

October 28, 2020

State Bar of Michigan  
Lawyer Referral Service – Modest Means Panel

## **Section I -- Purpose**

The State Bar of Michigan (SBM) Modest Means Program (MMP) is a reduced-fee referral panel operating through the SBM Lawyer Referral Service (LRS). This program is designed to make legal services available to lower and moderate-income people that may be ineligible for legal aid programs. Eligibility for modest means legal services is based on income, capped at 250% of federal poverty guidelines, and liquid assets of less than \$5,000.

Attorneys who accept referrals through the MMP agree to a reduced rate or fixed fee as detailed in [Section IV](#). Due to the lower income required for client eligibility and the reduced attorney fees for this program, Modest Means' attorneys are able to have this work recognized as pro bono through the SBM Voluntary Pro Bono Standard which suggests that Michigan lawyers provide thirty hours of legal services for people of limited means.

## **Section II -- Administration**

The SBM LRS manages the MMP, and the LRS rules apply. Revisions are outlined in [Appendix E](#).

There is no additional fee for LRS panelists to be eligible as an MMP panelist.

Clients will provide income and asset information through an online application. This application will automatically calculate eligibility and provide an initial determination. The MMP attorney will make the final determination of program eligibility after concluding an initial interview.

If an attorney determines the client is not eligible based on income or assets, the attorney may negotiate a higher fee with the client as long as that agreement is in writing and notice is provided to the LRS staff. The case is no longer considered part of the MM Program, is no longer considered pro bono, and the LRS Program rules, including remittance of 10% of earned fees, apply.

An electronic survey will be sent to both client and attorney at the conclusion of the case.  
(Surveys under development)

### **Section III -- Program Panels**

1. Bankruptcy Law – Personal Bankruptcy. This service is limited to the preparation and filing of Chapter 7 bankruptcy cases.
2. Bankruptcy Law – Debtor/Creditor. This is a subset of Consumer law consisting of creditor collection matters as well as debtor defense.
3. Consumer Law – General consumer matters including Fair debt collection/credit reporting, new/used car, utility disputes and consumer litigation
4. Criminal Law: Covered criminal law matters consist of Expungements and Driver's License Restoration and Appeals.
5. Family Law – Matters including divorce/separation, custody & parenting time, child support/modification, third-party visitation, name changes, paternity, adoption, and post-judgment enforcement.
6. Probate and Estate Planning. Includes estate and disability planning, Probate and Trust Administration, Conservatorships, Guardianships and probate litigation.
7. Real property – includes matters related to the purchase and sale of residential real estate and residential tenant matters.

### **Section IV -- Fees**

#### Administrative Fee

Potential clients will pay a \$25 Administrative Fee directly to the SBM MMP before a referral to a MMP attorney is made and in the same manner as the LRS fee is collected. The fee covers the match with the attorney and some costs associated with program administration. The fee will be waived for tenants with pending court proceedings.

#### Initial Consultation

Panel attorneys will provide up to a 25-minute consultation at no charge to the referred Caller.

#### Rates

**Hourly:** Unless otherwise specified, Modest means attorneys will charge a rate of no more than \$75 per hour for cases subject to an hourly rate and require a retainer of no more than \$750. Attorneys may offer billing and payment plans that incorporate those rates into a service plan for the client.

**Flat Fee:** Chapter 7 bankruptcy cases will be handled for a flat fee of \$500. This amount does not include filing fees, costs associated with adversarial proceedings, responses to contested matters, appeals, rule 3004 examination fees, transcript, and interpreter fees. If the attorney and client decide to undertake work outside the scope of the flat fee program the hourly rate will be \$75.

#### Retainers and Retainer Maximums

Panelists agree to limit the retainer to ten hours, and to provide the client with written and oral guidance on how to effectively use the time. Panelists agree to counsel the client on whether the goals of the case can realistically be achieved within a ten-hour retainer and the procedures to be followed if the case is not completed within ten hours. If it becomes clear that the amount of work will exceed the ten-hour cap, the attorney will notify the client and devise a plan for moving forward and reducing costs.

Panelists can use the LRS MMP retainer, or as an alternative, can use their own retainer with the MMP retainer language, provided the details of their own retainer do not conflict with the spirit or intent of the MMP program.

Payment for additional legal services beyond the original retainer should be at the same rate as the initial retainer. Additional retainers and the services to be provided thereunder are a matter between attorney and client.

#### Flat-Fee Services

Flat fee rates for services provided by the MMP will be established and advertised. Flat fee rates are the attorney's fee for services and do not include court or ancillary fees.

#### Court or Ancillary Fees

The maximum retainer caps and flat fee agreements do not include court fees such as filing fees, motion fees, court ordered mediation fees or other court costs. They do not include ancillary fees such as witness, expert, deposition, interpreter or transcript fees.

These fees are exempt from the retainer cap and flat fee but must be discussed and approved in advance of the expenses being incurred by the client.

#### Attorney Fee Awards

Attorney fees are allowed as part of the damages in some matters. Any Attorney fee awarded by the Court shall first be used to reimburse client for any attorney fees paid. The remaining fee shall belong to the Attorney.

### Fee Waivers

The attorney must assess whether a client may be eligible for a court-ordered waiver of certain fees. If a good faith argument can be made for a fee waiver, the attorney must discuss the possibility with the client and weigh the advantages and disadvantages of the lawyer asking the court for a waiver, charging the hourly rate to make the request.

## **Section V -- Attorney Eligibility for MMP Panels**

SBM licensed attorneys that are member of the LRS can elect to join the MMP for no additional fee.

Participating attorneys agree:

- To abide by the LRS rules and agree to charge no more than the fee limits outlined in [Section IV](#)
- To use the LRS MMP retainer, or as an alternative, use their own retainer with the MMP retainer language included, provided the details of their own retainer do not conflict with the spirit or intent of the MMP program
- To discuss with the client and provide written information on how to reduce costs
- To discuss with the client how to move forward when additional legal services beyond the retainer are needed prior to collecting any additional retainer amounts
- To candidly counsel a client as to the merits of their case, and to advise LRS staff if, in their opinion, the case has no merit.
- To promptly notify the LRS program staff in the event of a conflict of interest.

The attorney may provide future legal services at an increased hourly rate if the client's financial status changes significantly during the course of representation. The attorney must provide notice of the change to MMP staff.

## **Section VI -- Client Eligibility**

Clients will fill out an online modest means application through the SBM LRS website. The application will be programmed to automatically determine initial eligibility.

Eligibility is based on household income and assets. Those with Income at or below 250% of the Federal Poverty Guidelines and liquid assets not exceeding \$5,000 are eligible for service.

The online program calculation will be accepted by LRS staff and, if preliminarily deemed financially eligible, will cause a search for a MMP lawyer for the case type requested.

Final eligibility determination will be made by the attorney at the initial consultation. The attorney may request income verification such as pay stubs, tax returns, notice of Social Security benefits, or other relevant income documentation.

The attorney may provide future legal services at an increased hourly rate if the client's financial status changes significantly during the course of representation. The attorney must provide notice of the change to MMP staff.

## **Section VII -- LRS Staff Responsibilities**

LRS staff will rely on the financial eligibility determination made by the online application program to deem and applicant preliminarily qualified.

LRS staff will assess whether the MMP panel has a qualified panelist available to provide an initial consultation for the case problem described by the client.

LRS staff will provide qualified panelists with an opportunity to review for conflicts prior to processing a referral.

LRS staff will collect the \$25 administrative fee and make an initial referral to one MMP attorney.

LRS staff will provide up to two additional referrals to a MMP client if the original attorney has a conflict, or other cause to refuse representation, and other MMP attorneys are available.

LRS staff will track MMP Referrals if the MMP attorney determines the client is not financially eligible and lawyer and client enter into retainer agreement outside of the MMP. These referrals will no longer be considered MMP, and therefore do not qualify as pro bono service, and will be subject to the 10% remittance fee to the LRS.

LRS staff will track the number of referrals.