

LEGAL SERVICES ASSOCIATION OF MICHIGAN

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Dear Peter,

We are writing on behalf of the Legal Services Association of Michigan (LSAM). As you know, several LSAM organizations are funded in part by the Legal Services Corporation (LSC). One of the LSC regulations, 45 CFR 1609, prohibits LSC grantees from accepting cases that private attorneys regularly accept for a fee. As you know, all LSC grantees have systems in place to assure that any cases that can be directly referred to private lawyers are referred.

Beginning in 1998, LSC adopted a regulation relating to possible fee generating cases. Under the LSC system, programs are required to either: (1) develop an understanding with the Bar that certain categories of cases are non-fee generating; or (2) provide documentation in each file that a referral to a private attorney was attempted but was unsuccessful. The LSC policy is problematic under Michigan law, since Michigan provides for a nominal attorney fee (usually \$40) in almost every case, see MCL 600.2441. Thus, virtually every case in which an attorney appears for a Plaintiff or Defendant in any Michigan court could be a "potentially fee generating case."

In 1998, LSAM developed an understanding with the State Bar that the following categories of cases were "non-fee-generating." We've updated these understandings from time to time- most recently in 2019. The previous approval is attached here for convenience. We are writing again to renew these understandings as reviewed and agreed upon at LSAM's November 2024 meeting.

1. In general, civil cases where the only fee is a statutory attorney fee or statutory damage under \$2,000;
2. Eviction, housing discrimination, and foreclosure prevention cases, including summary proceedings actions, lock-out actions, actions relating to security deposits, land contract forfeitures, and Circuit Court suits to prevent foreclosure. These suits may be handled even if damage claims or counterclaims may be filed on behalf of the legal aid client. Real property and personal property cases also include Probate Court and quiet title actions where the primary goal of the litigation is to preserve a home, cash assets up to the program asset limit, or personal property (such as a mobile home or vehicle) for a low-income client;

3. Domestic violence cases and other family law cases (e.g. Personal Protection Order cases, child support enforcement or defense of custody cases, Indian Child Welfare Act cases) for low-income individuals. These cases may be handled even if a money or property claim may be made;
4. Cases seeking benefits through needs-based public benefits programs;
5. Consumer cases where the primary objective of the case is to prevent attachment or garnishment of an individual's income or bank account or cases that challenge a policy or practice affecting low-income consumers;
6. Defense of tort or general civil litigation claims on behalf of low-income persons, even when that defense might include a money counterclaim or a claim under a fee shifting statute;
7. Wage claim cases where the amount of wages claimed by each individual client is under the value of each program's asset limit.

Sincerely,

Pam Hoekwater

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