georgia.

A. Introduction

Legal problems facing Georgia's elderly population are often more critical than those problems facing any other segment of our population. The elderly in poverty are less likely to seek the assistance of an attorney. Often, it is either because they do not have cash resources to pay for services or they do not realize that they have a "legal problem".

The overall educational level of many seniors is low, especially in the older age groups, making it difficult for them to comprehend letters regarding benefits termination or changes and outlining

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

their due process rights to appeal. The Older Americans Act of 1965 (hereafter, OAA) as amended, which primarily funds the Elderly Legal Assistance Program, requires that states have the capacity to improve the quality and quantity of legal programs for older individuals. The ELAP Standards are meant to provide guidance to providers in the area of priority casework, coordination and collaboration to insure cohesiveness and uniformity throughout the state's Elderly Legal Assistance Programs. Additionally, Congress mandates that states improve the quality of their Title III B legal programs. One proven way to ensure a quality program is to have in place operating standards to define expectations for not only the ELAP provider, but for the State Unit on Aging and the Area Agencies on Aging as well.

These ELAP Standards will be amended from time to time to reflect the change in the legal needs of older Georgians as well as the mandate under the Older Americans Act, Georgia Department of Human Resources Division of Aging Services policy and other governing state and federal laws and regulations change.

1. Purpose of Standards

The Georgia Elderly Legal Assistance Program Standards for the Provision of Legal Services are designed to assist programs in their growth and in meeting the minimum requirements for providing legal assistance to older Georgians. There is built into the Standards enough latitude to foster creativity for individual programs to achieve the maximum effect of the program for seniors receiving services in each planning and service area. Federal and State requirements have been incorporated into the language of the Standards as well as some ideas, suggestions and best practices methods for achieving and maximizing results of the delivery of legal services to older Georgians.

Since their implementation, the ELAP Standards strengthened the Georgia Elderly Legal Assistance Program, increased coordination and ultimately provided a vehicle for serving the legal needs of Georgia's elder population. It is the expectation that improved current standards will likewise improve the Georgia Elderly Legal Assistance Program.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

B. Definitions (As referenced in the Older Americans Act except where otherwise indicated)

Abuse—

The willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish or mental illness

Aging Network—

In Georgia, the network of the Georgia Department of Human Resources Division of Aging Services, area agencies on aging, Title VI grantees, and the administration and organizations that are providers of direct services to older individuals; or are institutions of higher education and receive funding under the OAA. (adapted from OAA)

Area Agency on Aging—

A public or private nonprofit agency or organization designated by the Georgia Department of Human Resources Division of Aging Services which in a designated planning and service area administers the OAA and other programs at the local level to assure that supportive and nutrition services are made available to older persons in communities where they live by funding, implementing, coordinating, expanding and maintaining needed services. (adapted from OAA)

Advice (legal)—

An informed opinion and the suggestion of possible courses of legal action that may be taken to remedy an identified legal problem; or clarification of rights under the law. (from quarterly report definitions)

Education (legal)—

Preparation and presentation of programs to inform elderly persons specifically about their rights, some aspect(s) of the legal system, or alternative courses of legal action. (from quarterly report definitions)

Elder Abuse—

Abuse of an individual sixty (60) years of age or older.

Exploitation—

The illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.

Family Caregiver—

An adult family member, or another individual, who is an informal provider of in-home and community care to an older individual.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

Greatest Economic Need—

The need resulting from an income level at or below the poverty line.

Greatest Social Need—

The need caused by noneconomic factors, which include: physical and mental disabilities; language barriers; and cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that restricts the ability of an individual to perform normal daily tasks; or threatens the capacity of the individual to live independently.

Information & Referral (legal)—

Information provided to an individual who cannot be assisted with the desired course of action that will lead the individual to the next most appropriate resource which offers opportunities, and services to meet their need. (from quarterly report definitions)

Legal Assistance—

Legal advice and representation provided by an attorney to older individuals with economic or social needs; and includes to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and counseling or representation by a nonlawyer where permitted by law.

Legal Representation—

The higher level of direct assistance to a client that surpasses advice and referral provided to achieve a solution to the legal problem; it encompasses research, negotiation, preparation of legal documents, correspondence, appearance at administrative hearings or in courts of law and legal appeals. (from quarterly report definitions)

Long Term Care Facility—

Any skilled nursing facility as defined in the Social Security Act (42 U.S.C. 1395i-(a)) or other nursing facility as defined in the Social Security Act (42 U.S.C. 1396r(a)); a board and care facility (personal care home); and any other adult care home similar to one of these facilities or institutions.

Neglect—

The failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or the failure of a caregiver to provide the goods or services.

Older Individual—

An individual who is 60 years of age or older.

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

Planning and Services Area (PSA)—

An area designated by a State agency through which an area agency on aging administers the OAA funds.

Poverty Line—

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)).

State Agency—

The agency designated by a State to serve as the sole State agency to develop a state plan; administer the state plan, take responsibility for the planning, policy development, administration, coordination, priority setting and evaluation of all State activities related to the objectives of the OAA; to serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and dividing the State into distinct planning and service areas.

Unit of Service—

The equivalent of one hour of an allowable service component

II. LEGAL AUTHORITY

The Older Americans Act (OAA) of 1965 as amended, designates Legal Assistance as a priority service funded under Title IIIB [42 U.S.C. Section 302(a)(2)]. As such, the funding of legal assistance by each Area Agency on Aging (AAA) is mandatory, and services shall be accessible and available throughout each of the 12 planning and service areas in Georgia.

III. PROGRAM PURPOSE

The broad purposes of legal assistance services are to assist older individuals in:

- * understanding their rights;
- * exercising choice;
- * benefiting from services, opportunities and entitlements, and maintaining rights promised and protected by law;
- * providing access to the system of justice by offering advocacy, advice and representation to persons 60 and older;

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

Programs are to:

- * serve particularly those who are the most socially or economically needy;
- * formally address those issues specified in Section VI of these standards and establish priority issues that reflect local needs of the target population and include;
- * foster cost-effective, high quality services, having maximum impact on these priority issues, and which are integrated in the Aging Services Network;
- * be accessible in each county throughout each planning and service area;
- * develop and maximize the use of other resources to expand the provision of legal assistance to older people, including alternative dispute resolution where appropriate.

IV. ANNUAL ELDER RIGHTS PLANS

In an increasingly complex society, individual and collective rights are constantly threatened, either purposely or as an unintended consequence of circumstances such as changing societal mores, introduction of new technology, a weakened economy and/or difficult new challenges to governance.

To advance elder rights, it is important to sponsor a multi-faceted set of services, supports and protections, which can assist older persons in achieving the goals of the OAA.

The overarching goals of the OAA are the protection and enhancement of the autonomy, dignity, financial security, health, and rights of older Americans. The OAA Regulations of 1989 state that the State Agency on Aging shall proactively assert leadership on all issues affecting older people in the state, and the Area Agencies on Aging (AAA) shall assert the same advocacy leadership in their respective areas. To assist in achieving these goals, the OAA specifically requires the funding of legal assistance services. In order to assure that the State and area agencies and the legal assistance providers are most effectively planning and implementing coordinated efforts to protect and enhance the rights of older Georgia residents, the State and Area Agencies shall annually develop a written Elder Rights Plan as part of their State and Area Plans.

The annual Elder Rights Plans developed by the State and Area Agencies shall set forth (1) the specific issues and problems identified by the components of the planning and service area's elder rights system as priorities to be addressed during the next fiscal year and (2) the plan for resolving or addressing those issues and or problems, (3) the specific actions and strategies to be undertaken; and, (4) the duties and responsibilities of each program or provider. The State Elder Rights Plan must reflect and embody the issues set forth in the Area Agency Elder Rights Plans

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

that have statewide significance.

A primary objective of this process on both the State and Area levels is the enhancement and growth of a strong elder rights movement. The goal of this movement is to intimately link legal services for the elderly, long term care ombudsmen, elder abuse prevention programs, case management, state health insurance counseling programs, advocates and other members of the aging network in Georgia in the pursuit of legislative, judicial and administrative reforms which promote the protection and enhancement of the dignity, rights, autonomy and financial security of elders.

A. The Process

The process used in developing an elder rights agenda and plan should include:

- Ongoing dialogue between the AAA and the ELAP provider throughout the year as the opportunity to assess and reassess needs and problems arise that would benefit from a concerted and coordinated effort. Particular attention should be placed upon problems affecting targeted groups as identified in the section of the Standards on Targeting.
- Culminating in a formal planning process that involves the AAA, the ELAP provider and others in the aging network, including advocates. This process should include brainstorming of experiences realized over the past year. These can be used to project advocacy needs and activities in the coming year.
- Prioritizing the issues/problems that would benefit from a cohesive concerted and coordinated approach so that certain ones are identified as major issues and others are identified as supplementary issues to be addressed during the coming year.
- Establishing for each of the major issues/problems that were identified as priority issues/problems, specific and measurable advocacy goals that will involve the coordinated efforts of the AAA, the ELAP provider and others in the aging network; and establishing overall goals with respect to the supplementary issues/problem; and,
- Developing a specific plan/agenda for addressing the high priority issues, and a more general plan or agenda to ensure a coordinated approach by the AAA, the ELAP provider and the others in the network to the supplementary advocacy issues.

B. Examples of Activities

- 1) Educational efforts to alert older persons or particular vulnerable groups about rights and entitlements and to tell them how to secure them or to prevent losing them.
- 2) Training for non-legal providers/non-aging network providers so that they are equipped with identifying markers for recognizing particular aging/legal issues.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

- 3) Assessments of particular types of arbitration agreements, admissions contracts, insurance policies, etc. for problems specifically affecting older persons.
- 4) Campaigns to inform the private professional sector: doctors, lawyers, law enforcement, teachers and others to aging issues and to perhaps solicit their support as partners.

C. Suggested Format of an Elder Rights Plan

- I. Major Elder Rights Goal (s) of ABC Planning & Service Area
 - A.
 - B.
- II. Supplementary Elder Rights Goals of ABC Planning & Service Area
 - A.
 - B.
 - C.
 - D.
- III. Action Steps to Implement Major Elder Rights Goals
- IV. Description of Strategies and Activities to Implement Supplementary Elder Rights Goals
- V. Timetable chart for Major Goals and Supplementary Goals
 - A. Commencement Dates
 - B. Completion Dates
- VI. Description of the Specific Process Used to Develop the Elder Rights Plan
 - A. Meetings Held
 - B. Hearings Held
 - C. Participants (Committees→Subcommittees→Ad hoc committees, etc)
 - D. Responsibilities and Duties of Plan Participants (Charters→Protocols→Policies)

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

V. THE TARGET POPULATIONS

Recognizing that the resources of the OAA are inadequate to meet the legal needs of all elder's legal assistance services must be targeted to particularly needy populations of elders. The OAA specifies particularly needy persons, with a focus on those in greatest social or economic need, low-income minorities, and rural elders.

The Area Agencies and legal assistance providers shall, in consultation with the State Agency, jointly develop plans to target legal assistance services to the particularly needy persons described above. Within these groups, the Area Agencies and legal assistance providers shall jointly identify those sub-groups of elders who are most vulnerable and in need of legal assistance. In developing plans for targeting, consideration should be given to ways the legal assistance program can assist such groups. That is, the desired outcome of legal assistance targeting should be considered.

When a choice has to be made as to whether or not to represent a potential client due to shortages in resources (i.e. funding, time or personnel), that decision should be based upon the targeting factors.

Groups that shall be considered to receive priority for legal assistance services include:

- * Long term care facility residents;
- * Personal care home residents;
- * Elders with chronic health problems;
- * Elders with particular problems of access to health care;
- * Homeless elders;
- * Institutionalized mentally ill or mentally retarded elders;
- * De-institutionalized mentally ill or mentally retarded elders;
- * Elders with language barriers;
- * Elders proposed for or under guardianship;
- * Victims of Elder abuse, neglect or exploitation (including fraudulent and deceptive financial and consumer practices;
- * Physically isolated elders.

Consideration can be given on the local level to the existence and availability of other resources to meet the legal needs of targeted populations. This target listing is not exhaustive, or in a mandatory priority order but represents a range of possibilities.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

MEANS TESTING PROHIBITION:

UNDER NO CIRCUMSTANCES SHOULD A PERSON 60 YEARS OF AGE OR
OLDER BE DENIED LEGAL SERVICES
ON THE BASIS OF HIS OR HER INCOME OR ASSETS

VI. PRIORITY ISSUE AREAS

A. Mandated Priority Areas

Area Agencies and providers shall assure that the following broad categories of legal assistance are available as specified by the Older Americans Act of 1965 as amended throughout each Planning and Service Area:

- * Income
- * Health care
- * Long-term care

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

- * Nutrition
- * Housing and utilities
- * Defense of Guardianship
- * Abuse, neglect and exploitation
- * Age Discrimination

B. Listing of Specific Priority Areas

Within these broad categories, the following issue areas are viewed as most important and all Title IIIB programs **must** be able to substantially address them, unless the provider can demonstrate to the Area Agency on Aging and the Developer that another provider is delivering the service in accordance with Sections VII and VIII of the Standards. In addition, Area Agencies shall address these issue areas in the development of their Elder Rights plans and shall require providers/applicants to address these issue areas when responding to requests for proposals.

INCOME/NUTRITION/BENEFITS

- Social Security (Title II)
- SSI (Title XVI)
- Food Stamps

HEALTH/LONG-TERM CARE

- Medicaid
- Medicare
- Nursing Home / Personal Care Home Quality of Care
& Residents' Rights Issues

HOUSING/UTILITIES

- Landlord/Tenant
- Homeownership and Real Property
- Utility Shut offs/Energy Issues
- Change of Deeds
- Probate in order to obtain needed benefits/grants/loans

GUARDIANSHIP/ABUSE/NEGLECT

- Defense of Guardianship
- Elder Abuse, Neglect and Exploitation
- Assisting Guardians to Obtain Authority to Establish Miller Trusts

INDIVIDUAL RIGHTS

- Age Discrimination: credit and housing
 - for employment, assistance may be limited to assisting an older person in recognizing an issue appropriate for the Equal Employment Opportunity Commission and/or a private attorney

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

Americans with Disabilities Act: housing, services and long term care issues
— for employment, assistance may be limited to assisting an older person in recognizing an issue appropriate for the Equal Employment Opportunity Commission and/or a private attorney

CONSUMER

Collection— as it relates to rights pursuant to the Fair Debt Collections Practices Act and other protections.

Providers should consider a client's individual circumstances, the merits of each case and the likelihood of success and may handle cases outside of this list where appropriate under the program's purposes, as stated above.

****Note: Regarding Last Wills and Testaments— No provider of legal assistance should have more than one-fifth of their annual closed case totals reflecting the preparation of simple Wills without being prepared to justify the appearance of the lack of need in their service area for assistance in the higher priority case areas and the lack of availability of pro bono attorneys for wills.**

There are other areas that should be given particular attention as they affect the income of older persons; however, depending upon the issue and the legal need that the particular problem presents, it could be beyond the expertise of the ELAP provider. Those areas are addressed below with the minimum expectations. **Brochures and referrals only are not acceptable service levels for these areas.**

Railroad Retirement: intake; a review of the issue and deadlines; correspondence with the Railroad Retirement Board and hearings and appeals before the Railroad Retirement Board **particularly where the issues are similar to Social Security Benefit issues.**

Veteran's Benefits: intake; a review of the issue and deadlines; correspondence with the Department of Veterans Administration or the Veterans Administration health care facility or institution; and hearings and appeals **unless the provider has identified another entity which has agreed to assist the client.**

Pensions: intake; a review of the issue and deadlines; a review of the Pension Plan; assistance in helping the client secure a copy of the Pension Plan from the Administrator; guidance in assisting the client to make contact with the Department of Labor or the Pension Benefits Guaranty Corporation (PBGC)

COBRA: intake; a review of the issue and deadlines; a review of the relevant policies; assistance in helping the client understand the law surrounding the

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

continuation of benefits; providing the client with a copy of the appeals process under COBRA.

C. Case Coding Sheet

Below is a listing of cases as they appear on the case intake sheet of the official program reporting form to assist in identifying other cases that may be handled for seniors as the need arises and the resources are available.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

SPECIAL PROBLEM		
11	Chapter 7 Bankruptcy	Consumer
12	Chapter 12 Bankruptcy Farm	Consumer
13	Chapter 13 Wage Bankruptcy	Consumer
21	Repossession/Deficiency	Consumer
22	Garnishment	Consumer
23	Farm Collection	Consumer
24	Debtor Harassment	Consumer
25	Other Collection	Consumer
31	Contracts	Consumer
32	Warranties	Consumer
41	Credit Reporting Problem	Consumer
42	Credit Denial	Consumer
50	Energy Other than Utilities	Consumer
61	Farm Loans	Consumer
62	Other Loans	Consumer
63	Motor Vehicle Sales	Consumer
64	Retail Installment Contract	Consumer
65	Truth in Lending	Consumer
66	Student Loans	Consumer
70	Public Utilities	Consumer
80	Unfair Sales Practices	Consumer
91	Insurance	Consumer
92	Other Consumer Finance	Consumer
111	School Discipline	Education
112	Education Quality	Education
113	Education Rights of Disabled	Education
114	Fees Cases	Education
115	School Closings	Education
116	Testing Problems	Education
117	Other Education	Education
211	Race Discrimination	Employment
212	Sex Discrimination	Employment
214	Age Discrimination	Employment
220	Wage Claims	Employment
291	Pensions/Benefits	Employment
292	Other Employment	Employment
301	Adoption without Consent	Family
302	Adoption with Consent	Family
311	Custody	Family
312	Visitation	Family
321	Divorce/No custody, abuse	Family
322	Divorce with Custody	Family
323	Divorce with Custody& Abuse	Family
324	Divorce with Violence& Abuse	Family

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

325	Separate Maintenance	Family
326	Annulment	Family
330	Guardianship Children	Family
331	Guardianship Dispute	Family
332	Guardianship Petition	Family
340	Name Change	Family
350	Parental Rights Termination	Family
361	Paternity	Family
362	Legitimations	Family
371	Family Violence TPO	Family
372	Family Violence Other	Family
373	Family Violence (No 2nd TPO)	Family
381	Spousal Support	Family
382	Child Support	Family
391	Birth Certificate	Family
392	Majority Rights	Family
393	Other Family	Family
394	Adult Neglect/Exploit.	Family
395	Adult Abuse	Family
410	Delinquent	Juvenile
420	Deprived/Neglected	Juvenile
421	Parental Rights Termination	Juvenile
422	In Need of	Juvenile
490	Other Juvenile	Juvenile
510	Medicaid Eligibility	Health
511	NH Medicaid Eligibility/Termin.	Health
512	Spousal Impoverishment	Health
513	CCSP	Health
515	State Care Coverage	Health
516	EPSODT	Health
518	QMB	Health
519	SLMB / Q-1	Health
520	Medicare Eligibility	Health
521	Medicare Part A Claim	Health
522	Medicare Part B Claim	Health
523	Medicare HMO	Health
524	Medigap	Health
590	Health Insurance	Health
591	Nursing Home/Personal Care	Health
592	EPSDT	Health
593	Medical Bills/Hill Burton	Health
594	LTC Insurance	Health
595	Occupational Health	Health
596	Nursing Home Discharge	Health

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

597	Personal Care Home Discharg	Health
598	Obtaining Health Care	Health
599	Other Health Problems	Health
611	Public Housing Access	Housing
612	Public Housing Quality	Housing
613	Property Tax	Housing
620	Home Repair Rip-offs	Housing
621	Homeowner/Real Prop. Acc.	Housing
622	Section 235	Housing
623	Farm Land/Housing	Housing
624	Mortgage Foreclosure	Housing
625	Neighbor Disputes	Housing
630	Private LL/T Lockout	Housing
631	Private LL/T Access	Housing
632	Private LL/T Repairs	Housing
633	Private LL/T Evictions	Housing
641	Section 8	Housing
642	Subsidized Multi-Family	Housing
691	CDBG Programs	Housing
692	FMHA Programs	Housing
693	Other Housing	Housing
711	TANF/AFDC/Other Welfare	Administrative
712	CSRU	Administrative
720	Black Lung	Administrative
730	Food Stamps/Commodities	Administrative
741	Social Security Disability	Administrative
742	Social Security Retirement	Administrative
751	SSI Disability	Administrative
752	SSI Non-Disability	Administrative
760	Unemployment Compensation	Administrative
770	Veteran's Benefits	Administrative
780	Worker's Compensation	Administrative
791	WIC	Administrative
792	Other Nutrition Programs	Administrative
793	Welfare Services	Administrative
794	Workfare/Jobs Programs	Administrative
795	Other Income Maintenance	Administrative
796	LIHEAP/Utility Assistance	Administrative
810	Immigration/Naturalization	Civil Rights
821	Guardian/Conservatorship Adults	Civil Rights
822	Commitments	Civil Rights
823	Other Mental Health	Civil Rights
830	Prisoner's Rights	Civil Rights
840	Physically Disabled Rights	Civil Rights
890	Other Individual Rights	Civil Rights

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

891	Age Discrimination	Civil Rights
892	ADA	Civil Rights
893	Financial Exploitation	Miscellaneous
894	Neglect	Miscellaneous
895	Self-neglect	Miscellaneous
896	Sexual Abuse	Miscellaneous
897	Physical Abuse	Miscellaneous
910	Incorporation/Dissolution	Miscellaneous
920	Indian Tribal Law	Miscellaneous
930	Licenses (Auto & Other)	Miscellaneous
940	Torts	Miscellaneous
950	Year's Support	Miscellaneous
952	Wills	Miscellaneous
953	Personal Property Titles	Miscellaneous
954	Other Estate / Probate	Miscellaneous
955	Living Will	Miscellaneous
956	Power of Attorney	Miscellaneous
957	Health Power of Attorney	Miscellaneous
991	Traffic Court	Miscellaneous
992	Other Criminal	Miscellaneous
993	Federal, State, Local Taxes	Miscellaneous
994	Taxes Other	Miscellaneous
995	Other Miscellaneous	Miscellaneous

ELAP CLOSED CASE RESOLUTION CODES:

Letter	Reason Closed
A	Counsel and Advice
B	Brief Services (other than Counsel and Advice)
C	Referred After Legal Assessment
D	Insufficient Merit to Proceed
E	Client Withdrew, Did Not Return
FF	Negotiated Settlement (without Litigation)
FU	Negotiated Settlement (without Litigation)
GF	Negotiated Settlement (with Litigation)
GU	Negotiated Settlement (with Litigation)
HF	Administrative Agency Decision
HU	Administrative Agency Decision
IF	Court Decision
IU	Court Decision
J	Change in Eligibility Status
K	Other
L	Resolved After Substantial Service

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

VII. MECHANISMS FOR REACHING TARGETED GROUPS AND ADDRESSING PRIORITY ISSUES

A. Background

As originally conceived in 1965, the OAA was to address the needs of all older persons, and its objectives were broadly directed at giving older persons the opportunity to fully participate in the benefits of society. Since that time, however, federal dollars have become increasingly scarce and Congress has increasingly directed that services provided with OAA funds be focused on older individuals in greatest social or economic need, with particular attention to low-income minority individuals. This targeting requirement is particularly relevant to legal services.

1978 Amendments—

- * legal assistance was listed as one of the three priority categories of services under Title IIIB
- * State and area plans were required to give preference to those older adults in greatest social and economic need
- * AAAs were required to ensure that outreach efforts to identify individuals eligible for assistance would place a special emphasis on reaching the rural elderly
- * the definition of legal services was added

1984 Amendments—

- * strengthened the targeting requirements by mandating that in the delivery of service, particular attention should be paid to low-income minority individuals
- * included, for the first time, definitions of greatest economic and social need, and required that State plans include the application of those definitions

1987 Amendments—

- * AAAs were mandated to include in each agreement made with a provider of any service, the requirements that the provider: (1) specify how it intends to satisfy service needs of low-income minority individuals; (2) to the maximum extent feasible, provide services to low-income minority individuals as needed; and (3) meet the area agency's specific objectives for providing services to low-income minority individuals.
- * the current definitions of greatest social and economic need replaced the original definitions

1992 Amendments—

- * three additional groups were required to be target in the State plans: Older individuals with severe disabilities, older individuals who have limited English speaking ability, and older individuals with Alzheimer's disease or related disorders.
- * the priority categories were enumerated in the OAA: income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse,

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

neglect, and age discrimination in response to concerns that many AAAs have not established legal assistance programs which included sufficient outreach, targeting and community education components.

- * placed restrictions on the role of legal services in guardianship cases to ensure that services go to those in greatest social need-- those who have lost or are at risk of losing their autonomy through guardianship. Representation of individuals who are wards, or are allegedly incapacitated is authorized and a limitation is placed on the representation of older individuals who seek to become guardians in cases where other adequate representation is available.
- * targeting was also integrated into Title VII as the OAA consolidated and strengthened advocacy programs and activities for vulnerable elder rights protection.
- * States were mandated to place special emphasis on certain issue areas: public benefits, guardianship, and surrogate decision-making.
- * States were mandated to provide technical assistance to AAAs and legal assistance providers in various areas including the development of plans for targeting services to reach the older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minorities.

2000 Amendments—

- ☆ Older individuals residing in rural areas was added throughout the OAA to all services so that it is not only a stand alone target population but an additional and particular population with others that have a focus within the Act.

B. Means-Testing—

The OAA is clear regarding who should be given priority in the provision of legal assistance as well as other Title III services. The legislative history and the regulations are equally clear that using income and resources to determine who shall be eligible to receive services under Title III is prohibited.

The regulations state that a legal assistance provider may not require an older person to disclose information about income or resources as a condition for providing legal assistance. The regulations further state however, that 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.

Obviously, this tends to create a dilemma due to the need to balance targeting with the prohibition against means testing. The approach to resolve this dilemma lies in the provider first working with the State and AAA to identify those persons who are in greatest need, and

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

then establishing deliberate operational procedures to insure that targeted groups will be reached.

Suggestions: focused outreach efforts; location of offices, referral of ineligible applicants from Legal Services Corporation grantees and the development of expertise in certain areas of law.

The priorities and the targeted populations are two of the best means of adhering to both mandates.

The Background information has been paraphrased from the 1995 Resource Manual for Legal Services Developers which was developed by The Center for Social Gerontology in conjunction with the National Association of Legal Services Developers.

C. The Mechanism

Targeting is a commitment to serving those elders most in need. Priority setting follows identification of target population groups, and is simply the identification of the types of cases/problems the legal assistance provider will and will not handle.

Outreach is the key to implementing the targeting and priority setting goals. Outreach in its broadest sense involves a variety of strategies. "First-come-first-served" is the result of unfocused outreach. Almost by definition, the most vulnerable elders are the most difficult to reach and serve. Only focused outreach will achieve the goal of reaching the most vulnerable elders.

No program, no matter how well suited to a community, will be successful if people do not know of its existence, if it is not easily accessible, and if people do not recognize the legal nature of their problems. At the same time, however, it is imperative that members of the legal profession be diligent in avoiding the appearance of soliciting clients. Inform people of what their rights are and explain how they can exercise those rights and let them know of all of the options for those who can provide assistance in helping them to exercise those rights. From there, allow people to request assistance. Whenever it is unclear where the line should be drawn, technical assistance should be sought from either a supervisor, the State Legal Services Developer or the State Bar. In providing full use of the legal system, the system for the delivery of legal assistance must include each of the following:

1. Accessibility

Legal assistance services, as defined in these Standards, are to be available and accessible to the target population groups identified by the Area Agency on Aging and the legal assistance provider, as specified in the Title III B grant application of the provider. These services are to be available and accessible to the target population groups throughout the specific planning and service area.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

2. Outreach

Each legal assistance provider shall include specific techniques in its grant application that will help to make potential clients aware of their services. These techniques will be tailored to the groups that have been targeted.

3. Community Legal Education

Informing elders of their legal rights in community education forums, such as in speeches, presentations, radio or television shows, is a service that is essential for legal assistance programs to provide under Title III B legal grant. Community education is viewed as a method of preventing greater legal problems by equipping seniors, caregivers and family members with knowledge that will help them avoid costlier legal problems later.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

VIII. ELAP PROVIDER ROLES AND RESPONSIBILITIES

ELAP Providers must ensure that the identity of the Georgia Elderly Legal Assistance Program and its funding source under Title III-B of the Older Americans Act is known and is clearly distinguishable from its primary business. The name, "Elderly Legal Assistance Program, (ELAP) should be placed on all materials developed for use by the ELAP and on all letters or correspondence to clients and others if sent on behalf of services provided under the Georgia Elderly Legal Assistance Program.

In keeping with the broad program purposes outlined in Section III, the goal of these standards is to assure that the State Unit on Aging and the respective Area Agencies on Aging and Legal Assistance providers are working together to assure the delivery of high quality services designed to address the unmet legal needs of vulnerable older persons throughout the state of Georgia. To that end, legal services providers shall govern themselves according to the guidelines of Competence, Scope of Representation and Diligence using the full triad of legal advocacy tools which promote the diligent and zealous representation of clients required by Rules 1.1-1.3 of the Georgia Rules of Professional Conduct of the State Bar of Georgia. These tools include litigation, administrative and legislative advocacy, within the limits of applicable Federal and State law and Regulations. While other legal assistance activities, such as community legal education, are acceptable under these standards, the primary focus of Title IIIB Legal Assistance is the direct representation of clients in legal matters.

A. ELAP Provider Staffing Requirements

1. Each provider program must provide at no cost to clients, access to attorneys with the capacity to provide advice and representation in the areas outlined in Section VII.
2. All attorneys must be licensed to practice law in the State of Georgia (unless supervised as provided in #5 of this section) and must carry malpractice insurance.
3. Program staff (including attorneys and paralegals) must have experience and training or propose a plan for obtaining training in the priority areas of law set forth in Section VI.
4. Program staff (Title IIIB attorneys and paralegals) must attend one training each year relevant to the Title IIIB Legal Assistance contract.

If program staff is unable to meet the yearly training requirement, each program must send the Area Agency and the State Legal Assistance Developer its plan to meet the training obligation along with a planned completion date.

5. All staff operating within the Title III legal assistance program, including attorneys licensed elsewhere or not yet licensed, must do so under the direct and regular

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

supervision of a licensed attorney identified and operating under an approved Area Plan for legal assistance. Where more than one attorney has responsibility for service provision under the program, a lead resource attorney must be identified.

B. General ELAP Provider Requirements

Each Legal assistance provider shall:

1. Work closely with the Area Agency on Aging on the development of the planning and service area's annual AAA Elder Rights plan;
2. Adhere to the standards set forth in this document and any amendments thereto;
3. Adhere to the State Bar of Georgia Rules of Professional Conduct, which shall be used as a reference for these Standards;
4. Work with the Area Agency on Aging to develop a method for surveying client satisfaction and assure that the views of older persons are solicited and considered as to the operation of the program. Such method shall respect the client's right to confidentiality;
5. Assist the State Division of Aging Services and the Area Agency on Aging in developing and amending as necessary an appraisal instrument;
6. Work with the Area Agency on Aging and obtain input from the State Legal Assistance Developer to assess and develop local program plans for reaching the target populations and addressing the priority needs set forth in Sections IV., V., and VI. These plans shall be reviewed and revised on an annual basis and submitted to the Area Agency as part of the Area Elder Rights Plan.
7. At a minimum, provide effective, high quality administrative and judicial representation for eligible individuals in the mandated priority issue areas set forth in Section VI. of these standards, except where the provider can demonstrate to the satisfaction of the Area Agency on Aging with input from the State Legal Services Developer that another provider is delivering the service in accordance with these Standards;
8. Use Title III B funds or other funds as contracted for from the Area Agency on Aging to maintain or increase, to the extent practicable, the level of legal assistance furnished to eligible individuals, and shall not use Title IIIB funds to supplant funds from other federal or non-federal sources;
9. As required in the Older Americans Act and regulations, and in accordance with Section V., not condition the provision of Title IIIB -funded legal assistance to any person 60 years of age or older on their level of income or resources. The provider

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

may only question the client about financial circumstances as a part of the process of providing legal advice, counsel and representation, and for the purpose of identifying additional resources to which the client may be entitled, and to assist in targeting clients with greatest social and economic need;

10. Give clients a voluntary opportunity to contribute to the cost of the services they receive and ensure privacy with respect to the client. Clients are to be informed of the opportunity to contribute only after services have been completed; and the method of announcing the opportunity to contribute shall not discourage the utilization of the service by the contributor or other potentially eligible individuals;
11. Not subcontract any interest or obligation arising under a Title III B contract without written agreement of the Area Agency on Aging and notice to the State Legal Services Developer;
12. Have ready access to the following for all appropriate staff: relevant U.S.C.A. and CFRs, local laws and regulations, O.C.G.A. relevant state regulations and rules; manuals for relevant government programs, relevant support center manuals, newsletters, information and referral manuals, and a law library;
13. 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, in accordance with federal, state, Area Agency and Division regulations and policy with regard to Limited English Proficiency/Sensory Impairment;
14. Provide complete, accurate AIMS programmatic and fiscal reports and other required program data to the Area Agency on Aging and the Division of Aging Services in a timely manner and provide additional information as may be requested by the Area Agency on Aging and the State Legal Services Developer, while maintaining client confidentiality.
15. Provider assurances of compliance with the Health Insurance Portability Accountability Act (HIPAA), including the execution of Business Associate agreements with the Area Agency on Aging, when appropriate.

C. Coordination with the Long-term Care Ombudsman Program

1. Providers of Legal Assistance shall coordinate with Area Providers of Long-term Care Ombudsman Services by developing, formally or informally, a Memorandum of Understanding that includes, but is not limited to, conflict of interest, case acceptance procedures, and referral procedures.
2. Providers of legal assistance shall provide advice and representation to clients of the Long-term Care Ombudsman Program who are 60 years of age and older, where

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

otherwise eligible and appropriate under program priorities.

3. Providers must maintain confidentiality in accordance with Rule 1.6 of the Georgia Rules of Professional Conduct and the Older Americans Act and regulations, including, but not limited to, the sections on Legal Assistance and the Long-term Care Ombudsman Program.
4. Where both services are housed in the same agency, providers must develop and utilize policies and procedures to protect the integrity and confidentiality of both programs.
5. In the representation of long term care residents with impaired capacity, providers under contract for the provision of services on behalf of the Georgia Elderly Legal Assistance Program **shall** provide representation to such residents in the following manner consistent with the Memorandum of Understanding between the State Legal Services Developer and the State Long Term Care Ombudsman:

The grant of authority by federal law to seek legal remedies for a resident of a long term care facility at 42 U.S.C.A. § 3058(g)(a)(3)(E) empowers the State Long Term Care Ombudsman and his or her designee to “represent the interests of residents before government agencies, and seek administrative, legal and other remedies to protect the health, safety, welfare, and rights of the residents”.

While the Ombudsman may not assert his or her will over that of the resident, when the resident is unable to articulate for him or herself in order to protect his or her health, safety, welfare and rights, the Ombudsman has federal authority to intervene and assume this role. In that role, as is clearly seen; this includes the right to seek legal remedies for the resident.

When the State Long Term Care Ombudsman certifies her designee as a community ombudsman, he or she has the authority to seek legal representation for the protection of the resident’s rights, health, safety and/or welfare. The Elderly Legal Assistance Program (ELAP) under the Older Americans Act, 42 U.S.C.A. § 3027 (a)(15)(E), has as a mandated priority, long term care. There is also expressly stated in the Older Americans Act, 42 U.S.C.A. §3030d (a)(6)(B) that one of the services is to “provide to older individuals legal assistance and other counseling services and assistance including representation of individuals who are wards (or are allegedly incapacitated) Since part of the purpose of the ELAP is to assist individuals in maintaining the rights of the older individuals and, in particular, of the older individuals with reduced capacity (42 U.S.C.A. § 3058j (2) (D), ELAP representation in the cases described here is definitely within the spirit of Federal Law, the Older Americans Act, and the State Standards.

With the overall purpose in mind and with the issue of authority being satisfied, the Elderly Legal Assistance Program readily represents age eligible long term care

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

residents when that representation is sought by the Long Term Care Ombudsman on issues that fall within our priorities, regardless of the capacity of those residents.

Referral Process—

Referrals from the Ombudsman Program to the ELAP provider should flow substantially as follows:

(1) Discharge notices or other nursing home cases received by the LTCO, once determined appropriate for ELAP intervention, should as soon as possible be referred to the attention of the provider or the provider's designated staff person to receive such referrals.

(2) Cases deemed appropriate should not be held for continued work by the LTCOP without first making the referral.

(3) Once the referral is made, if the LTCO believes that the problem can be resolved before a hearing, the ELAP should be informed that the LTCO would continue to try to resolve the problem. If the LTCO continues to work on the problem, the ELAP should be apprised and notified of the progress and the results.

(4) The referral form that the Legal Services Developer has in the past distributed can be used by the programs or one agreed upon by the ELAP and LTCO as long as it contains all pertinent information.

(5) At a minimum, the referral form should include the following information:

- * The resident's name and age
- * The name, address and telephone number of the facility
- * The condition or capacity of the resident (i.e., alert; communicative; noncommunicative; forgetful; adjudicated incompetent; mentally incapacitated).
- * The deadline to appeal if there is one
- * The reason for the proposed action/referral
- * The name of the person who is requesting assistance (i.e., the resident; the resident's legal representative; a family member or other interested party; the ombudsman in his or her capacity to speak for the resident)
- * An indication of what steps have already been taken in this

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

matter on behalf of this resident

* A copy of the discharge notice attached to the referral form

6. The ELAP should as soon as possible, inform the referring LTCO of the status of the case (i.e., whether or not it has been accepted to provide representation and if not, the reason that the case has been rejected)

7. If either or both entities determine the need for additional information on the referral form, please communicate with each other in advance and agree to whatever additional information will be provided.

8. Once the referral has been received by the ELAP, the appropriate staff person should follow that provider's internal procedure for addressing referrals from the LTCOP.

9. A legal worker should review the referral for deadlines and for a determination whether or not immediate action needs to be taken.

10. If the legal worker needs additional information, the legal worker will contact the LTCO for that information.

11. In situations where the local ombudsman has been given the authority by the State Long Term Care Ombudsman to act on behalf of the resident and in the resident's stead, the Ombudsman and the ELAP must work together just as the ELAP and the resident would if the resident were acting in his or her own stead. The Ombudsman will be needed to access the resident's files and provide as much additional information as possible to assist the ELAP in preparing a case for the resident.

12. It is imperative that there be close communication between the ELAP and the Ombudsman whenever the Ombudsman remains active in the case after referring to the ELAP.

D. Other Coordination Requirements

1. ELAP Providers shall develop a coordination of services agreement with the local Legal Services Corporation (LSC) Program if the provider is not a LSC funded program. The agreement shall detail the type of coordination and cooperation each program shall expect of the other while providing legal services for the elderly throughout the planning and service area. This agreement shall be updated periodically, as needed;
2. ELAP Providers shall coordinate with the *GeorgiaCares* Program in their planning and service area to provide assistance to the Volunteers and Volunteer Coordinators in helping clients transition from the *GeorgiaCares* program to the ELAP as needed to resolve Medicare,

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

Medicaid and other health insurance matters as needed and as appropriate. The State Legal Services Developer and the Director of *GeorgiaCares* have by agreement worked out a referral process for accepting appropriate cases from *GeorgiaCares* volunteers and Coordinators. The referral process should operate substantially as follows:

***GeorgiaCares* Referral Process**

Referrals from *GeorgiaCares* to the ELAP provider should flow substantially as follows:

- i. Both the ELAP and *GeorgiaCares* staff should agree upon a format for a referral form or the *GeorgiaCares* staff person making the referral should complete the form provided by the State Legal Services Developer.
- ii. Cases deemed appropriate for referral should not be held for continued work by the *GeorgiaCares* staff without first making the referral.
- iii. Once the referral is made, if the *GeorgiaCares* staff believes that the problem can be resolved before a hearing, the ELAP should be informed that the *GeorgiaCares* staff will continue to try to resolve the problem. If the *GeorgiaCares* staff continues to work on the problem, the ELAP should be apprised and notified of the progress and the results.
- iv. At a minimum, the referral form should include the following information:
 - * The beneficiary's name and age
 - * The beneficiary's name, address and telephone number
 - * The condition or capacity of the beneficiary (i.e., alert; communicative; noncommunicative; forgetful; adjudicated incompetent; mentally incapacitated)
 - * The deadline to appeal if there is one
 - * The reason for the proposed action/referral
 - * The name of the person who is requesting assistance (i.e., the beneficiary; the beneficiary's legal representative; a family member or other interested party)
 - * An indication of what steps have already been taken in this matter on behalf of this beneficiary
 - * A copy of the notices from CMS and/or the SSA notices
- v. The ELAP will as soon as possible, inform the referring *GeorgiaCares* staff

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

whether or not it has been accepted to provide representation and if not, the reason that the case has been rejected

- vi. If either or both entities determine the need for additional information on the referral form, please communicate with each other in advance and agree to whatever additional information will be provided.
- vii. Once the referral has been received by the ELAP, the appropriate staff person should follow that provider's internal procedure for addressing referrals from the *GeorgiaCares* program.
- viii. A legal worker should review the referral should for deadlines and for a determination whether or not immediate action needs to be taken.
- ix. If the legal worker needs additional information, the legal worker will contact the *GeorgiaCares* staff for that information.
- x. It is imperative that there be close communication between the ELAP and the *GeorgiaCares* staff whenever *GeorgiaCares* remains active in the case after referring to the ELAP.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

REQUEST FOR ELDERLY LEGAL ASSISTANCE

I, _____, request that
on my behalf, _____
_____ of
_____ contact the Georgia Elderly Legal Assistance
Program which serves my area. I am in need of legal assistance and I am unable
to contact the Elderly Legal Assistance Program on my own.

Complete only one:

I have a telephone and my telephone number is: () -

I don't have a telephone but can be reached at : () -

I do not have access to a telephone. _____

My street address is:

My mailing address is: _____ Same as above _____

Signature of Person Requesting Assistance _____

Date _____

Individual Providing Assistance:

Name: _____

Telephone No.:

Title and/or Employer:

Address:

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

GeorgiaCares
**REFERRAL TO THE
ELDERLY LEGAL ASSISTANCE PROGRAM**

Date:

ACTION PENDING: _____

DEADLINE DATE: _____

Time:

Referral made by:

Mail _____ Fax _____ In-Person _____

Referral made to what ELAP:

Referral sent to the attention of:

Name of Beneficiary: _____ Age _____

Address: _____

County _____ City _____ Zip _____

Telephone number where beneficiary can be reached:

Is the beneficiary capable of communicating with the legal provider?

Does the beneficiary have a Legal Guardian? _____ An agent under a Power of Attorney?

Name: _____

Address: _____

Telephone Number: _____

Reason for referral: _____

Has action been taken by the *GeorgiaCares* staff or others to resolve this problem?

Circle one: Yes No

Describe the action taken. Indicate by whom the action was taken and on what date.

3. Providers shall coordinate with the existing Elder Abuse Prevention Program in their planning and service area to provide legal counseling, information and representation to prospective clients as needed and as appropriate.

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

4. Providers shall be prepared to accept referrals from the Senior Legal Hotline as called upon and where appropriate.
5. Providers shall attempt to involve the private bar in legal assistance activities, including groups within the private bar furnishing services to older individuals on a pro bono or reduced fee basis and shall coordinate these attempts with efforts undertaken by the Area Agencies. Every provider should develop a pro bono and/or reduced fee referral list to be used by their program and should develop a general referral list of attorneys in their planning and service area to make available to persons who are not accepted for representation and/or assistance by the provider.

E. Ethical Standards for Providers

1. Programs must abide by all Georgia Rules of Professional Conduct adopted by the Supreme Court of Georgia to regulate the practice of law.
2. ELAP Provider agencies shall develop and follow a protocol and a program policy for referral of fee generating cases and submit it to the Area Agency on Aging and the Legal Services Developer for approval.
3. ELAP Provider agencies shall develop and submit for approval from the Area Agency on Aging and the State Legal Services Developer a program policy on conflicts of interest. Such policy at a minimum, shall include provisions for identifying and resolving conflicts for employment and other activity outside the Title IIIB program, and shall extend to all persons employed part time or providing services on a volunteer basis. The purpose of the policy shall be to protect clients from potential compromises of claims due to an inability to exercise independent professional judgment on behalf a client as required by the State Bar of Georgia's Rules of Professional Conduct 1.7-1.10.
4. All ELAP providers should establish goals for the future of the legal assistance program in consultation with Area Agency on Aging staff, and the State Legal Services Developer.

F. Professionalism Standards

1. ELAP Providers shall supply clients with a mechanism for filing complaints or grievances about the operation of the program which shall identify in addition to the provider's internal grievance protocol, how the client can contact the Area Agency on Aging and the State Legal Services Developer for assistance.
2. All ELAP provider staff should always aspire to make the internal rewards of service, craft, and character the focus of what we do and not the external reward of financial

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

gain, the primary rewards of the practice of law.

3. All ELAP provider staff should adhere on a regular basis to the principles established by the State Bar of Georgia in the Aspirational Ideals including but not limited to:

Offering faithfulness, competence, diligence and good judgment;
Representing others as you would want to be represented;
Being fair, civil and full of integrity;
Offering respect, candor, and courtesy;
Striving to do honor to the search for justice; and,
Working to make the law and the legal system available to all and seeking the common good through the representation of clients while remembering the spirit of public service.

IX. AREA AGENCY ON AGING ROLES AND RESPONSIBILITIES

A. General Area Agency Requirements

Pursuant to the Older Americans Act requirements, Division, state laws, regulations and policy, and its provider contracts regarding ELAP, Area Agencies on Aging shall work with the Legal Assistance providers to provide leadership relative to all aging issues in their respective planning and service areas. This leadership shall extend to overall planning, advocacy, coordination of services, interagency linkages, information sharing, brokering, monitoring, evaluation and support to assure the integration of legal assistance services into the rest of the area's aging network and to assure that the focus of legal assistance services is consistent with agency identified regional goals.

B. Specific Area Agency Requirements

With respect to Legal Assistance, each Area Agency on Aging shall:

1. Select the legal assistance provider(s) best able to demonstrate the experience and capacity to meet the requirements of federal and state law and regulations as well as the requirements of these ELAP Standards;
2. Reach concurrence with the Legal Assistance Providers and other relevant local stakeholders on the development of the planning and service area's annual AAA Elder Rights plan;
3. Adhere to the ELAP Standards set forth in this document and any amendments thereto;
4. Assure that programs are funded in accordance with federal and state requirements

GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM STANDARDS FOR THE PROVISION OF LEGAL SERVICES

- and that legal assistance services are available throughout the planning and service area;
5. Assure that the primary focus of the Title IIIB Legal Assistance provider is the direct representation of clients in legal matters;
 6. Work with the State Legal Services Provider to develop a method for surveying client satisfaction and needs and to assure that the views of older persons are solicited and considered in the operation of the Legal Assistance Program;
 7. Assist the State Division of Aging Services and the Legal Assistance Providers in developing and maintaining a program appraisal instrument;
 8. Work with the ELAP providers in their development of local program plans for reaching the target populations and addressing the priority needs set forth in Sections IV., V., and VI. These plans shall be reviewed and revised by providers, with input from the Area Agencies, on an annual basis and submitted as part of the Area Elder Rights Plan.
 9. At a minimum, monitor the program annually to assess compliance with state and federal laws and regulations and contractual requirements;
 10. Assure that providers have a system in place to allow clients to file complaints or grievances about the operation of the Legal Assistance program;
 11. Assure that competition for funds will be available only to programs, which operate in accordance with the canons, disciplinary rules and ethical considerations adopted by the State Bar of Georgia;
 12. Review and approve the provider program policies and protocol for referral of fee generating cases and conflicts of interest as required in Section IX. This shall be done in conjunction with and in consultation with the State Legal Services Developer;
 13. Assist the Division and the providers in the development of a system for monitoring the quality of legal assistance services, including the assessment of lawyering skills and provider capacity to furnish legal assistance under Title IIIB of the OAA as required in Section X;
 14. Assist the State Legal Services Developer in developing a model Request for Proposals for adaptation to each area;
 15. Assist the providers in establishing local goals for the future of the legal assistance program in consultation with the State Legal Services Developer;
 16. Submit program reports in a timely manner to the Division and the State Legal

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

Services Developer using AIMS and the standard Legal Assistance Programmatic Report form;

17. Set no requirements for program income and assure that the provider has in place a policy and procedure for program income that complies with IX B 11 of these Standards; and
18. Assure that program income generated by the Legal Assistance Program is used to benefit the Legal Assistance program.

C. Coordination, Training and Support Responsibilities

1. Area Agencies shall, in conjunction with the legal providers, attempt to involve the private bar in legal assistance activities, including groups within the private bar furnishing services to older individuals on a pro bono or reduced fee basis. The Area Agencies' role in this coordination should be to provide the private bar with information about local aging programs and services and to increase the awareness within the local bar about the needs of older persons in their area.
2. Area Agencies shall support the legal assistance programs by obtaining input on the training and support needs of providers and legal assistance clients, and shall work with the State Office of Aging to assure that providers are able to take advantage of relevant training opportunities offered.
3. Area Agencies shall assure that Providers can demonstrate that all relevant Title III legal staff have sufficient training and shall review and approve the provider's description of the method for keeping staff current with the priority issue areas.

X. DIVISION OF AGING SERVICES RESPONSIBILITIES

A. General Responsibilities

1. The Division shall annually develop an Elder Rights Plan, as a part of the State Plan, which shall include and delineate a program to provide leadership for expanding the quality and quantity of legal and advocacy assistance as a means for ensuring a comprehensive elder rights program and in accordance with the program purposes outlined in section II.
2. This function shall involve the coordination of ELAP providers in the State that assist vulnerable older individuals in the areas set out in Section VI.
3. The Division shall establish a focal point for elder rights policy review, analysis, and advocacy at the State level that will include coordination of information submitted by Area Agencies under the Elder Rights plans.

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

4. If the State Agency accepts federal elder rights funding and as limited by resources, the Division will act in accordance with the Older Americans Act provisions to provide a full time State Legal Services Developer and other personnel sufficient to ensure—
 - * *State leadership in securing and maintaining the legal rights of older individuals;*
 - * *State capacity for coordinating the provision of legal assistance;*
 - * *State capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons, as appropriate;*
 - * *State capacity to promote financial management services to older individuals at risk of conservatorship;*
 - * *State capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and maintaining the rights of older individuals at risk of guardianship; and*
 - * *State capacity to improve the quality and quantity of legal services provided to older individuals.*
 - * Technical assistance, training and supportive functions to Area Agencies on Aging, legal assistance providers, ombudsmen and other appropriate persons;
 - * The capacity to improve the quality and quantity of legal assistance to older individuals in the state
5. The Division shall provide for periodic assessments of the legal and advocacy needs of older individuals with respect to elder rights and shall identify unmet needs.
6. The Division shall develop working agreements, as necessary, with relevant state and federal agencies with respect to the legal needs of older individuals, including, but not limited to, the Legal Services Programs, The Social Security and Veterans Administrations, the court system and attorney general's office, in order to better coordinate legal services available to the elderly. The working agreement with Legal Services Programs shall address coordination through local program boundaries and varying priorities, State level relationship and program goals, and ways to assure service to vulnerable elders in priority categories while minimizing conflicts between LSC and OAA requirements for programs that are co-located.
7. In conjunction with the Area Agencies on Aging and the Legal Assistance providers,

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

the Division shall develop a system for monitoring the quality of legal assistance services, including the assessment of lawyering skills and provider capacity to furnish legal assistance under Title IIIB of the OAA. The monitoring system shall be designed in such a way as to protect the confidential nature of the assistance provided to clients and shall tie into the monitoring function performed by the Division of Aging Services for all other programs and services.

8. The Division, through the Area Agencies on Aging, shall work with the providers to assure that Title IIIB funds or other funds as contracted through the Area Agency on Aging are used to maintain or increase, to the extent practicable, the level of legal assistance furnished to eligible individuals, and to assure that Title IIIB funds are not used to supplant funds from other federal or non-federal sources.

B. State Training Responsibilities

1. The Division, primarily through its State Legal Services Developer, shall periodically provide for education and training of professionals, volunteers, and older individuals concerning the topics of elder rights and the requirements and benefits of certain laws and programs assisting the elderly.
2. The Division, primarily through its State Legal Services Developer, shall assure that training is available to providers each year in areas of law relevant to the priorities of the Georgia Elderly Legal Assistance Program and the priority areas listed in Section VII.
3. The Division, primarily through its State Legal Services Developer, shall work to develop low or no cost relevant training, with choices approved for credit towards continuing legal education requirements of the State Bar of Georgia, and shall attempt whenever possible to offer such training by video or satellite.

C. Other Responsibilities

1. The Division of Aging Services currently collects data through its Aging Information Management System (AIMS). Providers and Area Agencies are required to enter data from their respective areas reflecting their service under their contracts into this system. Area Agencies and ELAP Providers are required to enter timely and accurate ELAP data. Failure to adhere to this requirement may result in sanctions. The Division, primarily through its State Legal Services Developer shall from time to time compile and furnish to Area Agencies and providers a report reflecting the status of legal assistance in each area and throughout the state as a whole with respect to the provision of service in the contracted areas and individual program accomplishments of note.
2. The State Legal Services Developer shall work with Area Agencies on Aging as

**GEORGIA ELDERLY LEGAL ASSISTANCE PROGRAM
STANDARDS FOR THE PROVISION OF LEGAL SERVICES**

necessary, to develop a model Request for Proposals for adaptation to each area.

3. The State Legal Services Developer or other Division staff shall supply each provider with technical assistance and guidance as may be necessary or requested by the Area Agency or Legal Assistance provider. However, the Division respect the contractual relationship between providers and Area Agencies and shall not interfere with this relationship unless requested or unless federal and state laws and requirements, including those set forth in these ELAP Standards, are implicated.
4. The Division shall periodically review and update these Standards, with input from the Area Agencies and Legal Assistance providers, and shall provide training on the application of the Standards to Area Agencies and Providers.