

Legal Aid of Arkansas

Board of Directors Meeting

Saturday, December 9, 2017

9:00 A.M.



Craighead County Bar Library
321 South Church Street
Jonesboro, Arkansas 72401

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1-800-952-9243**

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Little Rock, AR 72202-3500
501-978-6479 – Fax

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205 W. Stephenson Ave.
Harrison, AR 72601
800-967-9224 – Fax

Helena-West Helena
622 Pecan
Helena, AR 72342
870-338-9834 – Fax

Jonesboro
714 South Main Street
Jonesboro, AR 72401
870-910-5562 – Fax

Newport
202 Walnut Street
Newport, AR 72112
870-523-9892 – Fax

Springdale
1200 Henryetta
Springdale, AR 72762
479-751-0002 - Fax

West Memphis
310 Mid Continent Plaza
Suite 420
West Memphis, AR 72301
870-732-6373 – Fax

November 29, 2017

RE: Board of Directors Meeting

Dear Board Member:

The Legal Aid of Arkansas Board of Directors will meet at **9:00 a.m.** Saturday, December 9th at the Craighead County Law Library, 321 S. Church Street, Jonesboro, AR 72401. Board members may also participate by conference call using the attached instructions. Lodging on Friday night is provided for those that must travel 100 miles or more. Please contact me if you wish me to take care of lodging arrangements on your behalf.

In an effort to reduce the cost of postage and the amount of paper used to distribute materials for discussion at the Board meeting, the documents have been posted online and are being mailed only to Board members who might not have internet access or have requested they be mailed. To access the online documents, go to <http://arlegalaid.org/board-packet.html> .

If you have any questions or prefer to have a packet mailed to you, please contact me by phone at 1-800-967-9224, x4311, or by e-mail at eking@arlegalaid.org.

Sincerely,

Elizabeth King
Administrative Assistant/HR Manager

/eak
Encl.

PARTICIPATING BY CONFERENCE CALL/GO TO WEBINAR

Dial 1-866-625-9936

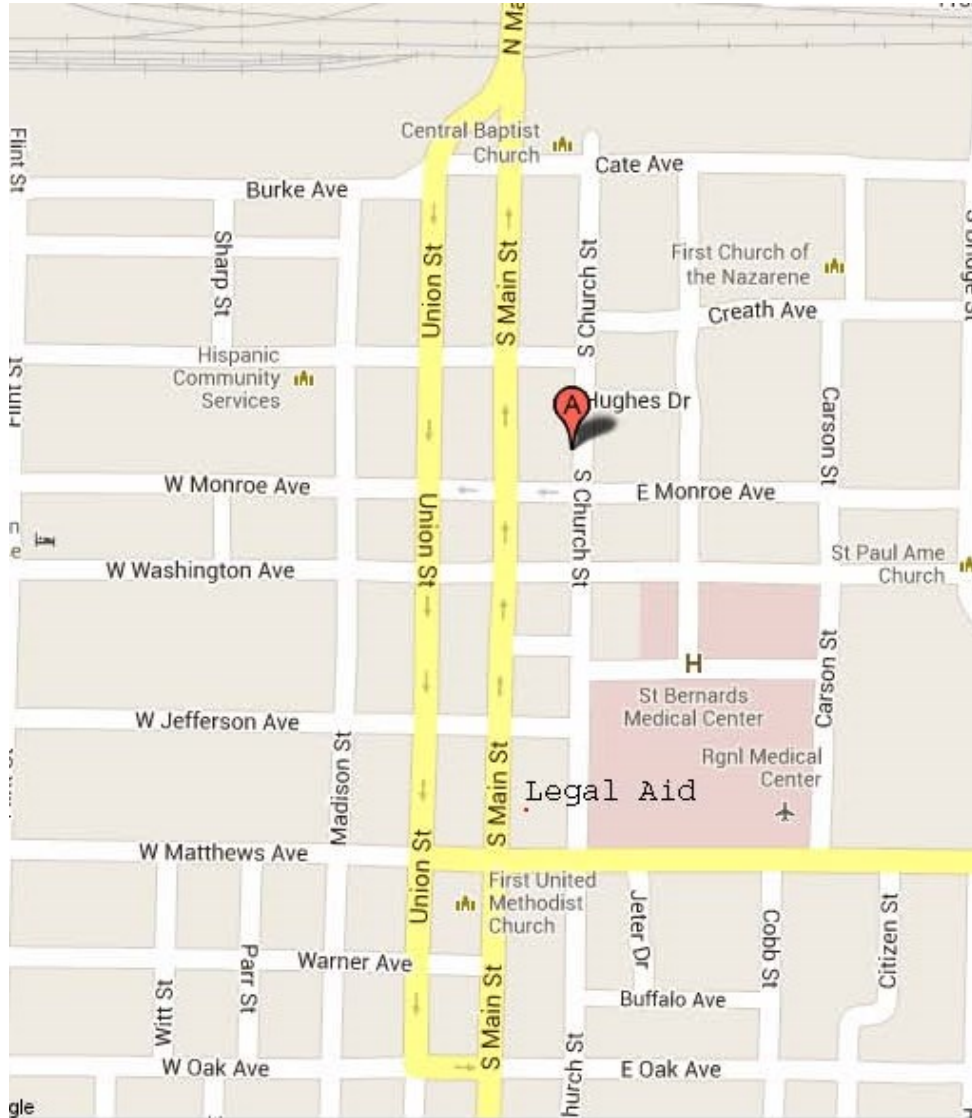
Enter Guest Pin 21154265#

Following are some guidelines to make a conference call run smoothly:

- **Call in/log in a little early.** Call in a few minutes prior to the scheduled conference call time to eliminate a last minute rush.
- **Identify yourself.** Make sure to state your name clearly before speaking or voting since the meeting minutes must identify speakers.
- **Speak loudly and clearly.** You will need to speak more loudly than you would in a regular person-to-person conversation.
- **Request the Board Chair's acknowledgement.** To ensure that you are heard when you have something to say, ask the Board Chair for the floor. After you are acknowledged, you can be sure that you are being heard.
- **If you can't hear someone, speak up and let the Board Chair know.**

DIRECTIONS

The board meeting will be held in the Craighead County Law Library, 321 S. Church Street, Jonesboro. Marked as “A” on the map.



**Legal Aid of Arkansas
Board of Directors Meeting
Craighead County Law Library
321 South Church Street
Jonesboro, AR 72701
December 9, 2017- 9:00 a.m.**

AGENDA

1. Call to Order (Ms. Chumbler)
2. Approval of Minutes of October 13, 2017 Meeting (Ms. Chumbler)
3. Financial Report (Mr. Bowman)
 - a. Year to Date November 30th
 - b. Balance Sheet as of November 30th
4. Audit/Finance Committee Report (Ms. Haun)
 - a. Proposed 2018 Budget
 - b. Audit Agreement for 2017 Financial Year
5. Certification of Objective Integrity and Independence (Mr. Richardson)
6. Expiring Board Terms and 2018 Officers (Mr. Richardson)
7. Locations and Dates of 2018 Board Meetings (Mr. Richardson)
8. Case Acceptance Priorities 2018 (Mr. Richardson, Work Group Leaders)
 - a. Consumer (Ms. Purtle)
 - b. Domestic Violence (Ms. Walker)
 - c. Economic Justice (Mr. DeLiban)
 - d. Housing (Mr. Auer)
9. Pro Bono Activities and 2018 Private Attorney Involvement Plan
 - a. Equal Access to Justice Panel (Ms. Tong)
 - b. Arkansas Volunteer Lawyers for the Elderly (Ms. Tank)
10. Director's Report (Mr. Richardson)
 - a. Introduction of new VISTA members
 - b. Modest Means Panel
 - c. 50th Anniversary Celebration
 - d. Screening of Video(s)
 - e. Updates to Written Report included in Board Packet
11. Old/New Business (Ms. Chumbler)
12. Adjournment (Ms. Chumbler)

**LEGAL AID OF ARKANSAS
BOARD OF DIRECTOR'S MEETING
October 13, 2017**

A meeting of the Board of Directors of Legal Aid of Arkansas was held at 12:15 p.m. Friday, October 13, 2017 at the Chancellor Hotel in Fayetteville, AR.

The formal agenda was as follows:

1. Call to Order (Ms. Chumbler)
2. Approval of Minutes of June 24, 2017 Meeting (Ms. Chumbler)
3. Executive Committee Report (Ms. Chumbler)
 - a. Disposition of Real Property Located at 402 Franklin in Helena, Arkansas
4. Financial Report (Mr. Bowman)
 - a. Year to Date September 30th
 - b. Balance Sheet as of September 30th
 - c. Rolling Budget Projection – 2018
 - d. Iberia Money Market Account - CD
5. Economic Justice Work Group Report (Mr. De Liban)
6. Director's Report (Mr. Richardson)
7. December 2017 Meeting Location (Mr. Richardson)
8. Old/New Business (Ms. Chumbler)
9. Adjournment (Ms. Chumbler)

Present in person were Lori Chumbler, Beverly Claunch, Niki Cung, Donna Price, Val Price, Annie Smith, Ashlie Thacker, Demetre Walker and Ron Wilson. Present via conference call were Pamela Haun, Helen Jenkins and Kandy Webb. Legal Aid staff in attendance in person included Lee Richardson, Executive Director; Elizabeth King, HR Manager/Admin Asst; David Bowman, Fiscal Officer; Andrea Walker, Deputy Director/Help Line Manager; Kevin De Liban, Economic Justice Workgroup Leader/Staff Attorney and Brooke Thompson, Staff Attorney.

Board Chair Lori Chumbler called the meeting to order. She welcomed everyone and moved to item two on the agenda, Approval of Minutes of June 24, 2017 Meeting. She asked for questions regarding the minutes. Hearing none, she called for a motion.

A motion was made by Val Price, seconded by Beverly Claunch and Niki Cung to approve the Minutes of the June 24, 2017 Meeting. The motion carried with none opposed.

Ms. Chumbler moved to item three on the agenda, Executive Committee Report.

Ms. Chumbler asked Mr. Richardson to make the report.

Mr. Richardson stated that on July 10th the Executive Committee of the Board of Directors met regarding the sale of the Helena building located at 402 Franklin in Helena Arkansas. He stated that we had an offer on the property and the committee approved Mr. Richardson to accept the offer of \$20,000 from Omega Care Inc. in Phillips County. He stated that the resolution and the minutes of that meeting are in the board packet. He stated that the property was purchased in 1978 and we have not

been using the property for over two years. He stated that it was falling more into a state of disrepair and therefore the Executive Committee felt it was in the best interest of Legal Aid of Arkansas to accept the offer. Legal Services Corporation had to approve the sale which they did. He stated that the sale closed in early September.

Ms. Chumbler asked for questions, hearing none she moved to item four on the agenda, Financial Report.

Mr. Bowman stated that he would begin with the January – September 30th financial report. He stated that we are looking at revenues of \$2,274, 000 and expenses are \$1,933,000 and we have a carryover at this time of \$340,000. He stated that he wanted to point out a couple items on the revenue side. He stated that on donation revenue from the last meeting, which was through May financials, we were around \$4,600 and at this time we are showing around \$117,000. He stated that a big part of that would be the Walmart money of \$75,000, \$12,000 from the Student Bar Association, \$8,800 from Tyson. He stated that we have also received sponsorships for the 50th celebration of around \$15,000 as well as another \$2,250 received in October and an additional \$2,000 that has been pledged. He stated that we are over \$18,000 for sponsorships for the 50th celebration. He stated that in looking at attorney fees we are showing \$79,580 and the majority of that came from Ethel Jacobs vs DHS settlement that was received on August 2nd. He stated that we received \$75,780 and an additional \$8,007 for fees from a prior year. He stated that those fees as well as the sale of the Helena building are showing on the revenue line item. In looking at expenses, he stated that things look good. He stated that we had to replace a couple of air conditioning units in the Jonesboro office which was around \$12,000 for two units that were about 35 years old.

Mr. Bowman moved to the balance sheet and stated that under liabilities we have our note payable with First Security which is for the Springdale office. He stated that we are showing \$196,900 remaining on that note. He further stated that we had \$224,000 in our Iberia money market bank account and we have moved \$100,000 into a CD. Mr. Bowman then asked for questions.

Ms. Chumbler inquired as to how much money had been raised at the 50th event and Mr. Richardson stated he was told it was around \$1,200 from the evening of the event. Mr. Richardson stated that it appears we will break even or come out in the black a bit but we have not run final numbers yet.

Mr. Bowman stated that he did some projections for 2017 and at this point we should be over expenses by \$172,000 at the end of December and that is probably projecting a little low. He stated that for 2018 we are showing revenue over expenses of \$14,000 at the end of 2018.

Mr. Richardson stated that at some point in September, while we try to keep the cash in Centennial bank below \$250,000, a deposit came in that put us over for a few days so we expect the auditors to see that. He stated we try to watch that very closely but a deposit was made by a funder that we had not anticipated during a certain time frame. He stated that the Bank of Fayetteville has well over that amount but they pledge securities to us that allows us to keep more money there.

Ms. Chumbler asked for any further questions regarding the financial report. Hearing none, she called for a motion.

A motion was made by Niki Cung, seconded by Beverly Claunch to approve the Financial Report. The motion carried with none opposed.

Ms. Chumbler moved to item five on the agenda, Economic Justice Work Group Report.

Kevin De Liban gave a report on the happenings of the Economic Justice Work Group, specifically covering comments on proposed regulations, client success stories, update on ARChoices litigation, and possible future litigation concerning possible approval by the U.S. Department of Health and Human services of Arkansas 1115 Medicaid Waiver, co counseling with the National Health Law Project and Southern Poverty Law Center.

Ms. Chumbler moved to item six on the agenda, Director's Report.

Mr. Richardson stated that there have been no real changes on the national level as we still have a continuing resolution until December 8th which is level funding until that time. He stated that things are looking good. He stated that Legal Services Corporation funding in Congress did not meet the same resistance they have met in the past, the House amount is \$300 million and Senate is \$380 million, but we are budgeting level funding for 2018. He stated that concerning statewide developments he asked Amy Johnson to give an update as the Executive Director of Access to Justice Commission Foundation.

Amy Johnson stated that they are in the process of taking on a statewide fundraising campaign. She stated that this is something they have tried to do over the past few years but they have lacked the capacity to really do it so they now have an AmeriCorps member that will help with this. She stated that the campaign would be rolling out mid to late October and they are hoping to make some meaningful progress in doing a better job in fundraising. Ms. Johnson stated that in regard to their work of creating an endowment they have raised \$100,000 from their board and the commission and they will be opening that up and continuing to do that quietly. She stated that will be something they want to get in place and she sees this as a good avenue for planned giving. She further stated that the Marlboro settlement will have \$2.2 million in residual funds. She stated that the court has pitched scholarships for law students who want to do complex public interest law who want to do class action around Pulaski County. She stated that what the court has done is solicited suggestions from class members and the foundation board chair is a member of the class so they are in the process of developing a proposal.

Mr. Richardson stated that in regard to program developments there are not a lot of changes. He stated that case numbers are down a bit from last year and he believes that is due to the complexity of some of the cases we are taking reduces the number of cases we are taking overall. He further stated that we have some areas such as IZard, Stone, and Fulton counties that our penetration rates have not been very good. He stated that we have done some advertising on Facebook and in the local papers to see if that gives us a spike at all. He stated that we will continue to look at ways to serve the underserved areas better. He stated that we have a video production team on site this week and are trying to put together four PSA's, a conference retrospective and a general three minute introduction to Legal Aid of Arkansas. He stated that we are hoping to get on some local access television but it will give us a definite online presence and we hope to have something to show the board by the December meeting.

He stated that in the latest volume of the Arkansas Lawyer there is a page on the history of Legal Aid of Arkansas. He stated that in early August Bill Waddell of Friday, Eldridge and Clark won one of the prestigious ABA Pro Bono Publico awards. He stated that Mr. Waddell went to New York City to receive the award and one of the big factors behind him getting that award was his help with the Mid-Delta Health Clinic in Clarendon. He stated that Mr. Waddell has written a book for children about social justice and there is a link to that in the board packet. He further stated that Mr. Waddell was also one of our outstanding Pro Bono attorneys for our 50th anniversary this year. He stated that he would like to give Cody LaBarber, who is one of our AmeriCorps Vista's an atta boy for producing the program for the 50th anniversary. He stated that it is a very nice product and Mr. LaBarber basically put it together.

Mr. Richardson stated that in regard to grants contracts and fundraising, the VOCA grant has been increased by about \$54,000 from 2016-2017 to 2017-2018. He stated that we did have an enhanced VOCA grant for part of last year that got us close to that amount. He stated that this means we should have better penetration in some of the counties and we will see increased visibility in family law court. He further stated that we have applied for a HUD grant for Fair Housing of \$125,000. He stated that the Access to Justice Foundation gave us a grant earlier in the year of \$62,000 to start doing some fair housing work and this would enable us to expand upon that and if this is successful next year we will apply for an even larger fair housing grant. He stated that Mr. Auer presented at the June board meeting regarding the fair housing project and we are continuing to do the testing and see favorable results. He stated that we submitted a grant to the Arkansas College of Trial Lawyers asking for \$100,000 to create a new project in Monroe County called the Monroe County Children in Trust. He stated that this is basically an expansion of the Medical Legal Partnership in Clarendon, but the idea is to try to touch every child in poverty in that county and provide holistic legal services to the family. He stated that this would hopefully follow through to adulthood and see if we can have an impact and actually bring about change to the number of people in poverty.

Mr. Richardson stated that David spoke on donations, which are highlighted in the packet, and you can see the sponsors for the conference there are as well

Mr. Richardson stated that staff changes are reflected in the packet and while it looks like a long list it is mostly due to the AmeriCorps term ending. He further stated that we recently hired Kelsey Boggan and Chris Hussein as transitional attorneys to fill in the gap the AmeriCorps members left.

Mr. Richardson stated that the new Annual Report is out and there is a copy in the board packet.

He asked for any questions regarding his report.

Ms. Chumbler moved to item seven on the agenda, December 2017 Meeting Location.

Mr. Richardson stated that we had originally set the meeting for the second Saturday in December in Northwest Arkansas. He stated that since we are in Northwest Arkansas now and we have not been in Jonesboro this year he would propose that we set that meeting on in Jonesboro. After some discussion, it was decided that the 4th quarter meeting on Saturday, December 9th will be in Jonesboro. Mr. Richardson further stated that he would come up with a weather contingency plan to present to the board at some point in the future.

Ms. Chumbler moved to item eight on the agenda, Old/New Business.

Hearing no further business, Ms. Chumbler adjourned the meeting.

LEGAL AID OF ARKANSAS
 ACTUAL REVENUE & EXPENDITURES
 FOR THE PERIOD JANUARY 1 THRU OCTOBER 31, 2017

| Line# | Revenue: | 2017 Approved Budget | OCT 2017 Actual | Dec 2016 Actual | Dec 2015 Actual |
|-----------|--|-----------------------|-----------------------|-----------------------|-----------------------|
| 1 | LSC BASIC GRANT | \$1,480,844.00 | \$1,224,608.50 | \$1,480,844.00 | \$1,495,419.00 |
| 2 | Ark Adm Justice Funds | \$250,213.86 | \$208,511.50 | \$250,213.80 | \$250,213.80 |
| 3 | IOLTA | \$0.00 | \$0.00 | \$20,000.00 | \$0.00 |
| 4 | Ark Community Foundation | \$0.00 | \$0.00 | \$0.00 | \$2,700.00 |
| 5 | Americorps (Includes CALS Funds and Summer Project) | \$123,497.71 | \$56,394.70 | \$76,810.23 | \$17,554.18 |
| 6 | STOP/VAWA/VOCA | \$118,125.00 | \$86,417.62 | \$83,331.15 | \$67,801.51 |
| 7 | Modest Means | \$0.00 | \$225.00 | \$425.00 | \$50.00 |
| 8 | IRS-LITC | \$60,000.00 | \$47,933.20 | \$60,000.00 | \$58,406.77 |
| 9 | IOLTA-Housing Foreclosure | \$257,500.00 | \$260,878.92 | \$224,382.68 | \$225,000.00 |
| 10 | AATJF-Fair Housing Special Grant - 2017/2018 (2017-7/months) | \$0.00 | \$35,612.50 | \$0.00 | \$0.00 |
| 11 | MLP-EJW&ACH | \$100,600.00 | \$98,203.87 | \$103,943.93 | \$81,056.38 |
| 12 | AR CARE | \$0.00 | \$0.00 | \$50,000.00 | \$0.00 |
| 13 | ST VINCENT | \$30,000.00 | \$17,500.00 | \$7,550.00 | \$0.00 |
| 14 | Georgetown University | \$16,666.67 | \$16,666.67 | \$0.00 | \$0.00 |
| 15 | Equal Justice Works | \$25,200.00 | \$22,349.30 | \$38,946.96 | \$48,400.00 |
| 16 | AAA-White River | \$2,500.00 | \$975.00 | \$3,619.50 | \$3,062.50 |
| 17 | AAA-East Arkansas | \$35,000.00 | \$26,675.00 | \$31,625.00 | \$39,025.00 |
| 18 | AAA NWA | \$9,112.00 | \$7,655.50 | \$9,312.00 | \$10,562.50 |
| 19 | UW-Boone Cnty | \$2,000.00 | \$2,000.00 | \$1,500.00 | \$2,000.00 |
| 20 | UW-Bly | \$3,000.00 | \$3,000.00 | \$2,500.00 | \$2,500.00 |
| 21 | UW-NW Ark | \$80,000.00 | \$74,752.27 | \$43,054.26 | \$18,066.96 |
| 22 | UW-NE Ark | \$15,974.00 | \$13,257.50 | \$15,564.48 | \$15,564.48 |
| 23 | UW-Independence Cnty | \$4,000.00 | \$3,000.00 | \$4,000.00 | \$4,000.00 |
| 24 | UW-Mid South | \$4,819.00 | \$3,915.63 | \$4,869.74 | \$4,694.11 |
| 25 | ADHS-DAAS | \$22,178.00 | \$10,528.89 | \$17,383.05 | \$28,119.47 |
| 26 | Donations | \$85,000.00 | \$121,290.45 | \$121,841.44 | \$274,318.40 |
| 27 | Interest income | \$2,500.00 | \$3,709.17 | \$2,994.75 | \$1,887.92 |
| 28 | Attorney fees | \$4,000.00 | \$80,082.32 | \$6,075.97 | \$2,600.00 |
| 29 | Other (Settlement-fees from prior year/Helena Property-sell) | \$0.00 | \$24,822.41 | \$0.00 | \$600.00 |
| 30 | Affordable Care Act (2016-UA.Navig.\$ +ACF \$ | \$0.00 | \$0.00 | \$9,412.72 | \$41,720.29 |
| 31 | SNAP- Rev | \$0.00 | \$0.00 | \$0.00 | \$34,799.00 |
| 32 | Washington County Law Library | \$12,500.00 | \$10,416.70 | \$12,500.04 | \$5,208.35 |
| 33 | RACES-NEA LawDay & NWA Judicata | \$0.00 | \$0.00 | \$7,949.00 | \$9,950.00 |
| 34 | 7 Hills.ServiceVetFamilies | \$0.00 | \$0.00 | \$0.00 | \$6,109.16 |
| 35 | TIG | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| 36 | Revenue (excludes carryOver) | \$2,745,230.24 | \$2,461,382.62 | \$2,690,649.70 | \$2,751,389.78 |

LEGAL AID OF ARKANSAS
 ACTUAL REVENUE & EXPENDITURES
 FOR THE PERIOD JANUARY 1 THRU OCTOBER 31, 2017

| 37 | Expenses: | 2017 Approved Budget | OCT 2017 Actual | Dec 2016 Actual | Dec 2015 Actual |
|----|---|-----------------------|-----------------------|-----------------------|-----------------------|
| 38 | Total-Attny(excludes AMC&EJW; Includes ACH/EJW-MLP) | \$1,308,622.39 | \$994,364.81 | \$1,199,496.14 | \$1,211,944.55 |
| 39 | Total-Paralegals | \$267,946.15 | \$200,876.51 | \$256,056.99 | \$247,042.80 |
| 40 | Total-Other | \$259,004.68 | \$221,407.39 | \$233,297.05 | \$266,684.06 |
| 41 | Total-Americorps | \$112,000.00 | \$67,599.02 | \$70,591.71 | \$18,216.00 |
| 42 | Total-EJW (Living Allow&Suppl Benefits) | \$30,663.08 | \$36,314.17 | \$52,768.40 | \$82,205.24 |
| 43 | Benefits Budgeted (includes Americorp & EJW benefits) | \$360,780.55 | \$270,789.99 | \$305,879.75 | \$331,148.64 |
| 44 | Grand Total of All Payroll | \$2,339,016.85 | \$1,791,351.89 | \$2,118,090.04 | \$2,157,241.29 |
| 45 | | | | | |
| 46 | Space Rent (HA \$675, WM\$600, Helena \$500) | \$21,300.00 | \$18,400.00 | \$20,800.00 | \$17,674.00 |
| 47 | Space Other Expenses | \$34,799.00 | \$23,278.08 | \$34,621.74 | \$34,811.64 |
| 48 | Equipment Rental&Maint | \$14,310.00 | \$12,501.15 | \$17,618.29 | \$11,465.27 |
| 49 | Office Supplies | \$37,850.00 | \$31,944.01 | \$42,149.50 | \$38,071.95 |
| 50 | Postage /Printing | \$15,500.00 | \$11,611.87 | \$15,595.71 | \$18,039.73 |
| 51 | Communication Expense | \$62,240.00 | \$44,433.69 | \$57,699.99 | \$59,858.50 |
| 52 | Travel Board Members & Mtg Supplies | \$4,500.00 | \$1,194.75 | \$1,671.10 | \$3,479.79 |
| 53 | Travel Staff & Others | \$57,000.00 | \$55,057.88 | \$54,942.82 | \$56,994.68 |
| 54 | Training-Board Members | \$3,500.00 | \$1,173.40 | \$760.18 | \$89.28 |
| 55 | Training-Staff & Other | \$35,000.00 | \$19,947.07 | \$45,552.03 | \$36,539.24 |
| 56 | Library | \$14,000.00 | \$11,654.81 | \$14,521.76 | \$16,241.33 |
| 57 | Insurance-Prof Liab, Prop & Gen Liab | \$37,164.36 | \$28,681.51 | \$27,449.48 | \$27,218.95 |
| 58 | Dues & fees | \$16,500.00 | \$16,613.00 | \$15,670.00 | \$15,538.00 |
| 59 | Audit | \$15,000.00 | \$12,700.00 | \$15,000.00 | \$15,000.00 |
| 60 | Litigation | \$20,000.00 | \$2,717.52 | \$13,163.13 | \$4,001.23 |
| 61 | Advertising | \$4,000.00 | \$8,138.01 | \$2,705.45 | \$2,700.68 |
| 62 | Property Acquisition | \$15,000.00 | \$17,002.00 | \$0.00 | \$0.00 |
| 63 | Contract Services to Applicant to ALSP | | | | \$42,000.00 |
| 64 | Depreciation (no affect on Cash) | \$14,443.15 | \$14,060.12 | \$14,114.18 | 14,443.15 |
| 65 | Other (Contract Labor& uncollected 2014Catholic Charity A/R in 2015) | \$7,170.00 | \$9,182.22 | \$5,139.43 | \$13,090.36 |
| 66 | RACE-NEA LawDay | \$0.00 | \$0.00 | \$3,714.12 | \$4,587.45 |
| 67 | TIG(Ben&Wages included above in Payroll Exp-"2014TIG Exp=\$8067") | | | | \$1,810.00 |
| 68 | SPG Bldg Loan Pmts (interest Exp) | \$24,864.00 | \$8,077.43 | \$9,710.34 | \$9,480.00 |
| 69 | | | | | |
| 70 | Total Non-Personnel Exp | \$454,140.51 | \$348,368.52 | \$412,599.25 | \$443,135.23 |
| 71 | | | | | |
| 72 | TOTAL EXPENSES | \$2,793,157.36 | \$2,139,720.41 | \$2,530,689.29 | \$2,600,376.52 |
| 73 | | | | | |
| 74 | Revenues over(under)Exp(excluding carryover) | (\$47,927.12) | \$321,662.21 | \$159,960.41 | \$151,013.26 |
| 75 | Net Assets Beginning of Year (includes PROPERTY & Carryover/Reserves) | 761,650.50 | \$761,650.50 | \$601,690.09 | \$450,676.83 |
| 76 | Net Assets at End of Year(includes PROPERTY&carryover/Reserves) | 713,723.38 | 1,083,312.71 | 761,650.50 | 601,690.09 |
| 77 | Monthly Average Expenses >>>>>>>>> | \$232,763.11 | \$237,746.71 | \$210,890.77 | \$216,698.04 |
| 78 | Avr Monthly Exp in Unrestricted CarryOver(Reserves) | 2.97 | 2.91 | 2.42 | 2.35 |

LEGAL AID OF ARKANSAS, INC (LEGFND)

Detailed Balance Sheet

As of: 10/31/2017

11/7/2017 12:38:43 PM

All Funds

Page 1

Assets

| | | |
|-----------|------------------------------|--------------|
| 10-00-100 | CASH - BANK OF FAYETTEVILLE | 841,949.75 |
| 10-00-101 | CASH-CENTENNIAL BANK-GENERAL | 145,348.09 |
| 10-00-102 | CD - IBERIA BANK | 100,000.00 |
| 10-00-105 | CASH-IN-BANK - B.O.F. LITC | 20.00 |
| 10-00-107 | CASH-IBERIA BANK MM | 124,958.69 |
| 10-00-110 | CLIENTS TRUST BANK ACCTS | 3,853.00 |
| 10-00-140 | PREPAID EXPENSES | 9,531.25 |
| 10-00-150 | LAND | 8,000.00 |
| 10-00-151 | BUILDINGS | 505,799.34 |
| 10-00-155 | FURNITURE & EQUIPMENT | 122,201.89 |
| 10-00-170 | LEASEHOLD IMPROVEMENTS | 71,595.81 |
| 10-00-180 | ACCUMULATED DEPRECIATION | (442,008.26) |

Total Assets

\$1,491,249.56

=====

Liabilities

| | | |
|-----------|-----------------------------|-------------|
| 10-00-204 | CLIENTS TRUST | 3,853.00 |
| 10-00-210 | UNITED WAY W/H | 195.00 |
| 10-00-213 | GROUP INS. W/H & PAYABLE | (15,002.99) |
| 10-00-220 | ACCRUED LEAVE | 71,494.98 |
| 10-00-240 | DEFERRED SUPPORT | 151,667.00 |
| 10-00-245 | NOTE PAYABLE-FIRST SECURITY | 195,729.86 |

Total Liabilities

\$407,936.85

Net Assets

| | | |
|-----------|-----------------------------------|------------|
| 10-00-303 | Net Assets-Property Restricted | 20,882.37 |
| 10-00-304 | NET ASSETS-DONATIONS RESERVE | 100,000.00 |
| 10-00-305 | NET ASSETS-DONATIONS-Unrestricted | 425,363.90 |
| 10-00-306 | Net Assets-Property Unrestricted | 49,805.96 |
| 10-00-320 | NET ASSETS- ARK FILING FEES | 165,598.27 |
| | Excess Revenues Over Expenses | 321,662.21 |

Total Net Assets

\$1,083,312.71

Total Liabilities and Net Worth

\$1,491,249.56

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**AUDIT/FINANCE COMMITTEE
MEETING MINUTES
November 9, 2017**

The Audit/Finance Committee met by conference call on Thursday, November 9, 2017 at 2:00 p.m. to review the 2018 Budget and Audit Agreement. Present were Pam Haun, Lori Chumbler, Annie Smith, Lee Richardson, David Bowman and Elizabeth King.

Ms. Haun called the meeting to order and stated that we need to look over the audit agreement and engagement letter for auditor Yoakum Lovell and Co. Ms. Haun stated that the agreement is for the same price of \$15,000 as in years past and asked the committee members to review the audit agreement and engagement letter. Mr. Richardson stated that the auditors would be in Springdale in December to perform some pre-audit work and then return in February for the full audit. She asked for any questions regarding the audit agreement. Hearing none, she called for a motion to approve the audit agreement.

A motion was made by Lori Chumbler, seconded by Annie Smith to approve the audit agreement and engagement letter with Yoakum Lovell and Co. for the 2017 audit. The motion carried with none opposed.

Ms. Haun stated that the second item is the 2018 budget and projections and asked Mr. Bowman to present.

Mr. Richardson stated that the budget is always a moving target. He stated that in regard to the Legal Services Corporation grant there is a continuing resolution through December 8th and there is a small rescission of less than 1% that would not kick in until January 1st. He stated that as of right now we are projecting level funding for 2018. The House and Senate have both passed bills but neither have gotten down to things like Legal Service Corporation funding. He stated that the House right now is at \$300 million and the Senate at \$385 million and we think we will come in closer in the end to the \$385 million which is why we are projecting level funding, but that could change. He stated that another item is on line 24, Division of Aging and Adult Services, we have not actually received our grant for July 1, 2017 – June 30, 2018. He stated that we did a Freedom of Information Act request on another case and discovered that DHS was trying to figure out who else they might be trying to give the money to through emails received in that request. The principals at DHS in DAAS are Craig Cloud and David Sterling, who is lead counsel. Amy Johnson with the Arkansas Access to Justice has reached out to Mr. Cloud on our behalf and he has told her that he did not like our messaging and some of our lawsuits against DHS and wanted to explore other avenues for this grant. Mr. Richardson stated that it is Title III funds and under the Older Americans Act it is supposed to be going to Legal Services. The Freedom of Information Act information he saw indicated that they were trying to figure out if they could contract with private attorneys instead. He stated that that line right now says \$22,170 and that is not a done deal by any means as usually that contract would be done in July and it is now November and we do not have a signed contract. He stated that this is all money someone else is giving us and it can change on a whim but that is the only thing on the list that is not solid as far as income. He further stated that under expenses we have projected spending wages on various people and that changes as the year goes, people come and go but we try to stay within the general range of the budget knowing it will never be exact. He stated that expenses are probably a little over from what they will actually be and our income is probably a little under

what it will actually end up being as that seems to be the case every year. He stated that we are projecting a \$9,800 deficit for 2018 and that is fine as we are carrying \$700,000 forward so we are not in the red but we will be in the red for income over expenses in 2018. He stated that the bottom line is we finally got to the point where we are carrying forward three months of expenses in reserve and we are hoping to stay at three months and certainly not drop below two and a half months so we are in a good place now. He stated that we are projecting we will still carry over the three months even with the \$9,800 deficit. He asked Mr. Bowman for comments.

Mr. Bowman stated that he usually projects a little high on benefits and you will see that we had projected \$342,000 and we will probably come in for 2017 about \$10,000 less at this point. Mr. Richardson stated that in regard to benefits we just got our renewal quote from QualChoice and it was actually a decrease. He stated that you hear about health insurance going up all the time and it seems like ours generally goes down. He stated that everyone except those that have dependents on the plan, which is just three employees, would see a decrease so this will be good for the employees.

Ms. Haun asked for any questions or concerns, hearing none she asked for a motion.

A motion was made by Lori Chumbler, seconded by Annie Smith to approve the projected 2018 Budget. The motion carried with none opposed.

Mr. Bowman stated that he had included the year to date income and expenses sheet and balance sheet through October for the committee to review and asked if there were any questions. He stated we are about \$18,000 short from the prior month but still looking good.

Mr. Richardson further stated that there has been a time or two that the Centennial Bank Account has gone over the \$250,000 threshold simply because of money going and coming at different times than we thought it would. He stated that this means that any amounts over \$250,000 would not have been protected for that short period of time. He stated that the auditors will mostly likely warn us on that when they perform the audit. He stated that we are trying to watch that closely to keep it from happening. He further stated that in the Farmers and Merchants bank account we have securities pledged to cover much higher amounts.

Hearing no other business, the meeting was adjourned.

*Presented to Board December 9, 2017

LEGAL AID OF ARKANSAS
 PROJECTED REVENUE & EXPENDITURES
 FOR THE PERIOD JANUARY 1 THRU DECEMBER 31

| Line# | Revenue: | 2017 Projected | 2018 Projected |
|-------|--|-----------------------|-----------------------|
| 1 | LSC BASIC GRANT | \$1,469,994.50 | \$1,469,994.50 |
| 2 | Ark Adm Justice Funds | \$250,213.80 | \$250,213.86 |
| 3 | Americorps (Includes CALS Funds and Summer Project) | \$57,447.69 | \$0.00 |
| 4 | STOP/VAWA/VOCA | \$119,465.62 | \$132,192.00 |
| 5 | Modest Means | \$225.00 | \$0.00 |
| 6 | IRS-LITC | \$60,000.00 | \$60,000.00 |
| 7 | IOLTA-Housing Foreclosure | \$260,878.92 | \$262,378.00 |
| 8 | AATJF-Fair Housing Special Grant - 2017/2018 (2017-7/months) | \$35,612.50 | \$25,437.50 |
| 9 | MLP-EJW & ACH | \$110,553.07 | \$110,553.07 |
| 10 | ST VINCENT | \$30,000.00 | \$30,000.00 |
| 11 | GEORGETOWN UNIVERSITY | \$16,666.67 | \$0.00 |
| 12 | Equal Justice Works | \$30,059.80 | \$25,200.00 |
| 13 | AAA-White River | \$1,687.50 | \$2,000.00 |
| 14 | AAA-East Arkansas | \$35,000.00 | \$35,000.00 |
| 15 | AAA NWA | \$9,112.00 | \$9,112.00 |
| 16 | UW-Boone Cnty | \$2,000.00 | \$2,000.00 |
| 17 | UW-Bly | \$3,000.00 | \$3,000.00 |
| 18 | UW-NW Ark | \$87,252.27 | \$75,000.00 |
| 19 | UW-NE Ark | \$15,909.00 | \$15,974.00 |
| 20 | UW-Independence Cnty | \$4,000.00 | \$4,000.00 |
| 21 | UW-Mid South | \$3,915.63 | \$3,915.63 |
| 22 | ADHS-DAAS | \$10,528.89 | \$22,178.00 |
| 23 | Donations | \$121,472.45 | \$85,000.00 |
| 24 | Interest income | \$4,409.17 | \$3,000.00 |
| 25 | Attorney fees | \$80,082.32 | \$4,000.00 |
| 26 | Other | \$24,822.41 | \$0.00 |
| 27 | Washington County Law Library | \$12,500.00 | \$12,500.00 |
| 28 | National Health Law Program | \$4,166.67 | \$45,833.33 |
| 29 | | | |
| 30 | Revenue (excludes carryOver) | \$2,860,975.88 | \$2,688,481.89 |
| | | | |

LEGAL AID OF ARKANSAS
 PROJECTED REVENUE & EXPENDITURES
 FOR THE PERIOD JANUARY 1 THRU DECEMBER 31

| 31 | Expenses: | 2017 Projected | 2018 Projected |
|----|---|-----------------------|-----------------------|
| 32 | Total-Attorney | \$1,258,479.86 | \$1,346,228.81 |
| 33 | Total-Paralegals | \$248,386.39 | \$229,879.58 |
| 34 | Total-Other plus | \$278,133.58 | \$286,544.78 |
| 35 | Total-Americorps | \$67,599.02 | \$0.00 |
| 36 | Total-EJW (Living Allow&Suppl Benefits) | \$43,292.23 | \$38,360.00 |
| 37 | Benefits Budgeted (includes Americorp & EJW benefits) | \$333,819.50 | \$342,885.90 |
| 38 | Grand Total of All Payroll | \$2,229,710.58 | \$2,243,899.06 |
| 39 | | | |
| 40 | Space Rent (HA \$675, WM\$600, Helena \$275) | \$19,950.00 | \$18,600.00 |
| 41 | Space Other Expenses | \$34,656.74 | \$34,799.00 |
| 42 | Equipment Rental&Maint | \$17,253.68 | \$14,310.00 |
| 43 | Office Supplies | \$37,441.56 | \$37,850.00 |
| 44 | Postage /Printing | \$14,203.58 | \$15,500.00 |
| 45 | Communication Expense | \$60,299.29 | \$61,240.00 |
| 46 | Travel Board Members & Mtg Supplies | \$2,389.50 | \$4,500.00 |
| 47 | Travel Staff & Others (includes 50th Ann Celebration in 2017) | \$70,455.54 | \$65,000.00 |
| 48 | Training-Board Members | \$1,173.40 | \$3,500.00 |
| 49 | Training-Staff & Other | \$40,852.22 | \$35,000.00 |
| 50 | Library | \$13,949.81 | \$14,000.00 |
| 51 | Insurance-Prof Liab, Prop & Gen Liab | \$28,681.51 | \$29,541.96 |
| 52 | Dues & fees | \$17,423.00 | \$17,500.00 |
| 53 | Audit | \$15,000.00 | \$15,000.00 |
| 54 | Litigation | \$7,717.52 | \$20,000.00 |
| 55 | Advertising (includes 50th Ann Celebration in 2017) | \$8,638.01 | \$4,000.00 |
| 56 | Property Acquisition | \$17,002.00 | \$15,000.00 |
| 57 | Contract Services to Applicant to ALSP | | |
| 58 | Depreciation (no affect on Cash) | \$14,060.12 | \$14,443.15 |
| 59 | Other (Contract Labor) | \$9,662.22 | \$9,700.00 |
| 60 | RACE-NEA LawDay | \$0.00 | \$0.00 |
| 61 | TIG(Ben&Wages included above in Payroll Exp-"2014TIG Exp=\$8067") | \$0.00 | |
| 62 | SPG Bldg Loan Pmts (interest Exp) | \$10,753.43 | \$24,864.00 |
| 63 | | | |
| 64 | Total Non-Personnel Exp | \$441,563.13 | \$454,348.11 |
| 65 | | | |
| 66 | TOTAL EXPENSES | \$2,671,273.71 | \$2,698,247.16 |
| 67 | | | |
| 68 | Revenues over(under)Exp(excluding carryover) | \$189,702.17 | (\$9,765.27) |
| | | | |
| 69 | Net Assets Beginning of Year (includes PROPERTY & Carryover/Reserves) | 761,650.50 | 951,352.67 |
| | | | |
| 70 | Net Assets at End of Year(includes PROPERTY&carryover/Reserves) | 951,352.67 | 941,587.39 |
| | | | |
| 71 | Monthly Average Expenses >>>>>>>>> | \$222,606.14 | \$224,853.93 |
| 72 | Avr Monthly Exp in Unrestricted CarryOver(Reserves) | 3.10 | 3.07 |



Yoakum, Lovell & Co., PLC

CERTIFIED PUBLIC ACCOUNTANTS

October 25, 2017

To the Board of Directors
Legal Aid of Arkansas
714 South Main St
Jonesboro, AR 72401

We are pleased to confirm our understanding of the services we are to provide for Legal Aid of Arkansas for the year ended December 31, 2017.

We will audit the financial statements of Legal Aid of Arkansas, which comprise the statement(s) of financial position as of December 31, 2017, the related statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the financial statements. Also, the following supplementary information accompanying the financial statements will be subjected to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole.

- 1) Schedule of expenditures of federal awards.
- 2) Statements of activities by funding source
- 3) Statement of private attorney involvement

Audit Objectives

The objective of our audit is the expression of an opinion about whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on:

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal

control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such an opinion. We will issue written reports upon completion of our Single Audit. Our reports will be addressed to board of directors of Legal Aid of Arkansas. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion or add an emphasis-of-matter or other-matter paragraph. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or issue reports, or we may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the Organization or to acts by management or employees acting on behalf of the Organization. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from the Organization's attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the Organization and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of Legal Aid of Arkansas's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Organization's major programs. The purpose of these procedures will be to express an opinion on Legal Aid of Arkansas's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will prepare the Organization's federal and state information returns for the year ended December 31, 2017 for the federal government based on information provided by you. We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the Organization in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*.

We will perform the services in accordance with applicable professional standards, including the Statements on Standards for Tax Services issued by the American Institute of Certified Public Accountants. The other services are limited to the financial statements, schedule of expenditures of federal awards, related notes, and tax services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities. We will advise management with regard to tax positions taken in the preparation of the tax return, but management must make all decisions with regard to those matters.

Management Responsibilities

Management is responsible for (1) designing, implementing, and maintaining effective internal controls, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us, and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all

information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the organization from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Organization involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Organization received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the Organization complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the tax services, financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter the tax services provided and our assistance with preparation of the financial statements, the schedule of expenditures of federal awards, and related notes and that you have evaluated the adequacy of our services and have reviewed and approved the results of the services, the financial statements, the schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We may from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, and other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

We will provide copies of our reports to the Organization; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Yoakum, Lovell and Company, LLC and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to Legal Aid of Arkansas or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Yoakum, Lovell and Company, LLC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Legal Aid of Arkansas. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.


Zeke Jones is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. We expect to begin our audit on approximately February 2018 and to complete your information returns and issue our reports no later than March 31, 2018.

Our fees for these services will be based on the attached audit agreement. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses

and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended through the date of termination. We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,



Yoakum, Lovell and Company, LLC

RESPONSE:

This letter correctly sets forth the understanding of Legal Aid of Arkansas.

By: _____

Title: _____

Date: _____

Legal Aid of Arkansas
Audit Agreement

1. This agreement, between Legal Aid of Arkansas and Yoakum, Lovell & Company, PLC, shall be effective as of the date of execution below.
2. Yoakum, Lovell & Company, PLC will audit the financial records, accounts and statements of Legal Aid of Arkansas as of December 31, 2017 and for the year ended December 31, 2017.
3. The audit will be conducted in accordance with auditing standards generally accepted in the United States, the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Office of Management and Budget (OMB) Uniform Guidance; and the LSC Audit Guide for Recipients and Auditors.
4. The audit will include tests of the accounting records and such other audit procedures as necessary to express an independent opinion on the statement of financial position and the related statements of activities, and cash flows, and reports on compliance with laws and regulations and the internal control structure.
5. Yoakum, Lovell & Company, PLC will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. Under the concept of reasonable assurance, Yoakum, Lovell & Company, PLC will exercise its judgment about the number of transactions to be examined and the areas to be tested. There is, therefore, a risk that material errors, irregularities or illegal acts, including fraud or defalcations, may exist and not be detected. Yoakum, Lovell & Company, PLC will, however, advise immediately the LSC OIG of any such matters that come to its attention. Yoakum, Lovell & Company, PLC's responsibility is limited to the period covered by the audit and does not extend to matters that might arise during any later periods.
6. Yoakum, Lovell & Company, PLC, as part of the engagement, will request written representations from Legal Aid of Arkansas' attorneys. Prior to the conclusion of the audit, Yoakum, Lovell & Company, PLC will also request certain written representations from Legal Aid of Arkansas' management about the financial statements and related matters. It is understood that these financial statements are the responsibility of management. This responsibility includes the maintenance of adequate records and related internal control structure policies and procedures, the selection and application of accounting principles, and the safeguarding of assets. Yoakum, Lovell & Company, PLC will advise management about the appropriate accounting principles and their application, and will assist in the preparation of the financial statements, if necessary.
7. Yoakum, Lovell & Company, PLC understands that it has the responsibility:
 - a. To prepare the audit reports in accordance with the requirements of Government Auditing Standards, OMB Uniform Guidance, and the LSC Audit Guide for Recipients and Auditors;
 - b. To prepare and electronically submit a summary report form on noncompliance with laws and regulations, questioned costs and reportable conditions;
 - c. To provide a special report to the OIG on noncompliance in the event that the recipient fails to do so in accordance with the requirements of the LSC Audit Guide for Recipients and Auditors; and
 - d. To notify OIG within five business days of its termination or cessation of services to the recipient.
8. Yoakum, Lovell & Company, PLC will also prepare the federal tax return (IRS form 990) for the year

Legal Aid of Arkansas
Audit Agreement

ending December 31, 2017.

9. Entrance and exit conferences will be held with Legal Aid of Arkansas' management, and Yoakum, Lovell & Company, PLC representatives.
10. Legal Aid of Arkansas management's responses to draft audit reports will be delivered to Yoakum, Lovell & Company, PLC for inclusion in the final reports, where practical.
11. Yoakum, Lovell & Company, PLC will deliver to the Legal Aid of Arkansas:
 - a. Three copies of the draft audit reports no later than March 31, 2018.
 - b. The original and 10 copies of the final audit reports no later than 90 days after closing; and
 - c. The federal tax return within a reasonable time after the acceptance of the final audit reports.
12. In consideration for the satisfactory performance of the audit, Yoakum, Lovell & Company, PLC will receive \$15,000, paid as follows:
 - a. Upon monthly billings, provided that such billings do not exceed \$14,750 and detail the work performed, number of hours worked and rate charged; and
 - b. Upon delivery of the completed federal tax return, \$250.
13. Yoakum, Lovell & Company, PLC will immediately notify the Legal Aid of Arkansas of any significant and/or reportable conditions noted during the course of the audit.
14. Audit working papers will be prepared in accordance with *Government Auditing Standards*, and will be retained by Yoakum, Lovell & Company, PLC for at least three years from the date of the final audit report. The working papers will be available for examination upon request by authorized representatives of LSC and the Comptroller General of the United States. The audit working papers will be subject to a quality assurance review conducted by the LSC OIG.
15. The certifications numbered a through h are incorporated by reference and made a part of this agreement.
16. In the event that there is a significant change in funding from the LSC and/or a change in the legal or regulatory requirements applicable to this audit, Legal Aid of Arkansas shall be allowed either to: 1) withdraw from this engagement after paying in full for any and all services rendered by Yoakum, Lovell & Company, PLC prior to the date of withdrawal; or 2) seek, without penalty, a negotiated modification of this agreement which would result in the satisfaction of the new legal requirements through the services to be performed under the modified agreement.
17. The fees set by this agreement are based upon the following assumptions: management will respond promptly to all requests for basic information and/or documentation; the books will have been posted through the year; all adjustments will have been posted; management personnel will prepare cash and other confirmations; and that year-end schedules supporting the account balances will be provided.

Legal Aid of Arkansas
Audit Agreement

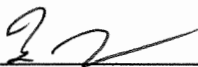
18. Yoakum, Lovell & Company, PLC will give an oral presentation of its audit report to the board of directors.
19. If circumstances arise that will require additional services and time by Yoakum, Lovell & Company, PLC, they will notify the Legal Aid of Arkansas and obtain its agreement prior undertaking such activities. The hourly fee for such agreed to services will be \$135 for a partner and \$115 for staff accountant from our firm.
20. The terms of this agreement may be modified only in writing, signed by duly authorized representatives of the parties.
21. If the parties are unable to resolve a dispute regarding the acceptability of deliverables under this agreement, the dispute will be submitted to the American Arbitration Association for resolution through binding arbitration.
22. This agreement, which includes the matter specifically incorporated by reference, constitutes the entire agreement between the parties.
23. This agreement has been made, and shall be construed, in accordance with the laws of the state of Arkansas.
24. Upon completion of the audit, a detailed bill will be provided showing hours worked, the rate per hour charged, and the level of staff working on the audit.

Executed on this _____ day of _____, 20____ for the parties by their duly authorized representatives.

Legal Aid of Arkansas

By: _____

Yoakum, Lovell & Company, PLC

By:  _____

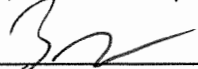
Legal Aid of Arkansas
Audit Agreement

Certifications

- A. The individual signing certified that he is authorized to contract on behalf of Yoakum, Lovell & Company and to make these certifications.
- B. The individual signing certified that Yoakum, Lovell & Company is not involved in any agreement to pay money or other consideration for the execution of this agreement, other than to an employee of Yoakum, Lovell & Company.
- C. The individual signing certified that Yoakum, Lovell & Company meets the independence standards of the *Government Auditing Standards* issued by the comptroller general of the united states.
- D. The individual signing certified that he is aware that all individuals to be assigned to the audit have met the GAO continuing education requirement of 80 hours of continuing education every two years; and that 24 hours of this education have been in subjects directly related to the auditing of government grants.
- E. The individual signing certified that he has read and understands the GAO requirement of an external quality control review at least once every three years.
- F. The individual signing certified that the contractor, and any individuals to be assigned to the audit, does not have a record of substandard audit work and has not been debarred or suspended from doing work with any federal, state, or local government.
- G. The individual signing certifies that Yoakum, Lovell & Company does carry professional malpractice insurance or is otherwise adequately self-insured.
- H. The individual signing certifies that Yoakum, Lovell & Company does not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, disability, or any other basis prohibited by law. Yoakum, Lovell & Company shall take affirmative action to insure that employees are treated during their employment, without regard to race, color, religion, sex, age, national origin, disability, or any other basis prohibited by law. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Yoakum, Lovell & Company will, in all solicitations or advertisements for employees placed by or on behalf of Yoakum, Lovell & Company, state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, disability or any other basis prohibited by law.

Dated this 31 day of October, 2017

Yoakum, Lovell & Company, PLC

By: 

Zeke Jones
Certified Public Accountant

As its: Partner

Legal Aid of Arkansas, Inc.

Certification of Objective Integrity and Independence – 45 CFR 1610.8 (pasted below signature block) requires that we have objective integrity and independence from any program that engages in restricted activities. We have been in strict compliance with this regulation for the previous 12 months and I recommend such certification be made to the Legal Services Corporation as required by 1610.8 (b).



Lee Richardson
Executive Director
December 9, 2017

§ 1610.8 Program integrity of recipient.

(a) A recipient must have objective integrity and independence from any organization that engages in restricted activities. A recipient will be found to have objective integrity and independence from such an organization if:

(1) The other organization is a legally separate entity;

(2) The other organization receives no transfer of LSC funds, and LSC funds do not subsidize restricted activities; and

(3) The recipient is physically and financially separate from the other organization. Mere bookkeeping separation of LSC funds from other funds is not sufficient. Whether sufficient physical and financial separation exists will be determined on a case-by-case basis and will be based on the totality of the facts. The presence or absence of any one or more factors will not be determinative. Factors relevant to this determination shall include but will not be limited to:

(i) The existence of separate personnel;

(ii) The existence of separate accounting and timekeeping records;

(iii) The degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and

(iv) The extent to which signs and other forms of identification which distinguish the recipient from the organization are present.

(b) Each recipient's governing body must certify to the Corporation within 180 days of the effective date of this part that the recipient is in compliance with the requirements of this section. Thereafter, the recipient's governing body must certify such compliance to the Corporation on an annual basis.

CERTIFICATION OF PROGRAM INTEGRITY

Recipient Name: Legal Aid of Arkansas

Recipient Number: 604020

I certify that the governing body has received and reviewed a written report from the executive director pertaining to the recipient's compliance with the program integrity requirements of 45 CFR 1610 and authorized me, based on the governing body's review and discussion of the director's report, to certify that:

1. The recipient is a legally separate entity from any organization which engages in restricted activity; *and*
2. Except for funds provided to a bar association, *pro bono* program, private attorney or law firm, or other entity for the sole purpose of funding private attorney involvement activities (PAI) pursuant to 45 CFR Part 1614, since December 10, 2016, the recipient has not transferred LSC funds to any organization which engages in restricted activity; *and*
3. Since December 10, 2016, the recipient has not utilized recipient funds or resources to subsidize the restricted activity of any organization; *and*
4. The recipient meets the requirements of 45 CFR 1610.8(a) in that the recipient is physically and financially separate from any organization which engages in restricted activity. Factors relevant to the Board's determination of program independence and integrity include:
 - a. The existence of separate personnel;
 - b. The existence of separate accounting and timekeeping records;
 - c. The degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities;
 - d. The extent to which signs and other forms of identification which distinguish the recipient from the other organization are present.

On behalf of the governing body, I acknowledge that compliance with the integrity and independence requirements of 45 CFR 1610.8(a) is a prerequisite to the recipient receiving continued funding from the Legal Services Corporation.

December 9, 2017

Date

Lori Chumbler, Chair
Board of Directors

| Position No. | Appointing Organization | Location | Client Population | Board Member | Term Expires |
|---------------------|--|---|--|---------------------|---------------------|
| 1 | Lee, Monroe or Phillips County Bar Association | 1st Judicial District | Lee, Monroe and Phillips counties | Faye Reed | 12/31/2018 |
| 2 | Cross, St. Francis or Woodruff County Bar Associations | 1st Judicial District | Cross, St. Francis and Woodruff counties | Mary Hoshall Hodges | 12/31/2018 |
| 3 | Crittenden County or Osceola Bar Associations | 2nd Judicial District | Crittenden and Mississippi (South) counties | Ron Wilson | 12/31/2017 |
| 4 | Clay or Greene County or Blytheville Bar Associations | 2nd Judicial District | Clay, Greene and Mississippi (North) counties | Neil Burns | 12/31/2018 |
| 5 | Craighead or Poinsett County Bar Association | 2nd Judicial District | Craighead and Poinsett counties | Val Price | 12/31/2018 |
| 6 | Jackson, Lawrence, Randolph or Sharp County Bar Associations | 3rd Judicial District | Jackson, Lawrence, Randolph and Sharp counties | Tim Watson, Jr. | 12/31/2019 |
| 7 | Cleburne, Fulton, Independence, Izard or Stone County Bar Associations | 16th Judicial District | Cleburne, Fulton, Independence, Izard and Stone counties | Beverly Claunch | 12/31/2017 |
| 8 | Madison or Washington County Bar Associations | 4th Judicial District | Madison and Washington counties | Niki Cung | 12/31/2019 |
| 9 | Benton County Bar Association | 19th (East) Judicial District | Benton County | Lori Chumbler | 12/31/2018 |
| 10 | Boone-Newton or Carroll County Bar Associations | 14th and 19th (East) Judicial Districts | Boone, Carroll and Newton counties | Kandy Webb | 12/31/2017 |
| 11 | Baxter, Marion, Searcy or Van Buren County Bar Associations | 14th and 20th Judicial Districts | Baxter, Marion, Searcy and Van Buren counties | Donna Price | 12/31/2019 |
| 12 | University of Arkansas School of Law at Fayetteville | At Large | At Large | Annie B. Smith | 12/31/2017 |

| | | | | | |
|-----------|--|----------|---------------------------------|------------------|------------|
| 13 | Arkansas Bar Association | At Large | At Large | Curtis Walker | 12/31/2017 |
| 14 | Domestic Violence Service Community-Family Violence Prevention | At Large | Victims of Domestic Violence | Ashlie Thacker | 12/31/2018 |
| 15 | Area Agencies on Aging-Area Agency on Aging of East AR | At Large | Elderly | Rene Ward | 12/31/2019 |
| 16 | Community Action Programs- CRDC | At Large | Program Clients | Dennis Blackmore | 12/31/2018 |
| 17 | Mental Health/Disability- Arkansas Support Network | At Large | Mentally Ill/Disabled | Demetre Walker | 12/31/2019 |
| 18 | Faith Based Service Organization-Ozark Rape Crisis Center | At Large | Program Clients | Laura Sharp | 12/31/2017 |
| 19 | United Way Agency-CASA of the 2 nd Judicial District | At Large | Agency Clients | Helen Jenkins | 12/31/2019 |
| 20 | Misc Organization Serving Low-Income Clients – Workers Justice | At Large | Program Clients | Vilma Ascensio | 12/31/2017 |
| 21 | Wild Card | At Large | At Large | Pamela Haun | 12/31/2019 |

**Expiring Board
Terms**

Ron Wilson
(Crittenden County or Osceola
Bar Associations)

Beverly Claunch
(Cleburne, Fulton,
Independence, IZard or Stone
County Bar Associations)

Kandy Webb
(Boone-Newton or Carroll
County Bar Associations)

Annie Smith
(University of Arkansas School
of Law at Fayetteville)

Curtis Walker
(Arkansas Bar Association)

Laura Sharp
(Faith Based Service
Organization)

Vilma Ascencio
(Misc Organization Serving
Low-Income Clients)

Current Officers

Lori Chumbler, Chair
Pam Haun, Vice Chair
Annie Smith, Treasurer
Vilma Ascencio,
Secretary

Executive Committee

Vilmma Ascencio
Lori Chumbler
Niki Cung
Pam Haun
Annie Smith
Ron Wilson

**Personnel/Client
Grievance Committee**

Val Price (Chair)
Lori Chumbler
Faye Reed
Demetre Walker

**Search/Appointments
/Nominations
Committee**

Beverly Claunch
(Chair)
Niki Cung
Lori Chumbler
Helen Jenkins

**Client Advisory
Group**

Vilma Ascencio
Dennis Blackmore
Ashlie Thacker
Helen Jenkins
Laura Sharp
Demetre Walker
Rene Ward
Niki Cung

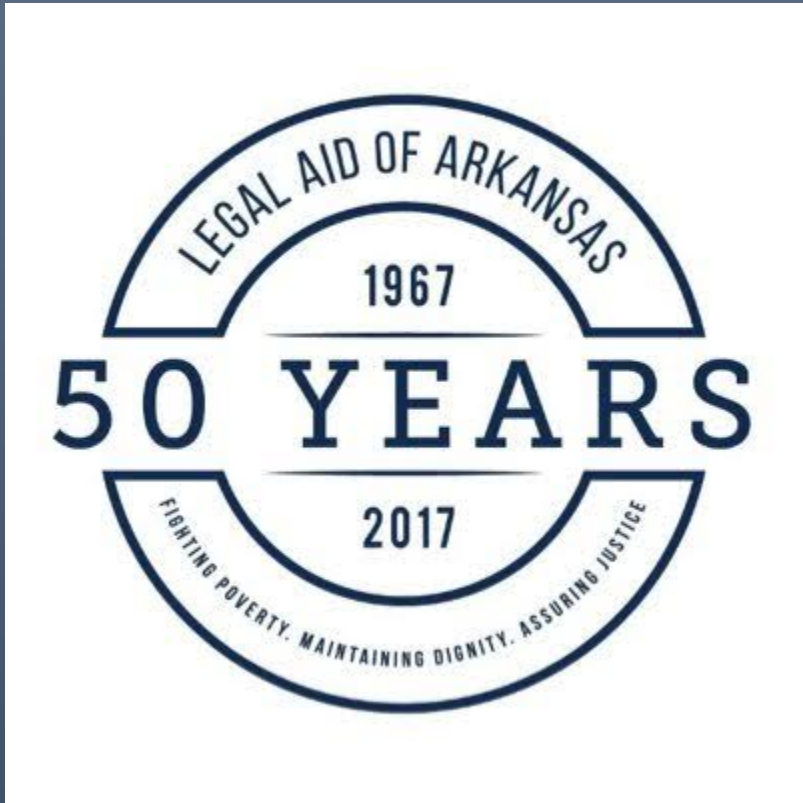
**Audit/Finance
Committee**

Pam Haun (Chair)
Helen Jenkins
Annie Smith
Lori Chumbler

**Legal Aid of Arkansas
2018
Proposed Board Meeting Dates & Locations**

Parameters- Meetings must be held quarterly. We have traditionally rotated meetings throughout the service area. We have had meetings in Batesville, Blytheville, Brinkley, Fayetteville, Forrest City, Harrison, Heber Springs, Helena-West Helena, Jonesboro, Little Rock, Mountain Home, Mountain View, Newport, Rogers, Springdale and West Memphis.

| DATE | LOCATION |
|--------------------------|------------------------------------|
| March 24, 2018 | Clinton |
| June 3, 2018 (tentative) | TBA (joint with Access to Justice) |
| September 8, 2018 | Springdale |
| December 8, 2018 | Jonesboro |



CASE ACCEPTANCE PRIORITIES



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2018 CASE ACCEPTANCE PRIORITIES

Legal Aid's priorities consist of four core areas: Access to Safe and Affordable Housing; Protection from Domestic Violence; Economic Justice; and Consumer Rights. These core areas reflect Legal Aid's strategic focus to support families; preserve homes; maintain economic stability; ensure safety, stability and health; and identify and address the needs of vulnerable populations.

CASE ACCEPTANCE DECISIONS

Workgroups shall make decisions according to case acceptance priorities. Staff may provide advice, limited services, and referrals to any eligible applicant, including case types not considered for extended representation. Referrals to *pro se* resources will be made only after considering the circumstances and the likelihood of the applicant being successful proceeding *pro se*. Extended representation may involve negotiation; document preparation; administrative or court representation; appellate practice; systemic advocacy; transactional work; community economic development; or legislative and administrative rulemaking, as permissible.

When evaluating a case for extended **REPRESENTATION**, workgroups will consider:

1. The likelihood of **legal success**;
2. The amount of **program resources required** to address the legal problem;
3. The **availability of program resources** for effective representation;
4. Any particular **vulnerability of the applicant**;
5. **Alternative community and pro bono resources**;
6. The **seriousness** of the legal matter, including its impact on the applicant and whether the matter is common or systemic in nature; and
7. The long-term **benefit of representation** to the client and/or client community.

PRO BONO RESOURCES

To maximize the use of volunteer resources, Legal Aid may accept cases outside of case acceptance priorities when volunteer resources are available. In these cases, Legal Aid will notify clients that if no volunteer resource is available, only advice, limited services, or referral will be provided.

TARGETED PROJECTS AND POPULATIONS

Legal Aid may provide specialized services to address the needs of certain populations. Priorities and financial guidelines may be modified for specific geographic areas; projects; or targeted underserved or vulnerable populations or areas experiencing disasters. For special projects without separate funding, financial guidelines may be modified up to 200% of the national eligibility level. Expanded priorities may be specified by an addendum to these priorities.

When specialized grant funding exists, Legal Aid may also expand income eligibility or case priorities to meet funding obligations. For example Equal Justice Works, Title III, LITC, MLP, IOLTA Housing, VOCA, and donation funding may exceed 200% when/if allowed by those specific grants or funding sources. All expansions will comply with LSC regulations.

For 2018, targeted projects include medical-legal partnerships, Monroe County Children in Trust, low-income taxpayer clinic, housing issues including fair housing, and employment opportunity.

EMERGENCY CASES

Emergency situations may arise where Legal Aid is compelled to undertake legal representation on a case outside case acceptance priorities. Subject to the Executive Director's or designee's approval, emergency representation is allowable under the following conditions:

- Client is eligible for legal services; and
- Legal assistance is immediately necessary to:
 - (a) Secure or preserve the necessities of life;
 - (b) Protect against or eliminate a significant risk to health and safety;
 - (c) Address significant legal issues that arise because of new or unforeseen circumstances; or
 - (d) To prevent an extreme miscarriage of justice.

In emergency cases, the staff member shall document the emergency condition in the case management system and send the information to his/her work group leader, Regional Manager, and the Executive Director. Subsequent reports shall be made to the Board regarding the case.

COMMUNITY EDUCATION AND OUTREACH

Legal Aid will develop a separate Community Education and Outreach plan annually, as a stand-alone document or part of each Substantive Groups work plan. The plan reflects an intentional emphasis on increasing Legal Aid's visibility and participation in eligible-client communities and increasing community awareness of legal rights and responsibilities.

REVIEW OF PRIORITIES

The Board of Directors and program staff shall review priorities annually with input from justice community members, including the private bar, the judiciary, court staff, Access to Justice Commission, the Center for Arkansas Legal Services, and client-eligible community members and service organizations. Statistical data, progress reports, anecdotal information, client satisfaction surveys results, emerging legal issues, legal needs study results, needs surveys completed by

clients and community members, and other appropriate information will be considered in determining critical legal needs.

SUSPENSION OF CASE ACCEPTANCE

The Executive Director or designee may declare a temporary moratorium on non-emergency case acceptance during resource shortages, human or financial, to allow staff members to retain their strategic focus and meet their professional responsibility to current clients.

CASE HANDLER AGREEMENT (45 CFR 1620.6)

All staff attorneys, paralegals, and all other staff providing direct legal assistance to clients shall sign an Agreement to review and abide by Case Acceptance Priorities.

CONSUMER LAW WORKGROUP PRIORITIES

Our mission: To assure due process by championing equal justice for low-income consumers.

Our vision: Protecting income and assets for those with no access to justice.

GENERAL ASPIRATIONS

- Protect wages, housing, employment, Social Security, or to otherwise stabilize a client.
- Coordinate with ongoing Legal Aid projects to prioritize clients from certain groups, i.e. clients introduced through a drug court, veteran's hospital, MLP, LEP community outreach, etc., while considering minority populations and those with no other resources.
- Identify and address systemic issues that perpetuate poverty.
- Work with outside organizations such as the Attorney General's Office to combat abuse and exploitation of low-income Arkansans.
- Partner with other workgroups to provide comprehensive services.
- Acceptance of fewer cases by the workgroup will allow members to focus on priority areas.

CASE REPRESENTATION PRIORITIES

The Consumer workgroup will accept cases in the following subject matters, detailed within, for extended services:

- Criminal record sealing
- Bankruptcies where loss of wages, transportation, or housing is threatened
- Unfair debt collection
- Auto sale fraud
- Identity theft
- Income tax controversies
- Financial exploitation of the elderly

PRIORITY AREAS

Re-entry

- Criminal Record Sealing –
 - Where a felony Petition to Seal is likely to be approved by a Circuit Court and falls within a petition to seal statute.
 - For multiple felonies in cases where we can seal all the felony records but exceptions can be made where one conviction is causing harm.
- Criminal Record Sealing - Misdemeanors, Arrests, *Nol Prosequi* - If a misdemeanor record is particularly detrimental to housing or employment (recent thefts, possession, assault), as resources allow.

Bankruptcy

Chapter 7 bankruptcy petitions

- Where the wages of the client are being garnished or subject to garnishment to protect and stabilize the family.
- Where the transportation of the client is subject to repossession, to stop repossession of the car, or to recover the car for the client.
- When client is facing loss of their home, referral to the housing workgroup for bankruptcy assessment.

Debt Collection

- Debt collection – Fair Debt Collection Practices Act, Fair Credit Reporting Act – where the client has a cause of action and a likelihood of prevailing.
- Debt collection defense - Where a client has a meritorious case, such as debt buyer, medical provider, student loan servicers, or deficiency actions.

Auto Fraud

- Violations – Where a used car dealer has violated state or federal laws, rules, or regulations.

Identity Theft

For those affected by data breaches, file ID theft and police reports, provide instructions on how to freeze those accounts opened as a result of theft, and provide assistance in utilizing the Fair Credit Reporting Act to block the erroneous item(s) from their credit report within four days to qualify for a home or car loan.

Income Tax

- Assist with responses to collection activities, including liens and levies.
- Innocent Spouse Relief cases.
- Audit representation and audit reconsiderations.
- Collection alternatives, including Offers In Compromise.
- Identify theft.
- US Tax Court representation, including *pro se* petitioners referred by U.S. Tax Court.
- Worker misclassification (1099 –MISC instead of W-2).
- Non-filers coming into voluntary compliance.
- Other meritorious tax claims.

The Low Income Taxpayer Clinic (LITC) will appear at each U.S. Tax Court calendar call in Little Rock. The LITC will provide U.S. Tax Court assistance on both small and regular case dockets, and will be made available to unrepresented clients who otherwise meet Legal Aid LITC case acceptance guidelines. The level of assistance provided to each individual client may range from counsel and advice or brief services to full representation. Determination regarding the level of assistance will be made by the Tax Clinic Director, after a review and assessment regarding the merits of the case.

Financial Exploitation of the Elderly

For clients over 60 years of age in Northwest and North Central counties, the Consumer workgroup will refer the following elder abuse cases to Valerie Morato, Equal Justice Works Fellow Attorney in Harrison:

- Where caretakers coerce clients into signing financial documents that are against their interest.
- Where an elderly client has been or is being exploited by a car dealer or debt buyer.
- Consumer scams affecting elderly applicants.

ADVICE AND LIMITED SERVICES

All cases receive some minimal advice regarding the cause of action, the timing to pursue the claim, and how to contact a private attorney. Brief services for cases that can be done quickly and provide the client some type of relief.

The Consumer workgroup and the Low Income Taxpayer Clinic will continue community education efforts.

- Continue implementation of financial literacy program with the Arkansas Coalition of Marshallese and Credit Counselling of Arkansas.
- Educate taxpayers about the costs involved in tax refund loans and methods for avoiding them.
- Educate taxpayers regarding tax return preparers.
- Regularly scheduled outreach to the VA Clinic in Fayetteville. The veterans' project will provide advice and brief services. The veterans' project will accept cases for extended services at the discretion of the veterans' attorney in consultation with work group leaders.

PRO BONO

- Contracts – Where there is a meritorious claim for breach of contract.
- Cases not included in these priorities (such as tort matters, civil rights matters, and other sympathetic and vulnerable clients needing assistance) may at times be screened and referred to the private bar as priority cases for vulnerable families or elderly clients.

PROTECTION FROM DOMESTIC VIOLENCE WORKGROUP PRIORITIES

ADVICE/BRIEF SERVICES

The workgroup will provide advice or brief services to qualifying clients with family law cases, whether or not the case would meet priorities for extended services.

ADOPTIONS

Adoption defenses if there is a meritorious defense.

See Civil Gideon priorities for additional adoption defense priorities.

See Pro Bono priorities for adoption petition priorities.

BIRTH CERTIFICATES

Pro se forms for clients to correct, amend, or to get a birth certificate. Extended representation for clients who in the judgement of Legal Aid staff lack to capacity to represent themselves.

CHILD CUSTODY AND VISITATION

Initial custody proceedings, modifications, and defenses if:

- there is risk of violence to the client or child(ren) from the opposing party; and
- it is in the best interest of the child(ren) for our client to have custody.

If the case includes paternity for the father, then the father must show he has provided supervision, care, and support for the child(ren) or was prevented from doing so through no fault of his own.

Extended services when criminal justice system intervention or law enforcement fail to return abducted children. This includes international child abduction cases.

Limited scope representation to protect client's civil rights. This includes UCCJEA compliance and due process, where statutory requirements are not met and essential elements of cases are not proven.

CHILD SUPPORT

Child support defense cases if child support was based on Supplemental Security Income.

Limited scope representation, in the form of *pro se* forms for clients:

- released from prison within the last 6 months; or
- to defend against contempt; or
- to modify or stop support.

Limited scope representation to protect a client's civil rights. This includes due process rights and right to counsel.

See Civil Gideon priorities for clients facing jail time for contempt.

CIVIL GIDEON

Limited scope representation at the trial court level in cases affecting fundamental rights. This includes pleadings and briefs so clients may request appointment of counsel. Full representation at the appellate court level when the trial court refused to appoint counsel and there is a good record for appeal.

DIVORCE

Start or defend a divorce if there is a risk of violence to the client or child(ren). The group will evaluate the risk of violence using a risk assessment.

Limited scope representation to protect a client's civil rights. This includes UCCJEA compliance and due process.

Post-judgment enforcement actions if Legal Aid represented the client in the initial divorce.

See Pro Bono priorities for more divorce priorities.

EMANCIPATIONS/REMOVAL OF DISABILITIES

Emancipation or removal of disabilities for minors who are homeless, pregnant, abused in the home, or there is a strong nexus to educational attainment.

GUARDIANSHIPS, ADULT

Guardianship of incapacitated adults if:

- there is an immediate danger to the proposed ward; and
- there is strong medical evidence of incapacity; and
- there are no viable less restrictive alternatives to guardianship.

Adult guardianship defenses, if the facts are meritorious.

See Civil Gideon priorities for guardianship defenses.

See Pro Bono priorities for guardianships in non-emergency cases.

GUARDIANSHIPS, MINOR

Initial or substitution of guardian cases if:

- there is a risk of violence to the child(ren) from the current caregiver, parent, or guardian; and

- the guardianship is in the child(ren)'s best interest

OR

- the proposed guardian has cared for the child(ren) for an extended period of time; or
- the parents have abandoned the child(ren);

AND

- the child(ren) are being denied education, healthcare, or other necessities; and
- other, non-custodial alternatives, are insufficient or unavailable; and
- the guardianship is in the child(ren)'s best interest

See Pro Bono priorities for guardianships to administer and the estate of a minor.

IMMIGRATION

U-Visa and T-Visa cases for survivors of domestic violence or trafficking with a related case, such as a divorce or order of protection.

ORDERS OF PROTECTION

Representation to survivors of domestic violence and/or sexual assault/abuse:

- who have filed for an Order of Protection on behalf of themselves or their children; and
- the facts of the case meet the statutory definition of domestic abuse*; and
- there is a qualifying relationship.

*physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state.

Representation to survivors of domestic violence and/or sexual assault/abuse served with an Order of Protection if:

- we are representing the client in a companion family law case; and
- the outcome of the Order of Protection would affect our representation of the client.

Advice to Respondents who were:

- referred by a domestic violence shelter; or
- former clients in a family law case involving the same opposing party.

PRO BONO

All priorities are expanded to maximize *pro bono* resources. Specific expansion of case acceptance priorities for *pro bono* are listed below.

Adoption petitions if:

- the opposing party's consent is not required by law; and
- the adoption would provide a financial benefit to the child(ren); and
- the adoption would be in the best interest of the child(ren).

Name changes for survivors of domestic violence.

Petitions for divorces if:

- the client's only source of income is Supplemental Security Income; and
- there are clear grounds for divorce; and
- the client has no other resources to secure private counsel.

Petitions for divorce if the client is 60 years of age or older.

Minor guardianships if required to administer the estate of a minor, and the estate is too small to pay for an attorney.

Adult guardianships of an incapacitated adult if:

- the proposed ward is unable to provide for his or her own health, welfare, or housing;
and
- there is strong medical evidence of incapacity; and
- there is no foreseen contest to the guardianship.

ECONOMIC JUSTICE WORKGROUP PRIORITIES

DISABILITY RIGHTS

- Enforce and protect the rights of individuals with disabilities in situations not covered by other priorities

EDUCATION

- Special education services: initial and/or continuing eligibility, inappropriate placement, manifestation determination review issues, other denial of free and appropriate public education, and due process hearing complaints
- Truancies, suspensions, and/or expulsions in cases of suspected special education or disability-related issues

EMPLOYMENT

- Discrimination claims (Title VII, ADEA, ADA, PDA, etc.);
 - In light of frequent applications for services and limited workgroup capacity, discrimination claims will be evaluated and handled as follows:
 - Applicants without meritorious claims or with claims where the evaluation of merit would require significant investigation by Legal Aid will be referred to the EEOC without further investigation.
 - Applicants with clearly meritorious claims or claims where the evaluation of merit would not require significant investigation by Legal Aid will receive brief services to help them prepare the EEOC charge and file it on their own, seek representation from the private bar, and return to us with the two-attorney turndown form if they are unable to obtain representation and want our services.
 - In cases where an applicant has returned to us with a two-attorney turndown form OR has first come to us after filing the EEOC charge, cases will be accepted for representation though the EEOC process based on (1) merit; (2) the egregiousness of employer conduct; (3) known wrongdoing by the particular employer or by employers in the applicant's region; (4) the status of the EEOC investigation; (5) the possible recovery for the applicant; and (6) availability of workgroup resources in light of the anticipated investment required.
 - Where Legal Aid represents a client through the EEOC process and where the EEOC issues a right-to-sue letter, a separate acceptance decision must be made to file a lawsuit. Cases will be evaluated based on (1) merit; (2) the egregiousness of employer conduct; (3) known wrongdoing by the particular employer or by employers in

the applicant's region; (4) information obtained through the EEOC investigation; (5) the possible recovery for the applicant; and (6) availability of workgroup resources in light of the anticipated investment required.

- Cases where applicants first come to us after the EEOC has issued a right-to-sue letter will be considered **only** in exceptional circumstances AND where the EEOC investigation file can be obtained by or provided to Legal Aid at least 45 days prior to the expiration of the deadline to file a lawsuit. Case acceptance decisions will be made based on the following factors: (1) merit; (2) the egregiousness of employer conduct; (3) known wrongdoing by the particular employer or by employers in the applicant's region; (4) information obtained through the EEOC investigation; (5) the possible recovery for the applicant; and (6) availability of workgroup resources.
- Fair Labor Standards Act, Arkansas Minimum Wage claims, and Family and Medical Leave Act claims will be reviewed to determine whether immediate acceptance, referral to the private bar, or referral to the appropriate department is more appropriate:
 - FLSA and FMLA claims may be referred to the U. S. Department of Labor
 - Wage theft claims of \$2,000 or less may be directed to the Arkansas Department of Labor
 - Given current workgroup resources, FLSA, state minimum wage, and FMLA claims will not be accepted absent exceptional circumstances OR a claim that can be combined with a discrimination claim
- Violations of the NLRA will be referred to NLRB, with assistance in preparing the affidavit to be determined according to merit and, if the NLRB decides to file suit, subsequent assistance at trial to be determined according to merit
- Unemployment claims: denials, terminations, and/or overpayments;
 - Unemployment appeals in which Legal Aid did not represent the claimant at the hearing level will be considered if the denial implicates an issue that could significantly affect our wider client population (e.g. transportation, pregnancy, employers absent from hearings, etc.) and the record can be obtained by or provided to Legal Aid at least 10 days prior to the deadline to file a notice of appeal.
- Defense of CNA registry license cases (allegations of nursing facility resident abuse, neglect, or misappropriation of resident property)

HEALTHCARE

- Community-based services and supports: denial of services and supports including mental health, long-term care, assistive technology, independent living and home and community-based services. This item includes, but is not limited to, ongoing advocacy regarding the existing ARChoices program and anticipated changes in the assessment and care allocation methodologies
- Issues with health care access under the Affordable Care Act, existing Medicaid programs, the Medicare Savings Program, and proposed changes to Medicaid Expansion through Arkansas's pending 1115 waiver to reduce income eligibility limits and impose work requirements. This item includes, but is not limited to, application delays, due process issues, technical glitches, uncovered periods, and assistance with debt collection (referred, as appropriate, to Consumer WG)
 - The workgroup acknowledges recent changes to immigrant eligibility for ARKids and endeavors to provide community education tailored to the newly-eligible groups
 - With respect to non-Medicaid Affordable Care Act coverage issues, subject to available workgroup knowledge and experience, eligible clients with legal issues (as opposed to issues within an assister's purview) with initial applications, renewals, or terminations will be considered for advice or brief services at the enrollment stage, full representation in the event of application processing delays, and case-specific determinations about level of involvement where application delays have led to billing issues or collection efforts.
- Medicaid: denials, terminations, or reductions of coverage, services, equipment, and/or medications; overpayments (including fraud-related allegations)
- Due to current workgroup capacity, Medicare-related issues that do not also implicate MSP or Medicaid will generally not be accepted for extended representation absent exceptional circumstances. Advice and brief services will be provided according to merit.

SOCIAL SECURITY

- Social Security retirement and dependent (survivor, spousal, child, widow) benefits cases will not receive extended services unless (1) there is clear evidence of a wrongful denial, reduction, or determination of benefit amount; (2) the amount in question is significant; (3) the case is otherwise meritorious; and (4) brief services would not adequately address the issue.
- Social Security (SSI/SSDI) overpayments will not receive extended services unless (1) there is clear evidence of a wrongful determination of an overpayment or of a meritorious basis for waiver; (2) the amount in question is significant; (3) the case is otherwise meritorious; and (4) brief services would not adequately address the issue.

- Social Security cessations and child-to-adult redetermination cases.
 - As a threshold requirement for merit evaluation, which involve lengthy CD, reviews, applicants will be required to (1) be receiving ongoing medical treatment; (2) be compliant with all treatment or have justifiable reason for non-compliance; and (3) on the basis of the intake interview, appear to have a meritorious case.
 - When evaluating such cases, advocates should consider whether the time before the hearing allows for submission of additional evidence.
- SSI/SSDI Cases to Establish Initial Eligibility (adults):
 - Adult initial eligibility applications awaiting hearing before an Administrative Law Judge will be referred to the private bar unless:
 - a. the applicant is (1) homeless, (2) a patient of an MLP partner clinic; or (3) so obviously disabled with cognition or mental health (in screening or interview) that the private bar is unlikely to adequately serve her; and
 - b. the case is meritorious.

***All callers with SSI/SSDI eligibility cases will be screened at the eligibility phase, and callers not meeting the criteria will not speak with an advocate.

- Adult initial eligibility applications at the initial or reconsideration stages will not be accepted unless:
 - a. the applicant is a patient of an MLP partner clinic with a supportive provider; AND
 - b. the case is meritorious.
- When evaluating such cases, advocates should consider whether the time before the hearing allows for submission of additional evidence.
- SSI Child Cases:
 - Child initial eligibility applications awaiting hearing before an Administrative Law Judge will be accepted if the case is meritorious. Child initial eligibility applications at the initial and reconsideration stage will not be accepted. Extensive advocate experience has shown that cases based on ADHD, unspecified learning disabilities, and/or asthma generally lack merit, and such cases will be evaluated with this previous experience in mind.
 - a. As a threshold requirement for merit evaluation, which involve lengthy CD, reviews, applicants will be required to (1) be in treatment (in mental health clinic, in school services, or through primary care or specialist care); (2) taking any medications prescribed; and (3) on the basis of the intake interview, appear to have a meritorious case.

All applicants waiting for an ALJ hearing who are patients of an MLP partner clinic with a supportive provider should be evaluated for merit.

- b. Receiving services through IDEA or Section 504 will also be considered for the threshold issue, though the workgroup acknowledges that lack of services may be understandable, either due to a recently-developed issue, lack of parent request, or wrongful school district practice.
 - Child cessation cases will be accepted if the case is meritorious. Extensive advocate experience has shown that cases based on ADHD, unspecified learning disabilities, and/or asthma generally lack merit, and such cases will be evaluated with this previous experience in mind.
 - a. As a threshold requirement for merit evaluation, which involve lengthy CD reviews, applicants will be required to (1) be in treatment (in mental health clinic, in school services, or through primary care or specialist care), (2) taking any medications prescribed, and (3) on the basis of the intake interview, appear to have a meritorious case.
 - b. Receiving services through IDEA or Section 504 will also be considered, though the workgroup acknowledges that lack of services may be understandable, either due to a recently-developed issue, lack of parent request, or wrongful school district practice.
- When evaluating such cases, advocates should consider whether the time before the hearing allows for submission of additional evidence.

OTHER PUBLIC BENEFITS

- TEA, SNAP, childcare, and Work Pays: denials, terminations, reductions, and/or overpayments, including fraud-related allegations (e.g. Intentional Program Violations)
- Benefits available to kinship families, including foster care board payments, subsidized guardianships, and adoption subsidies.

LANGUAGE AND DISABILITY ACCESS

- As feasible, the workgroup will advocate around access-related issues, including language and disability access

MLP-RELATED ISSUES

- Legal Aid has active Medical-Legal Partnerships with the following healthcare providers: Arkansas Children’s Hospital (Little Rock), St. Vincent’s Hospital (Little Rock), Mid-Delta Health Systems (Clarendon), Mid-South Health Systems (West Memphis)

- Legal Aid has inactive or in-information MLPs with the following healthcare providers: Lee County Cooperative Clinic (Marianna), Arkansas Children’s Hospital Satellite Clinic (Jonesboro)
- Applicants who call who are patients of the partner healthcare providers should have the intake done and then be referred to the advocates associated with the relevant MLP for case acceptance decisions
- The active MLPs aim to collaborate on issues of health access
- The active MLPs aim to publish an article using the data collected from the Social Determinants of Health screener at ACH Little Rock

2018 GOALS

To guide acceptance decisions within the priorities above, the Economic Justice workgroup will focus on the following goals for 2018:

1. Health Access. Continue and deepen Medicaid advocacy, including (1) opposing widespread denial and reduction of Medicaid-funded in-home care services by the Arkansas Department of Human Services through affirmative litigation (if feasible pre-litigation negotiation fails), administrative advocacy, client education, and commenting on proposed regulations; (2) planning and implementing a systemic response to help clients challenge or comply with the proposed changes to Arkansas Works that reduce eligibility limits and impose work requirements, including community education efforts for clients and service providers, streamlined intake procedures, administrative fair hearings, and other appropriate advocacy; and (3) investigating service-related issues and denials under both traditional Medicaid and Private Option, including benefits available to children through ARKids A and ARKids B (with special attention to Early and Periodic Screening, Diagnosis, and Treatment).

2. Continue Existing SNAP and Education Advocacy. We will continue two of 2017’s focus areas of (1) SNAP cases involving fraud allegations and (2) school advocacy where juvenile delinquency and criminal justice systems are improperly used in cases involving children with disabilities.

3. Build advocates’ skills and ability to identify/undertake higher-impact projects. This will involve training on (1) litigation skills and best practices (including discovery, subpoenas, preservation, due process concepts, etc.); (2) affirmative litigation concepts (standing, mootness, exhaustion, preclusion, etc.); and (3) discussion of recurring substantive issues. The goal is to attune advocates to cases that present opportunities to effect systemic change on problematic issues and then to undertake such cases as appropriate, preferably with opportunity to work on impact cases spread among workgroup advocates. In line with this, the workgroup will ensure that new and longstanding group members have ample opportunity for training, mentorship, feedback, and professional development.

4. Regulation Review and Commenting. State-based regulations relating to the Medicaid and SNAP programs impact client lives, yet the interests of clients are generally unrepresented in the

promulgation process. The workgroup will endeavor to monitor such regulations, offer comments as appropriate, and evaluate whether such comments make any meaningful difference.

5. Other (time permitting). Other issues or activities of interest to the workgroup include expanded outreach and education, language access advocacy, general low-wage worker support, and integration of law school and *pro bono* resources. However, the workgroup acknowledges that these goals will be secondary to the goals outlined above.

Note: Starting in 2016, each workgroup member reduced her caseload from around 60 cases to roughly 40 cases to allow time for more in-depth advocacy. The group aims to maintain this reduced caseload, provided that the reduction enables more impactful work.

HOUSING WORKGROUP PRIORITIES

CIVIL RIGHTS

1. Discrimination

Policy: Legal Aid will protect the civil rights and liberties of marginalized communities and individuals.

Case Acceptance Priorities:

- 1) Fighting housing discrimination based on an individual's disability, color, national origin, religion, sex, or familial status through enforcement of violations of the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*
- 2) Ensuring language access in housing through enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.*
- 3) Protecting survivors of domestic abuse through enforcement of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), 42 U.S.C. § 14043e-11(d) and Ark. Code Ann. § 18-16-112.
- 4) Violations of other federal, state, or local laws, regulations, or ordinances that protect civil rights and ensure equal treatment in housing.

2. Constitutional Rights

Policy: Legal Aid will protect and defend our Constitution. We will make sure low-income tenants and homeowners are afforded the protections to which we are all entitled.

Case Acceptance Priorities:

- 1) Ensuring that tenants and homeowners receive all constitutionally required protections through enforcement of constitutional tort claims under 42 U.S.C. § 1983 and the Arkansas Civil Rights Act.
- 2) Attacking any policies or practices that create criminal liability or sanctions for traditionally civil issues.
- 3) Affirmative or defensive litigation challenging any discriminatory, illegal, or arbitrary law, ordinance, regulation, or policy.

EVICITION DEFENSE

1. Criminal Eviction

Case Acceptance Priorities:

- 1) Affirmative or defensive litigation as necessary to end the use of A.C.A. § 18-16-101.

2. Civil Eviction Defense

Policy: Legal Aid will defend meritless or illegal evictions.

Case Acceptance Priorities:

- 1) Meritorious civil eviction defense.
- 2) Enforcement of the statutory right to cure under A.C.A. § 18-17-701.
- 3) Attacking illegal and abusive eviction practices through affirmative litigation and counterclaims. Legal Aid will help tenants seek judgments that will adequately compensate them for their loss and adequately deter future transgressors.

3. Federally Subsidized Housing

Policy: Legal Aid will assist tenants in presenting meritorious defenses to evictions and subsidy terminations. We will also seek to protect and expand the stock of affordable housing.

Case Acceptance Priorities:

- 1) Meritorious federally subsidized housing cases, including eviction defense and subsidy terminations. Representation at administrative grievance hearings is permitted.
- 2) Affirmative or defensive cases challenging illegal or arbitrary policies of housing authorities or other government funded housing providers.

TENANT'S RIGHTS

1. Safe and Habitable Homes

Policy: All tenants are entitled to a home that is fit for living. Legal Aid will pursue all available avenues to ensure tenants can seek redress when the conditions of their homes are intolerable.

Case Acceptance Priorities:

- 1) Unsanitary/unhealthy housing conditions: cases where housing conditions are causing poor tenant health. Affirmative or defensive cases challenging any laws or policies leading to a tenant's inability to seek redress for poor housing conditions.
- 2) Assistance in enforcing lease provisions; federally subsidized housing quality standards; and, local housing codes.
- 3) Pursuing landlords that have demonstrated a pattern and practice of providing substandard housing.
- 4) Using Fair Housing protections to improve housing quality for disabled individuals.

2. Fair Lease Terms

Policy: Legal Aid will challenge landlords and management companies that seek to prey on tenants with unconscionable terms or illegal fees.

Case Acceptance Priorities:

- 1) Cases involving unconscionable or illegal lease terms.
- 2) Cases involving excessive or illegal fees or charges.

FORECLOSURE DEFENSE

Policy: Legal Aid will assist homeowners in presenting meritorious defenses to statutory and judicial foreclosures.

Case Acceptance Priorities:

- 1) Foreclosure defense cases may be accepted for extended representation if:
 - a. The property in issue is the homeowner's primary residence; and
 - b. Homeowner has equity in property; or
 - c. Homeowner has a means to pay indebtedness.
 - d. In all cases, a legal defense must exist, i.e., predatory loans and lending practices, inability to show standing, substantial failure to comply with relevant statutes, failure to comply with federal regulations, etc.
- 2) Any applicant who may benefit from housing or debt counseling will be referred to a HUD approved housing counseling agency.
- 3) Bankruptcy: Legal Aid may initiate a bankruptcy to stop a foreclosure in the following circumstances:

The property at risk is the applicant's principal residence; AND

 - 1) The applicant can afford the indebtedness or will be able to afford the indebtedness through and after the successful completion of a Chapter 13 plan or a Chapter 7 liquidation, OR
 - 2) The intervention of the automatic stay will enable the applicant to successfully complete a mortgage modification, after which the applicant will be able to afford the indebtedness, or will be able to afford the indebtedness through and after the successful completion of a Chapter 13 plan or a Chapter 7 liquidation.
 - 3) The intervention of the right to cure under 11 U.S.C. 1322(b)(2) would enable an applicant, who has otherwise waived or extinguished their equitable and statutory rights of redemption, to reinstate a mortgage that the applicant will be able to afford, or will be able to afford after and through the successful completion of a Chapter 13 plan or a Chapter 7 liquidation.
 - 4) Meritorious defenses to foreclosure chain of title/promissory note, where the federal court might be a more favorable forum or the additional debts the applicant has makes a resolution through bankruptcy more favorable.

LAND LOSS AND ASSET PROTECTION

Policy: When resources permit, Legal Aid will seek to help low-income Arkansans protect and preserve assets through prevention of land loss and estate planning.

Case Acceptance Priorities:

Land Loss

Land loss will be evaluated on a case-by-case basis and only be accepted for extended services after consideration of the resources necessary and available, the value of the benefit to the client, and the impact value of the case.

- 1) Deed preparation to assure property ownership and preservation.
- 2) Estate probate when the subject is the client's primary residence and the client has color of title through estate planning documents, or succession, and land loss may occur without Legal Aid intervention.
- 3) Assisting homeowners with pursuing disaster relief or other emergency housing or assistance.
- 4) Land/sale contracts: Enforcing the buyer's rights if the buyer has a substantial interest in the property, the buyer has a meritorious legal claim, and the property is the buyer's primary residence.
- 5) Bankruptcy: Lien stripping of secondary loans if the equity in the home is too low to protect the lien and the relief from the second payment would enable them to afford the indebtedness on the home.
- 6) Bankruptcy: Creditor Representation
 - a) Protection of an applicant's property interest in their principal residence when a co-owner has filed bankruptcy.
 - b) Protection and enforcement of property divisions pursuant to divorce decrees that pertain to an applicant's principal residence.

Wills, Estates, and Power of Attorney

All non-emergency wills, estates, and power of attorney cases will be priority only to the extent that *pro bono* resources are available.

Emergency wills or power of attorney cases as follows may be considered for limited and/or extended services if resources permit.

- 1) Wills and end of life planning if the client is 60 years of age or older or has a terminal illness.
- 2) Preparation of simple wills for clients under the age of 60 if there is a family homestead distribution at issue.
- 3) Powers of Attorney for the elderly, disabled or chronically ill, or to secure healthcare, education or other necessities for children.
- 4) Wills, Power of Attorney, terminations, codicils, and other related documents consistent with special funding under the Older Americans Act, in the Medical-Legal Partnership setting, or otherwise as applicable.

ARKANSAS CHILDREN'S HOSPITAL MEDICAL LEGAL PARTNERSHIP PRIORITIES

Cases will be considered for services through the ACH MLP if the client is an active patient, or family member of an active patient, at the Arkansas Children's Hospital or one of its partner clinics. Priority will be given to cases where there is a nexus to health. Otherwise, cases will be referred to the statewide Helpline at (800) 952-9243.

ADVANCED PLANNING

- Last wills and testaments, trusts, powers of attorneys and advanced directives. These cases may receive advice and forms if staff or *pro bono* resources are not available.
- Assist parents of patients with special healthcare needs, as well as help minor patients with their advanced planning needs to plan for their transition to adulthood. Cases will be reviewed to determine whether immediate acceptance or referral to a *pro bono* partner is more appropriate.
- **Powers of attorneys for minors:** advice and referral to self-help resources, consistent with the perceived ability of the client to use these resources. Case will be accepted for brief services if exigent circumstances exist.

EDUCATION

- **Special education services:** initial and/or continuing eligibility, inappropriate placement or services, Manifestation Determination Review (MDR) issues, Functional Behavior Assessment (FBA) issues, due process hearing complaints, and school discipline issues when connected to a child's disability or health condition;
- **Disability discrimination:** initial and/or continuing eligibility for 504 protection, denial of medical services and truancy when connected to a child's disability or health condition; and
- Bullying issues when connected to a child's disability or health condition.

EMPLOYMENT

- If the client lives in the Legal Aid of Arkansas service area, employment cases will be referred to the Economic Justice workgroup for consideration. If the workgroup cannot accept the case, refer to a *pro bono* resource if appropriate. Otherwise, advice only unless there are exigent circumstances directly impacting health.
- Discrimination claims when connected to a patient's disability or health condition. Discrimination cases will be reviewed to determine whether referral to Economic Justice workgroup, referral to a *pro bono* partner or a referral to the Equal Employment Opportunity Commission (EEOC) is more appropriate;
- Family Medical Leave Act (FMLA) claims will be reviewed to determine whether the claim is connected to the patient or client's disability or health condition. If so, determine whether referral to the Economic Justice workgroup, referral to a *pro bono* partner or a referral to the U.S. Department of Labor is more appropriate; and
- Unemployment Insurance claims: denials, terminations and/or overpayments when connected to a patient's health condition. Unemployment denials in which the MLP did not represent the claimant at the hearing level will be considered if the denial implicates an issue that could

significantly affect the wider client population (e.g. transportation, pregnancy, employers absent from hearings, etc). These cases will be reviewed to determine whether referral to the Economic Justice workgroup, referral to a *pro bono* partner or a referral to the U.S. Department of Labor is more appropriate.

FAMILY LAW

- **Orders of Protection:** extended services for victims of domestic violence and/or sexual assault or abuse when a direct health impact is or may be present for the ACH patient or family member;
- **Divorce:** initiate or defend a divorce if there is an ongoing or immediate risk of violence to the ACH patient or patient's family member and a direct health impact is or may be present. Risk of violence will be evaluated using a risk assessment. Cases that do not meet these criteria will be directed to a *pro bono* resource, if available, or to the appropriate Legal Aid agency.
- **Custody and visitation modification:** it must be in the best interest of the child(ren) for our client to have custody; cases only accepted for extended services if there is an immediate risk of harm, if there is some personal safety issue, or if there are barriers to medical or educational services.
- **Minor guardianships:** extended services if there is an ongoing or immediate risk of harm to the ACH patient, or the patient's parent(s) or primary physical custodian(s) have abandoned the patient, or the parent(s) are incarcerated for a significant period of time and the patient is being denied access to education, healthcare or other basic needs that may impact the patient's health. Also, there must be clear indication that the guardianship is in the best interest of the patient. If the minor guardianship is uncontested then the client may be Limited Scope representation or *pro se* forms as appropriate.
- **Adult guardianships:** refer case to the Walmart *pro bono* team if medical evidence supports incapacitation, the ACH or other appropriate provider is willing to provide supporting affidavit, and no one in the household has worked for Walmart in the last 7 years. If someone in the household has worked for Walmart in the last 7 years, the case will be evaluated for in-house extended representation or referred to another *pro bono* partner, if the resource is available, there is medical evidence to support incapacitation and the ACH or other appropriate provider is willing to provide a supporting affidavit.
- **Adoptions:** adoption petitions may be referred to a *pro bono* resource, if available. If no *pro bono* resource is available, case will be accepted if a direct health impact is or may be present. Defenses will be accepted consistent with the Domestic Violence workgroup priorities, and will be referred to that group.
- **Name change:** limited scope representation or brief services if the youth is homeless, pregnant, or has been abused in the home. All other cases will be referred to *pro se* resources.
- **Emancipations:** limited scope representation or extended services if a direct health impact is identified.
- **Birth Certificates:** *pro se* forms will be provided for the correction, amendment, or procurement when the birth certificate or lack of birth certificate has a direct health impact on the patient, unless age or disability would make it difficult for the client to proceed on his or her own.
- **Child support:** case involving first time procurement of child support or enforcement of active orders will be referred to the Office of Child Support Enforcement.

- **Civil Gideon:** refer to Domestic Violence workgroup, *pro bono* resource, or CALS where there is a case at the trial court level with legal issues affecting fundamental rights.

IMMIGRATION

- Assist client with meritorious U-Visa applications with a preference for referring the case to a *pro bono* partner or other service organization, including Catholic Charities.
- Other immigration issues will be reviewed and referred to a *pro bono* partner, if resource is available.

PUBLIC BENEFITS

- **Medicaid/Medicare:** timeliness issues, denials, terminations, or reductions of coverage, services, equipment, and/or medications; overpayments. Medicaid service denial issues will be referred to the Walmart *pro bono* team or to the Legal Aid Economic Justice workgroup, if consistent with the group's current area of emphasis.
- **Social Security (SSI/SSDI) overpayments** will not receive extended services unless (1) there is clear evidence of a wrongful determination of an overpayment or of a meritorious basis for waiver; (2) the amount in question is significant; (3) the case is otherwise meritorious; and (4) brief services would not adequately address the issue.
- **Child cessations and child-to-adult redetermination cases:**
 - Provide advice or brief services unless it is clear that there has been a wrongful cessation or denial on redetermination;
 - As a threshold requirement for merit evaluation, which involve lengthy CD, reviews, applicants will be required to (1) be receiving ongoing medical treatment; (2) be compliant with all treatment or have defensible reason for non-compliance; (3) on the basis of the intake interview, appear to have a meritorious case; and (4) ACH provider is willing to support the disability claim.
- **SSI Child Cases:**
 - Initial eligibility applications for Child SSI that are awaiting hearing before an Administrative Law Judge (ALJ) will be accepted if the case is meritorious.
 - Child initial eligibility applications and reconsideration will not be accepted, unless there is an exigent circumstance (e.g. parent/guardian is limited in their advocacy efforts, language barriers).
 - As a threshold requirement for merit evaluation, which involve lengthy CD, reviews, applicants will be required to (1) be in treatment (in mental health clinic or in school services); (2) taking any medications prescribed; (3) on the basis of the intake interview, appear to have a meritorious case; and (4) ACH or other appropriate provider is willing to support the disability claim.
 - Receiving services through IDEA or Section 504 will also be considered for the threshold issue, though the MLP acknowledges that lack of services may be understandable, either due to a recently developed issue, lack of parent request, or wrongful school district practice.
- **State benefits (TEA, SNAP, childcare, and Work Pays):** denials, terminations, reductions, fraud investigations, and/or overpayments;
- **Veterans' benefits:** denials, terminations, reductions, and/or overpayments, subject to the availability of resources, including *pro bono* partners;

INSURANCE

- **Private health insurance:** denials, terminations or reduction of coverage, services, equipment, and/or medications;
- **Life insurance:** denial of coverage for ACH patients

HOUSING

- In addition to published program housing priorities, the MLP will consider the following cases for extended representation:
 - Unsanitary/unhealthy housing conditions: defense of evictions or termination of lease cases in cases where housing conditions are causing poor health outcomes, assistance in enforcing local housing codes and lease provisions;
 - Meritorious eviction or foreclosure defense cases where eviction or foreclosure is arising out of a loss of income due to the patient's health condition;
 - Clients being evicted for nonpayment of rent will receive advice unless other facts support brief or extended services;
 - Fair housing cases, including requests for reasonable accommodation where there is support from the medical team; and
 - Other housing related issues deemed to have a direct impact on health.

CONSUMER

- **Bankruptcy:** cases will be referred to a *pro bono* partner if resource is available, or vetted in house consistent with Legal Aid priorities, if within the Legal Aid service area;
- **Criminal record sealing:** accepted for services when sealing the record will impact the ACH patient's life for the better that could affect health (i.e. access to better housing);
- **Termination of utilities:** appropriate services when terminating the patient's utility service will impact the child's health and the ACH provider is willing to sign medical letter in support.

OTHER CASES

Other cases may be accepted for services through the MLP if ACH providers identify an unmet basic need with a significant health nexus and an appropriate legal resource or intervention exists.

MLP INCOME ELIGIBILITY

- At least 90% of MLP clients must be at 200% of the federal poverty level or below.
- In cases of extreme hardship or other exigent circumstances, cases that are otherwise within MLP priorities with applicants who are above 200% of the federal poverty level may be accepted with approval of the Executive Director.

2018 ACH MLP GOALS

To guide acceptance decisions within the priorities above, the Medical Legal Partnership will focus on the following goals for 2018:

1. **Education Advocacy:** Focus areas:
 - Unlawful suspension, expulsion and transfer to alternative education environments;
 - Improper denial of special education services for children with disabilities;
2. **Adapting to new legal and healthcare needs:** Focus areas:
 - Reduce barriers to benefit programs and safe and affordable housing as patients transition from inpatient care to home care;
 - Educate families about the importance of estate planning to provide for individuals with disabilities, including using special needs trusts and supplemental needs trusts to protect access to public benefits.
3. **Safe and Affordable Housing:** Focus Areas:
 - Improve access to safe and affordable housing by seeking enforcement of the Fair Housing Act, HUD regulations and any other applicable law;
 - Collect data to educate community partners and stakeholders about how housing conditions impact health.
4. **Pro Bono Resources:** Focus Areas:
 - Recruit private attorneys to accept *pro bono* referrals from the medical legal partnership;
 - Improve the referral process, including creating an information sheet for new attorneys, a brochure for clients, and evaluating ways to streamline the referral process.
5. **Outreach and Training:** Focus Areas:
 - Continue outreach and information sessions for ACH patients and their families, including Parents Know Your Rights and partnering with various community organizations for presentations;
 - Continue training and education for ACH staff and community partners to improve collaboration.

ST. VINCENT CASE MEDICAL LEGAL MEDICAL PARTNERSHIP PRIORITIES

INTRODUCTION

Legal services will be provided by Legal Aid in its reasonable discretion. Cases may be referred to *pro bono* partners as appropriate.

After consultation, Legal Aid will make a decision on level of service to be provided, consistent with case acceptance priorities and available resources. Analysis should always be made to determine if limited scope representation or provision of *pro se* materials with adequately meet the prospective client's needs.

GENERAL CONSIDERATIONS

Priority will be given to cases referred by physicians, nurses, therapists, social workers, and others acting in the capacity of healthcare provider and/or legal screener.

Priority will be given to cases involving a significant nexus with health, which, among other things, may include cases in which the patient's health status, access to healthcare, ability to thrive in a work or school-related environment due to health-related issues, or ability to pay healthcare-related costs are impacted by legal intervention. To guide this determination, Legal Aid staff may consult with appropriate health providers, pursuant to receipt of appropriate authorization from the prospective client.

LEGAL AID WILL NOT PROVIDE LEGAL SERVICES IN THE FOLLOWING MATTERS

Legal Aid will decline representation when there is the actual or perceived potential for a conflict of interest between the prospective client and St. Vincent.

LEGAL SERVICES OFFERED UNDER THE PROGRAM TO ELIGIBLE INDIVIDUALS

The following list of services may be offered by Legal Aid under the terms of the Agreement, with certain restrictions outlined below:

- **Advance Planning:** Legal Aid representatives may provide assistance in preparing:
 - Simple wills, where there is no extensive property. Representation on wills and estates where extensive property is present will be determined on a case-by-case basis.
 - Healthcare proxy/power of attorney/advance directives.
- **Child Custody:** Legal Aid representatives will only become involved in a child custody matter where
 - The patient, either parent or child, is experiencing a health impact that legal intervention could help ameliorate or there is an ongoing or immediate risk of violence to the child and/or parent.
- **Child Support:**

- Custodial parents seeking to begin or enforce child support should contact the Office of Child Support Enforcement.
- Non-custodial parents who need assistance with:
 1. Child support defense cases in which child support is based solely on funds exempt from child support (SSI or Veteran's benefits) may be provided with legal representation.
 2. For other child support cases involving recent release from prison, contempt, and/or modification of child support, *pro se* forms, or direct representation as appropriate, shall be made available to applicants.
- **Consumer:** Legal Aid may offer assistance in consumer cases consistent with priorities promulgated by the Consumer workgroup and approved by the Legal Aid Board of Directors:
- **Divorce and Domestic Violence:** Representation may be offered consistent with priorities promulgated by the Domestic Violence workgroup and approved by the Legal Aid Board of Directors.
- **Education:** Where the case:
 - (1) has been referred by a healthcare provider OR presents an opportunity to further explore a potential systemic concern; AND
 - (2) involves access to special education services (whether initial eligibility, placement, or discipline); bullying or discipline when connected to the child's disability or health condition; retention, or disability-related matters.
- **Employment:**
 - **Discrimination** (Title VII, ADEA, ADA, PDA, etc.), including denials of requests for reasonable accommodations, when connected to Client's health condition.
 - **Family Medical Leave Act:** in cases where patients or patient family members are being denied FMLA, Legal Aid staff may provide legal advice, negotiate with employer, assist employee in filing a complaint and refer employee to the U.S. Department of Labor, or represent the patient in the administrative process.
 - **Unemployment Insurance:** when connected to patient's health condition. Unemployment claims: denials, terminations, and/or overpayments; Unemployment denials in which LAA did not represent the claimant at the hearing level will be considered if the denial implicates an issue that could significantly affect our wider client population (e.g. transportation, pregnancy, employers absent from hearings, etc.).
- **Expungements/Criminal Record Sealing:** Legal Aid may assist patients or employees in preparing Petitions to Seal when the conviction falls within a petition to seal statute.
- **Guardianships (minor):** Where:

1. there is an ongoing or immediate risk of violence to the child OR the parent/s OR primary physical custodian/s have left the care of the child to a relative;
 2. there is clear indication that the guardianship is in the best interests of the child;
AND
 3. proactively seeking guardianship would prevent possible foster care placement or likely denial of education, healthcare, or other basic necessities (including various types of government benefits).
- **Guardianships (adult):** Representation of a potential guardian obtaining guardianships where:
 - (1) the potential ward is a disabled minor reaching adulthood OR a potential ward is homeless, is in danger of being homeless, has been voluntarily or involuntarily hospitalized for psychiatric reasons within the 12 months prior to the date of intake;
 - (2) Legal Aid will attempt to support the health and welfare of incapacitated persons who are unable to provide for their own medical or financial needs. Cases involving an immediate danger to the health, welfare, or residence of an incapacitated adult (i.e., where there is an urgent medical or financial issue and no alternative to guardianship exists, will be a high priority).
 - (3) Cases where there is not an immediate danger, but an incapacitated adult is unable to provide for his or her own health, welfare, or residence will be accepted if *pro bono* or other resources are available, or if they can be prosecuted under a contract with an Area Agency on Aging.
 - (4) Defenses to Adult Guardianships will be provided if the facts of the case are meritorious.
 - **Health Insurance** (private health insurance, Medicaid, Medicare): Legal Aid may provide extended representation services in the following cases:
 - Denials, terminations, delays in approving, or reductions of coverage;
 - Denials or delays in approving of services, equipment, and/or medications, when prescribed by or deemed medically necessary;
 - Community-based services and supports: denial of services and supports including mental health, long-term care, assistive technology, independent living and home and community-based services;
 - Medicaid/Medicare: denials, terminations, or reductions of coverage or eligibility.,
 - **Housing:**
 - Eviction and foreclosure prevention
 - Denial, termination, or issues with federal housing assistance
 - Unsanitary/unhealthy housing conditions: defense of evictions or termination of lease cases in cases where housing conditions are causing poor health outcomes, assistance in enforcing local housing codes and lease provisions

- Eviction or foreclosure defense cases where eviction or foreclosure is arising out of a loss of income due to the Engaged Individual's health conditions/health impact
- Fair housing cases, including requests and denials of requests for reasonable accommodations in housing
- Utility shut-offs when related to the Engaged Individual's health condition
- **Immigration Questions:** Legal Aid may provide:
 - Assistance with meritorious U-Visa / T-visa applications, with a preference for making referrals to other service organizations, if practicable
 - Information and referrals to social service agencies for non-eligible immigrant populations
- **Life Insurance:** Legal Aid may assist in improper denials of life insurance payments.
- **Name changes** Legal Aid may assist in preparing name change petitions only when there is a barrier to accessing health care or other benefits and services.
- **Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI):**
 - At the ALJ hearing stage and during initial or reconsideration phases where
 - (1) the case has merit based on available evidence and
 - (2) a healthcare provider with a longitudinal view of the client's condition is willing to support the application by writing a letter, completing an evaluation, or offering testimony detailing the client's conditions and limitations.
 - Where a case is at initial or reconsideration and no healthcare provider with a longitudinal view of the client's condition is willing to support the application, Legal Aid will offer brief services to support clients' applications by orienting them to the process, helping them complete adult function and work history reports, and helping them articulate their limitations for purposes of Consultative Evaluations.
 - Assistance with SSA overpayments and reductions may be provided, depending on the amount in controversy and merit of the claim.
- **State benefits** (TEA, SNAP, childcare, and Work Pays): Legal Aid may assist with denials, terminations, improper calculations, reductions, and/or overpayments.
- **Tax Controversies:** Legal Aid may be able to provide assistance or referrals to individuals who have outstanding tax controversies or meritorious tax claims.
- **Veterans' Benefits:** Legal Aid will refer individuals with veterans' benefits issues to the appropriate *pro bono* attorney representative.

- **Vital records:** *Pro se* forms or direct representation, as appropriate, provided to clients for the correction, amendment, or procurement when the birth certificate or lack of birth certificate prohibits client from receiving benefits, services, or impacts employment.

Legal Aid *of* Arkansas

EQUAL ACCESS *to* JUSTICE PANEL
ARKANSAS VOLUNTEER LAWYERS FOR THE
ELDERLY
MEDICAL/LEGAL PARTNERSHIP

2017

PAI PLAN



Legal Aid of Arkansas

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The Legal Services Corporation (LSC) Regulation 1614.4 mandates that field programs develop and submit to LSC a PAI (Private Attorney Involvement) plan and budget. Each requirement is cited to the relevant section of LSC Reg. 1614.

General Policy §1614.2

In 2017 Legal Aid of Arkansas projects that it will spend \$190,178 directly on PAI (13% of Basic Field-General award). We project to close approximately 625 cases, including 550 that are LSC eligible. When closing a case, a PAI attorney is asked the number of hours s/he spent on the case. We value service at \$200 per hour, the average hourly rate estimated for our service area. We estimate \$800,000 worth of donated PAI services in 2017.

Procedures

Program priorities: The priorities for Legal Aid and the Equal Access to Justice Panel/Arkansas Volunteer Lawyers are developed annually and adopted at the December Board Meeting. Priorities will then be published online at www.arlegalaid.org. The legal needs of eligible clients in the geographical area served by the recipient and the relative importance of those needs consistent with board established priorities.

Intake and Case Acceptance

Consumers can apply for services through one of three methods: calling the HelpLine; completing an online application; and applying in person at one of our offices. They are screened for substantive case type, eligibility and conflicts. When applying for assistance for the Medical Legal Partnership at Arkansas Children's Hospital patients are screened and referred by clinicians and their team members by completing a referral to the MLP. This referral is received via fax or email. If qualified, they are transferred to one of four substantive law queues, domestic violence, housing, consumer or economic justice where they speak with an attorney. The Pro Bono Coordinators work closely with the workgroups to maximize the number and types of cases that can be accepted for referral to volunteers. The Helpline Manager receives periodic information on the number of cases open and resources available in each county so the cases can be successfully placed. The Work Groups review cases continuously and assign cases to the Pro Bono Unit for referral to a volunteer. This is easily accomplished through the case management system which provides for electronic transfer of cases.

Case Assignment

Facts are clarified on pro bono cases prior to referral in order for volunteers to assess the issues presented in each case. Necessary documentation is collected, compiled, and forwarded to the volunteer. Cases are assigned by email, fax or letter with the client's information for a conflict check. The volunteer reviews the case synopsis and accepts or rejects the case. The task system on the Case Management System is utilized to alert coordinators of relevant deadlines and monitor

pending referrals. All case activity is documented so staff in all offices will know the status of the case. Clients are notified of any delays that occur during the referral process.

Case Oversight and Follow-up

A case file is maintained on each referral. Status checks on the progress of the case are performed every three months or more often as indicated. A case closing form is completed by the attorney to describe the services performed, the result, the time spent and the amount recovered or avoided for the client. A client satisfaction questionnaire is sent to clients when the case is over to ascertain their opinions about the services received and a thank you letter is sent to the attorney with the number of hours spent on the case. Attorneys receive client satisfaction surveys and a thank-you note for great results. The PAI staff follows up with the client and attorney when problems are identified.

Range of Activities §1614.4

- EAJP primarily provides direct delivery of legal services to eligible clients.
- Arkansas Volunteer Lawyers for the Elderly partners with East Arkansas Area Agency on Aging, White River Area Agency on Aging, Area Agency on Aging for NWAR, and the Division of Aging and Adult Services to serve the legal needs of clients 60 and older
- EAJP/AVLE works with veteran's advocates and providers to assist, advise, and advocate for programs for servicemen and women and veterans and their families.
- EAJP/AVLE works with the Legal Aid of Arkansas Low Income Taxpayer Clinic and the Taxpayer Advocate to provide volunteer attorneys, enrolled agents and CPAs for taxpayers who need advice, and to assist in tax controversies with the State and IRS
- EAJP partners with the University Of Arkansas School Of Law and Bowen School of Law Legal Clinics to encourage and promote pro bono service among law students. Pro Bono Law students provide research and technical assistance for Legal Aid staff and pro bono attorneys, and volunteer for pro bono attorneys and Legal Aid
- Legal Aid of Arkansas partners with Arkansas Children's Hospital in a Medical Legal Partnership with Walmart Legal Department
- Legal Aid of Arkansas partners with St. Vincent's in a Medical Legal Partnership
- EAJP partners with Mid Delta Health Systems in a Medical Legal Partnership with Friday, Eldridge & Clark. EAJP partners with the Veterans Health Care System of the Ozarks.

Volunteer recruitment efforts will be enhanced by a VISTA member. With a grant from the Natural Wonders program at Arkansas Children's Hospital, recruitment will focus on providing services to clients at Medical-Legal Partnerships throughout Arkansas. EAJP works closely with the Center for Arkansas Legal Services and Arkansas Access to Justice Commission to support and advocate for a range of Arkansas Bar activities including, but, not limited to: recruitment drives and events celebrating and recognizing pro bono with the Young Lawyers Section; disaster legal assistance; the Arkansas Lawyer quarterly newsletter and the editorial board and staff; Arkansas "Find a Lawyer" program; recognition of all pro bono lawyers attending the annual meeting; the Equal Justice Distinguished Service Award; the Arkansas Bar's Community Legacy Award; the

partnerships with the CLE, technology, and executive staff of the Arkansas Bar; and corporate Pro Bono.

EAJP works with Tyson Foods and Walmart and their corporate legal departments to engage in projects or activities that will benefit Legal Aid clients as part of the corporate attorneys' pro bono obligation.

EAJP/AVLE participates in the National Pro Bono Week Celebration in cooperation with the Springdale Senior Center to hold a "Wills/End of Life Document Event" for seniors in Springdale, and to host a similar event in Harrison in conjunction with the local senior center during the week. Volunteer attorneys come from the Washington County Bar, the Boone County Bar and Walmart Corporate home office.

Legal Aid supports and sponsors volunteer attorneys taking advantage of Administrative Order 15.2, which allows attorneys licensed in other jurisdiction to provide pro bono legal services to indigent clients. Many of these volunteers are corporate attorneys.

The current delivery methods available for volunteers to provide include, but, are not limited to: legal representation to referred clients; speak to eligible clients about legal topics; help Legal Aid and EAJP/AVLE/MLP raise money for services for eligible clients; serve on Boards or Advisory Panels of groups that work with Legal Aid; support EAJP/AVLE/MLP through local and State Bar activities; support EAJP/AVLE/MLP by advocating its message with the Arkansas Trial Lawyers; support EAJP/AVLE/MLP through the promotion of training and serve on the faculty; conduct legal clinics; mentor Legal Aid staff; provide substantive legal support for nonprofits incorporated through Legal Aid or that exist in the Legal Aid service area; provide services to the Low Income Taxpayer Clinic; provide services by volunteering for and answering questions on www.ar.freelegalanswers.org

Legal Aid consults with the client community, private attorneys, law schools, Access to Justice Commission and Foundation, and bar associations on an ongoing basis when developing its annual PAI plan and distributes the proposed plan all local bar associations within the service area, and where appropriate, incorporates any response within the plan.

Support and Other Activities

Community Education

Pro Bono Attorneys provide community education. For example, volunteer attorneys visit Senior Centers to update mature Arkansans on wills, advanced health care directives and beneficiary deeds. It is anticipated that EAJP/AVLE will conduct outreach events targeted to mature Arkansans. These events will take place in assisted-living facilities, health fairs and places that mature Arkansans frequent. Some examples include: rural health centers, physicians' offices, and senior health/wellness centers. With these events, either hosted by EAJP/AVLE or in conjunction with health programs already in place, EAJP/AVLE will access some of the most vulnerable populations with in-person contact with clients. Similar events will be held at MLP locations or in conjunction with MLP partners.

Research

Pro bono law students and volunteers from the Walmart Home Office Legal Team provide Legal Aid staff and pro bono attorneys with legal research as needed. In addition, they participate fully in the delivery of pro bono services with volunteer attorneys at events sponsored by the Law Schools and Bar Associations. EAJP's and AVLE's relationship with various volunteers, including law schools, promotes and encourages law students to provide pro bono research for panel volunteers as needed to assess cases, advise clients, and provide representation for pro bono clients.

Advice and Counsel

Pro bono attorneys provide advice and counsel to Legal Aid attorneys on an ongoing basis. For example, bankruptcy lawyers provide advice to Legal Aid staff when questions arise in the course of ongoing litigation.

Co-counseling

Pro bono volunteers have co-counseled with Legal Aid during the last year on larger impact issues such as Medicaid programs, criminal evictions, and the acceleration clause in unemployment compensation.

Other Resources

Private firms provide facilities for depositions and client meetings. Pro bono attorneys make their faxes, computers, and phones available to Legal Aid so clients have access in or near their homes. County law libraries in the Legal Aid service area provide computerized legal research and updated Code and Rule books. In Washington County and Craighead Counties, the local law libraries as well as the Law School Library in Fayetteville, Little Rock and Memphis provide full LexisNexis research capabilities. Other resources from private attorneys are provided to Legal Aid staff as needed.

Continuing Legal Education (CLE)

Legal Aid sponsors training for local bar members, law students, and other members of the legal community throughout the year on a variety of issues. The Natural Wonders Grant provided three CLE trainings throughout the year in various areas of the state

Use of Legal Aid Facilities and Resources

Legal Aid allows volunteers to schedule use of conference rooms, which provides a place for clients to bring documents needed by pro bono volunteers, and the room has connectivity for technology as needed. We currently have Spanish Language and Marshallese translators on staff, which are accessible to PAI attorneys on cases referred by Legal Aid. We use other translators as necessary and subscribe to Language Line. It is the policy of Legal Aid to ensure that all Limited English Proficient persons and/or hearing and/or visually impaired clients who seek our services are provided free access to competent interpreters during consultation or case-related communications with Legal Aid.

<http://www.arlegalservices.org/internaldocs> and select LAA Limited English Proficiency Plan.

Technology Assistance

EAJP, AVLE, and MLP utilize the statewide website to provide a wide range of resources to volunteers who join the pro bono panels.

The Washington County Law Library Committee of the Bar Association provides financial support for Legal Aid to staff a Courthouse Help Desk each week. Other organizations that allow space similar to Help Desk are: Fayetteville VA, 7 Hills, and Forrest City Public Library. This provides an opportunity for pro bono volunteers and law students to answer questions and provide guidance to pro se litigants. The Help Desk provides only legal information and no attorney/client relationship is established. In the event the pro se litigant needs further assistance, they are referred to apply for services.

Legal Aid hosts legal clinics year round, primarily dealing with end of life estate planning issues and criminal record sealing. These clinics are staffed primarily by volunteer attorneys, and as there is a mix of legal information and brief services given, such as assistance in completing a Petition to Seal, Power of Attorney, or simple Will, only non-LSC funds are used to support these clinics. PAI requirement costs allocation decisions are made based on the clinic audience and the level of service provided, consistent with the guidelines in this section.

Legal Aid operates a Modest Means project in parts of the service area where eligible consumers with non-priority cases and others up to 250% of poverty are referred to private attorneys participating in the reduced fee panel on a rotating basis. Only costs associated with referral of screened consumers who are qualified and eligible for services shall be counted toward the PAI allocation.

Determination of PAI activities

Effective and Economical Delivery of Legal Assistance

This is accomplished through steps, including, but not limited to: using our intake system to screen for potential PAI cases; having referrals made by PAI staff who know the cases and the panelists; matching cases to be referred with the expertise and interests of PAI attorneys; training PAI attorneys; providing other support services to our panelists; maintaining a quality control system that provides periodic case updates; removing from the panel attorneys who are unresponsive; and using cost-effective delivery methods such as mail and email referrals.

Substantive and Practical Expertise

The range of expertise among members of EAJP/AVLE/MLP is substantial. Case types have remained primarily family, consumer, guardianship, wills and estates, and housing. EAJP/AVLE has a limited number of attorneys who will handle unique areas of the law like a Hague case, foreclosure and home ownership, Medicaid, tax liens, FEMA trailer debacles and land loss. MLP priorities are mainly education, disability, housing, and family law cases if the outcome would

have a positive impact on the patient and their families. Only attorneys who possess skills adequate to represent clients are invited to join the pro bono panel.

Fiscal Recordkeeping §1614.7

Legal Aid's accounting system separately allocates and accounts for PAI expenditures as they are incurred. At year's end all expenses are reviewed and allocation adjustments are made as necessary. The auditors annually review all PAI expenses, and the audited financial statements display PAI expenditures separately. The system that Legal Aid uses for the allocation of costs to private attorney involvement is based on below-mentioned policies.

1. Allocation of cost of staff time: All staff performs contemporaneous timekeeping on the case management system and uses the PAI funding code (15) when such work is performed. Staff directly engaged in pro bono activities as their primary job responsibility may use funding codes associated with other billable grants, as allowed, and that time will count as PAI. For example, AVLE uses a variety of funding codes depending on the funding grant. These include 9 (EAAA), 10 (NWAAAA), 11 (WRAAA) and 13 (AR Division on Aging).
2. Allocation of non-personnel and indirect costs are allocated as non-personnel costs intended solely for the PAI program are charged in their entirety to PAI.
3. The remaining non-personnel costs are allocated to PAI by percentage of those costs based overall cases closed.

DIRECTOR'S REPORT

November 20, 2017

National Developments

The Federal government is currently operating under a continuing resolution to extend funding for the federal government for FY 2018 until December 8, 2017. The CR provides continued funding at the FY 2017 levels with a rescission of 0.6791% across the entire federal government. This means that LSC funding under the CR will total \$382,385,465. The impact of the rescission will not affect LSC's payments to grantees through December, but would negatively impact our January 2018 payment, by approximately \$831.

On October 26, Congress passed a joint budget resolution that establishes federal fiscal priorities for both mandatory and discretionary spending over the next decade. The significance of this is that it creates "reconciliation instructions," a congressional procedure that will allow Republicans to avoid a Democratic filibuster of their tax reform proposals. The implications of this budget resolution on the LSC budget for FY18 are minimal. It remains the role of appropriations committee leaders to negotiate a compromise between the House proposal to reduce LSC funding by almost 25 percent and the Senate proposal to protect LSC from cuts altogether. Congress has until December 9 to pass an appropriations package or a new Continuing Resolution, or the federal government will face a shutdown. Even with a shutdown, LSC has funds on hand to make the usual two-month payment to grantees at the beginning of January.

LSC has asked congress for \$527.8 million for 2018 and will ask for \$554.5 million in 2019, while the administration's budget called for the elimination of LSC. Congress has shown no intention to cut Legal Aid funding.

Statewide Developments

The Access to Justice Commission is meeting on Friday, December 8th, at the Red Apple Inn in Heber Springs at 10 a.m. The Access to Justice Foundation met on November 17th in Little Rock. I can provide full meeting packets and minutes on request.

The Foundation Chair, Don Hollingsworth, has filed a comment asking that Cy Pres funds in a Pulaski County Circuit Court class action lawsuit be distributed, in part, as grants to Legal Aid and the Center for Arkansas Legal Services, as well as for student loan repayment assistance and to support the Access to Justice Foundation Endowment. This could amount to several million dollars in potential funding, though the Circuit Court Judge has initially indicated an inclination to award this money to the local law school. Mr. Hollingsworth's comment is attached.

Program Developments

We have closed 5,005 cases this year as of 11/17/2017. Reports showing case closures by problem category and county are attached, with different reports for the counties inside and outside of the Legal Aid service area. I have also attached a penetration rate report by county. Our case closures are down 16% from the same period in 2016. Also attached is a more detailed comparative analysis of 2016 to

2017 cases closures. We will study this information for gaps in delivery, then develop plans to address those gaps.

Our statewide Legal Aid conference was held October 11-13 in Fayetteville at the Chancellor Hotel. The program for our 50th Anniversary, which contains the final training agenda, is attached to mailed packets, and can be found online [here](#). We presented staff awards in conjunction with the meeting which included:

- Jason Auer, Housing Workgroup Leader 5 Years
- Samantha Davis, Legal Support Specialists 5 Years
- Deedra Thomas, Intake Paralegal 10 Years
- Lynda Ware, Intake Paralegal 40 Years
- Beth Shoupe, Paralegal Versalee Wyatt Award

Ms. Ware is the longest serving Legal Aid employee in the State of Arkansas, having joined Ozark Legal Services on December 5, 1977. In addition to her individual award she also received a \$500 performance bonus in recognition of her selfless service over the past four decades.

The Versalee Wyatt Altruism Award is given to a Legal Aid of Arkansas staff member who has committed his or her life to the fair administration of justice for all people, demonstrated an exemplary commitment to equal justice, has contributed in a significant way to the enhancement of the human dignity and quality of life of those persons unable to afford legal representation, and whose life and professional accomplishments serve as an inspiration to the entire legal profession.

Mrs. Shoupe, who has served as a paralegal in our Jonesboro office since the office opened in the early 1980's, was selected after a vote by her peers. In addition to an individual and \$250 performance award, a plaque listing the current and previous award winners hangs in the office where the winner works until next year's award is presented. Previous winners include Marshall Prettyman, Kathy Grady and Margaret Reger.

Television station KARK Channel 4 in Little Rock ran a series of stories on the ARChoices program the week of November 13th, which can found at the links below. Part of the story revolves around an issue Legal Aid discovered as a result of an FOIA request, that 152 ARChoices recipients suffering from cerebral palsy were wrongfully denied full benefits because of an error in the assessment software. Information garnered from the FOIA indicated DHS was aware of the problem, partially as a result of Legal Aid advocacy, but was not going to apply a universal fix for those wrongly denied absent each individual being proactive. This series of stories has resulted in DHS publically agreeing to fix all 152 cases.

Part 1: <http://www.arkansasmatters.com/news/local-news/working-4-you-computer-program-determines-critical-care/857663422>

Part 2: <http://www.arkansasmatters.com/news/local-news/working-4-you-explaining-the-formula-for-care-claimed-to-cause-cuts-to-needy/858112073>

Part 3: <http://www.arkansasmatters.com/news/local-news/working-4-you-a-formula-for-care-finding-a-solution/858959229>

Case Examples

Housing

A severely disabled woman was facing foreclosure on her home. Legal Aid worked with the woman's case worker at the Area Agency on Aging and contacted the executive director for the local housing authority. We were able to get the woman into Section 8 housing. Legal Aid then negotiated with the attorney for the bank to obtain a deed in lieu of foreclosure and a move out date. This avoided homelessness for the client. Because of Legal Aid's intervention, the woman also avoided a judgment of over \$30,000.

A tenant contacted Legal Aid because his landlord had filed an eviction against him alleging non-payment of rent. The non-payment arose from the landlord's refusal to accept the tenant's rent because he was mad at the him for other reasons. The eviction put the tenant's substantial USDA Rural Development subsidy in jeopardy. Legal Aid defended the lawsuit and the landlord agreed to a dismissal of the lawsuit, which preserved the tenant's housing and his subsidy.

Domestic Violence

We represented a client against the father of her son. After physically abusing her, he was calling 10-20 times a day, put a dead cat in her car, and slashed her tires. A contested court hearing resulted in client receiving an Order of Protection and child support. Visitation to the father was restricted and Respondent was ordered to pay \$1,000 in attorney fees.

A client came to us because her child was coming home from visitation with her father with unexplained injuries and she had behavior problems after visitation. The child had a gash in her head and severe bruising around her neck. The opposing party refused to talk to the client when asked what happened to her child. We took the case and got the opposing party's visitation stopped to where he was only able to see the child over skype after the judge determined that the father was not giving an explanation as to how this child was being injured while in his care. He eventually stopped visitation all together. The child is thriving now that she is no longer going to visitation and her behavior has improved.

Elder Justice

SSI client was defrauded of property by her POA/Protective Payee, then evicted from her home, and in danger of losing her SSI benefits. The POA/protective payee then sold our client's property to a 3rd party in a contract for deed. Legal Aid, through litigation and settlement achieved the return of the property proceeds to be set up into a court ordered special needs trust for the benefit of the client, who was living in a nursing home due to her debilitating disabilities and illnesses. Through the intervention of Legal Aid, the client was prevented from losing her SSI benefits, and gained the income from the sale of the property from contract, an approximate total gain of \$41,000 over the life of the contract.

Low Income Taxpayers Clinic

A Marshallese man was examined by the IRS concerning his dependents and his eligibility for the Earned Income Tax Credit. The Low Income Taxpayer Clinic helped the client assemble birth certificates and other proof necessary to support his claim that he lived with and supported his sister and her children, resulting in an \$8,534 refund to the family.

Economic Justice

We prevailed in the Supreme Court case mentioned at the last board meeting. In January 2017, we filed suit on behalf of seven Arkansans with disabilities whose Medicaid ARChoices home-care hours were cut by a computer algorithm. In February 2017, Pulaski County Circuit Court Judge Wendell Griffen granted us a TRO/PI after a seven-hour hearing. DHS then appealed the grant of the TRO. The Supreme Court unanimously affirmed Judge Griffen's ruling and rejected all of DHS's argument. The reasoning bodes well for summary judgment. The case will now proceed through the end of discovery and motions, with an ultimate decision likely to happen in March or April 2018. The decision is attached.

An 11 year-old child on the autism spectrum had been prescribed a particular medication when he and his family lived outside of Arkansas. Upon moving here, DHS refused to authorize the same medication for him, instead requiring that he try other medications first that had previously proven to be ineffective. Our advocacy, which included consultation with and a letter from the client's doctor at Arkansas Children's Hospital, convinced DHS to provide him the needed medication right away.

Consumer

A Marshallese family purchased a used car with a book value of \$650 for \$12,000. The car had been recalled but the clients were not aware of the recall or that they could have had an ignition problem fixed for free. Clients defaulted on their loan after they experienced problems and could not use the car to get to work. The car was repossessed and the dealer kept the clients personal items and demanded money to return them. Legal Aid responded and got the lawsuit for over \$10,000 dismissed and the items returned.

A client bought a used car for \$2,700 and it stopped working the day after purchase. The client tried to rescind the sale but the dealer wouldn't cooperate. Legal Aid filed suit and the Dealer responded. Legal Aid filed a motion for summary judgment and the client got a \$5,000 judgment and Legal Aid was awarded a \$500 attorney fee.

Grants/Contracts/Fundraising

Since the last board meeting, we have seen the following developments:

We have received a grant from the National Health Law Program (NHeLP) in the amount of \$50,000 for a one year term beginning on October 1, 2017 until September 30, 2018 to create a Health Law Project. The project description from the grant agreement is attached. This money should allow us to meet the goals of the new project set for in the grant agreement, while at the same time maintaining and expanding the ongoing work of our Economic Justice group. We are currently advertising and interviewing candidates for a staff attorney as part of this project. Our understanding is this grant will likely be renewable for an additional year if the project proceeds as planned.

We received \$4,000 from the Arkansas Access to Justice Commission, money they had previously received to support their Courthouse HelpDesk in Pulaski County that was unused, to support and expand our HelpDesk at the Forrest City Public Library in Saint Francis County. We will increase our presence from 12 to 18 times a year (approximately every three weeks), with an attorney spending a minimum of 90 hours on site, providing clients legal information, and intake and advice as appropriate.

The State Division of Aging and Adult Services has still not renewed our contract to provide legal aid to Arkansans aged 60 and over. The contract is on a July 1 to June 30 calendar year, and we received \$22,177 for the past funding year. While a part of their Title III funding from the Older Americans Act must be used for legal aid, and we have received money from them since at least 2011, the non-renewal has not been explained, although we have received reports that it may be directly related to our ARChoices litigation against the Department of Human Services. A FOI request in that case has revealed emails from the program director exploring the possibility to giving the contract to private counsel.

The Arkansas Access to Justice Foundation will be making an IOLTA grant this year, after skipping 2017 because of anemic income. The total grant will be \$50,000 to be split by poverty population between Legal Aid and the Center for Arkansas Legal Services, and likely will be received prior to the end of the first quarter of 2018. IOLTA collections for 2017 are right at \$96,000 after 10 months, after being only \$98,800 for all of 2016.

Staff Changes

Mary Claire Hyatt left Legal Aid on November 24 to accept an attorney position at the Arkansas Department of Education. She had been with Legal Aid for 26 months. We are currently interviewing candidates for the open position.

A current office directory and organizational chart is attached.

Non-priority, non-emergency case types- None

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION**

**WAYNE MINER, and JAMES EASLEY,
Individually, and on Behalf of All Others Similarly Situated**

PLAINTIFFS

vs.

CASE NO. CV 2003-4661

**PHILIP MORRIS COMPANIES, INC.,
and PHILIP MORRIS, INCORPORATED**

DEFENDANTS

COMMENT OF CLAIMANT DONALD M. HOLLINGSWORTH

In accordance with the Notice of the Court of September 28, 2017, I respectfully offer this suggestion for distribution of the *Cy Pres* funds in the above-captioned case.¹ I suggest that some or all of the *Cy Pres* funds be distributed to the Arkansas Access to Justice Foundation, Inc., for one or more of the following purposes, which I believe would be beneficial to the overall interest of the Class and whose activities are consistent with the nature of this case and the judicial function and public interest of this litigation:

(1) for grants to the Center for Arkansas Legal Services and Legal Aid of Arkansas to support the delivery of civil legal help to low-income Arkansans in all 75 counties of the state, including services delivered in medical-legal partnership settings;

(2) for loan repayment assistance for recent law school graduates who are full-time practicing attorneys at the Center for Arkansas Legal Services or Legal Aid of Arkansas and whose practice may include complex litigation, as well as coverage of rural, underserved regions of the state;

(3) for deposit in the Arkansas Justice Fund, which is an endowed fund that has been established by the Arkansas Access to Justice Foundation at the Arkansas Community Foundation for the benefit of the Center for Arkansas Legal Services and Legal Aid of Arkansas in furtherance of their respective missions of ensuring justice for low-income Arkansans across the state.

The Arkansas Access to Justice Foundation, Inc. (formerly the Arkansas IOLTA Foundation, Inc.), would be an appropriate entity to administer such funds for distribution to Arkansas legal

¹ For full disclosure, the Court should know that I am the current Board Chair of the Arkansas Access to Justice Foundation. Additionally, I have been involved in legal aid for low-income persons for 45 years, first as a legal aid attorney and executive director, and thereafter as a board member of the Arkansas IOLTA Foundation, and now the Arkansas Access to Justice Foundation.

aid programs consistent with its own charitable purposes² and the directives of this Court. The Foundation has awarded grants annually during its three decades of existence, and has administered, distributed, and accounted for previous *Cy Pres* distributions and other court settlement funds. The Foundation's board of directors and staff therefore have the experience and capacity to administer the *Cy Pres* funds for any or all of these purposes set forth above.

In considering these suggestions, the Court may wish to consider additional information about the suggested uses of the *Cy Pres* funds.

Grants to Center for Arkansas Legal Services and Legal Aid of Arkansas

Arkansas legal aid programs have an established track record of pursuing complex litigation on behalf of disadvantaged Arkansans that have resulted in systemic changes, including decisions that have had a direct impact on public health and the justice system. Some of the more significant decisions include the following:

- In *Ark. Dep't Human Servs. v. Ledgerwood*, 2017 Ark. 308, the Arkansas Supreme Court upheld a temporary restraining order halting the Arkansas Department of Human Services from cutting home health care hours for elderly and disabled Arkansans based on a computer algorithm. The Court found that the the appellees demonstrated irreparable harm and a likelihood of success on the merits of their claim that DHS failed to comply with the rulemaking requirements of the Arkansas Administrative Procedure Act in implementing the new methodology for calculating home health hours.
- In *McKinney v. McKinney*, 305 Ark. 13 (1991), the Arkansas Supreme Court struck down the state's statutory scheme that permitted guardians to consent to involuntary sterilization of a ward without judicial involvement.

² The Foundation's bylaws provide for the use of its revenues to support programs that:

- promote and support access to the justice system by persons in Arkansas who cannot afford a lawyer and for whom the law does not provide a right to counsel;
- educate the public regarding the needs of Arkansans related to meaningful access to the civil justice system;
- provide student loans and scholarships for the education of lawyers;
- improve the administration of justice in the State of Arkansas;
- assist in support activities of institutions and organizations which improve the administration of justice, including, but not limited to, the Arkansas Access to Justice Commission, the Center for Arkansas Legal Services, Inc., and Legal Aid of Arkansas, Inc., to fulfill their missions of providing access to justice and legal aid to Arkansans who cannot afford a lawyer and who qualify for legal services; and
- carry out other purposes that may be approved from time to time by the Arkansas Supreme Court.

- In *Walker v. Ark. Dep't of Human Servs.*, 291 Ark. 43 (1987), the juvenile court system under the jurisdiction of county court was found to be unconstitutional, leading to jurisdiction being placed in circuit court and juvenile courts being made courts of record; the case ultimately resulted in the reconfiguration of the state's juvenile justice system.

In addition, both legal aid programs are currently involved in developing and expanding medical-legal partnerships around the state. MLPs address social determinants of health and seek to eliminate barriers to healthcare in order to help vulnerable populations meet their basic needs and stay healthy. Such social determinants are often factors that can be addressed through legal interventions. For more information about MLPs in Arkansas, see <http://arlegalaid.org/what-we-do/justice-projects/medical-legal-partnerships-in-arkansas.html>.

Loan Repayment Assistance

Arkansas has the fewest attorneys per capita of any state in the country. Rural areas of the state are especially underserved, with at least one county in the state having no attorneys at all. See generally Lisa Pruitt, J. Cliff McKinney, II, & Bart Calhoun, *Justice in the Hinterlands: Arkansas as a Case Study of the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It*, 37 U. Ark. Little Rock L. Rev. 573 (2015). The state's two legal programs serve all 75 counties in Arkansas, meaning that their staff attorneys are sometimes the only source of legal help for local communities. The challenges are especially daunting given the extraordinary demand for services and the limited resources that legal aid programs have to meet the need. Together, the Center for Arkansas Legal Services and Legal Aid of Arkansas have to turn away more than half of the 30,000 eligible Arkansans who call them each year for help.

Given the critical shortage of lawyers available to serve rural and low-income Arkansans, it is more important than ever to have programs in place that offer incentives to lawyers who wish to practice public interest law or practice in rural communities. Loan repayment assistance also guarantees that incentives are directed to attorneys who are already serving poor and rural communities, and it helps legal aid programs—which pay lower attorney salaries than any other sector—to attract and retain qualified staff.

Arkansas Justice Fund

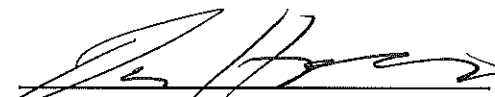
Over the 50 years that legal aid programs in the state have helped low-income Arkansans, the funding needed to help vulnerable Arkansans needing legal representation has not kept pace with the growth in poverty in our state. Fluctuations in federal funding, Interest on Lawyers Trust Accounts (IOLTA), and other revenues have created significant uncertainty that calls for longer-term solutions.

To address this reality, the Arkansas Access to Justice Foundation established an endowed fund at the Arkansas Community Foundation in 2017 to serve as a vehicle for developing and diversifying financial sources of support for legal aid. Income earned from the Arkansas Justice Fund will be used to make grants to the Center for Arkansas Legal Services and Legal Aid of

Arkansas, and the principal can serve as an emergency reserve in the event that there is a catastrophic loss of funding that necessitates a restructuring of the state's legal aid delivery system.

I can assure this Court that the Arkansas Access to Justice Foundation stands ready to administer any or all such *Cy Pres* funds that the Court deems appropriate to designate for the delivery of civil legal aid to disadvantaged Arkansans, and I will be glad to provide any additional information about my above suggestions.

Respectfully submitted,



Donald M. Hollingsworth
1 Mohawk Cir
Little Rock, Arkansas 72207
501-680-4230
donh77@comcast.net

11-14-17

Date

Cases Closed 1/1/2017 to 11/17/2017

Traditional Legal Aid Service Area

| | <u>01-09</u> | <u>10-19</u> | <u>20-29</u> | <u>30-39</u> | <u>40-49</u> | <u>50-59</u> | <u>60-69</u> | <u>70-79 Income</u> | <u>80-89</u> <u>Individual</u> | <u>90-99</u> | <u>Totals</u> |
|---------------|-----------------|------------------|-------------------|---------------|-----------------|---------------|----------------|---------------------|-----------------------------------|--------------|---------------|
| | <u>Consumer</u> | <u>Education</u> | <u>Employment</u> | <u>Family</u> | <u>Juvenile</u> | <u>Health</u> | <u>Housing</u> | <u>Maintenance</u> | <u>Rights</u> | <u>Misc</u> | |
| Baxter | 24 | 1 | 3 | 61 | 9 | 2 | 16 | 3 | 3 | 29 | 151 |
| Benton | 42 | 2 | 23 | 261 | 32 | 30 | 60 | 22 | 15 | 28 | 515 |
| Boone | 26 | 3 | 3 | 164 | 9 | 5 | 24 | 6 | 4 | 41 | 285 |
| Carroll | 6 | 0 | 4 | 41 | 2 | 8 | 5 | 4 | 4 | 3 | 77 |
| Clay | 5 | 0 | 0 | 33 | 4 | 2 | 3 | 2 | 1 | 2 | 52 |
| Cleburne | 8 | 0 | 0 | 28 | 5 | 1 | 9 | 2 | 2 | 7 | 62 |
| Craighead | 50 | 1 | 13 | 270 | 41 | 16 | 78 | 20 | 32 | 36 | 557 |
| Crittenden | 53 | 2 | 9 | 146 | 19 | 4 | 62 | 19 | 40 | 15 | 369 |
| Cross | 3 | 0 | 1 | 28 | 0 | 1 | 5 | 2 | 2 | 1 | 43 |
| Fulton | 2 | 1 | 2 | 10 | 0 | 4 | 1 | 1 | 0 | 0 | 21 |
| Greene | 15 | 1 | 1 | 138 | 11 | 7 | 12 | 4 | 2 | 7 | 198 |
| Independence | 13 | 0 | 0 | 145 | 9 | 6 | 11 | 2 | 2 | 4 | 192 |
| Izard | 2 | 0 | 0 | 12 | 0 | 0 | 4 | 3 | 0 | 0 | 21 |
| Jackson | 8 | 1 | 9 | 70 | 9 | 1 | 14 | 6 | 8 | 5 | 131 |
| Lawrence | 3 | 0 | 2 | 72 | 4 | 1 | 5 | 0 | 4 | 2 | 93 |
| Lee | 2 | 0 | 0 | 15 | 2 | 4 | 7 | 2 | 2 | 2 | 36 |
| Madison | 3 | 1 | 2 | 19 | 5 | 2 | 5 | 1 | 2 | 1 | 41 |
| Marion | 6 | 0 | 2 | 21 | 6 | 2 | 11 | 3 | 1 | 0 | 52 |
| Mississippi | 16 | 1 | 9 | 102 | 11 | 3 | 20 | 5 | 14 | 1 | 182 |
| Monroe | 4 | 4 | 3 | 15 | 1 | 0 | 2 | 5 | 1 | 6 | 41 |
| Newton | 2 | 0 | 1 | 14 | 1 | 1 | 1 | 1 | 0 | 1 | 22 |
| Phillips | 8 | 3 | 2 | 57 | 5 | 4 | 10 | 6 | 2 | 3 | 100 |
| Poinsett | 15 | 0 | 2 | 79 | 8 | 2 | 7 | 4 | 2 | 4 | 123 |
| Randolph | 6 | 0 | 0 | 43 | 3 | 0 | 3 | 1 | 1 | 0 | 57 |
| Saint Francis | 10 | 0 | 3 | 54 | 4 | 6 | 10 | 8 | 13 | 5 | 113 |
| Searcy | 5 | 0 | 0 | 17 | 1 | 3 | 0 | 1 | 2 | 1 | 30 |
| Sharp | 1 | 1 | 0 | 57 | 6 | 4 | 5 | 2 | 2 | 2 | 80 |
| Stone | 1 | 0 | 1 | 17 | 2 | 0 | 1 | 1 | 2 | 2 | 27 |
| Van Buren | 3 | 0 | 0 | 22 | 5 | 1 | 5 | 3 | 0 | 1 | 40 |
| Washington | 101 | 3 | 60 | 299 | 39 | 36 | 114 | 29 | 37 | 32 | 750 |
| Woodruff | 4 | 1 | 0 | 7 | 2 | 1 | 2 | 0 | 1 | 0 | 18 |
| | 447 | 26 | 155 | 2317 | 255 | 157 | 512 | 168 | 201 | 241 | 4479 |

Cases Closed 1/1/2017 to 11/17/2017
 Outside of Traditional Legal Aid Service Area

| | <u>01-09</u> | <u>10-19</u> | <u>20-29</u> | <u>30-39</u> | <u>40-49</u> | <u>50-59</u> | <u>60-69</u> | <u>70-79 Income</u> | <u>80-89</u> | <u>90-99</u> | <u>Totals</u> |
|-----------------|-----------------|------------------|-------------------|---------------|-----------------|---------------|----------------|---------------------|-------------------|--------------|---------------|
| | <u>Consumer</u> | <u>Education</u> | <u>Employment</u> | <u>Family</u> | <u>Juvenile</u> | <u>Health</u> | <u>Housing</u> | <u>Maintenance</u> | <u>Individual</u> | <u>Misc</u> | |
| | | | | | | | | | <u>Rights</u> | | |
| Arkansas | 9 | 0 | 1 | 7 | 4 | 0 | 2 | 1 | 3 | 3 | 30 |
| Ashley | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 2 |
| Calhoun | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Columbia | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| Conway | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 3 |
| Desha | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Faulkner | 1 | 4 | 1 | 2 | 0 | 0 | 1 | 2 | 2 | 0 | 13 |
| Garland | 1 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 1 | 4 |
| Grant | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 |
| Hempstead | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| Hot Spring | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 1 | 5 |
| Howard | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Jefferson | 0 | 10 | 1 | 1 | 1 | 1 | 3 | 0 | 1 | 0 | 18 |
| Johnson | 0 | 1 | 0 | 2 | 0 | 0 | 0 | 3 | 0 | 0 | 6 |
| Lincoln | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Little River | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Logan | 1 | 0 | 1 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 6 |
| Lonoke | 0 | 4 | 0 | 4 | 4 | 0 | 1 | 0 | 2 | 1 | 16 |
| Miller | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| Not in Arkansas | 4 | 0 | 1 | 39 | 12 | 0 | 4 | 1 | 19 | 11 | 91 |
| Ouachita | 0 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| Outside of | | | | | | | | | | | |
| Service Area | 0 | 2 | 0 | 5 | 1 | 0 | 0 | 1 | 5 | 2 | 16 |
| Pike | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Pope | 1 | 0 | 3 | 2 | 0 | 1 | 1 | 0 | 0 | 1 | 9 |
| Prairie | 0 | 1 | 0 | 1 | 3 | 0 | 1 | 0 | 0 | 1 | 7 |
| Pulaski | 6 | 86 | 4 | 37 | 11 | 9 | 41 | 35 | 3 | 7 | 239 |
| Saline | 2 | 5 | 2 | 0 | 2 | 0 | 0 | 2 | 1 | 1 | 15 |
| Sebastian | 0 | 2 | 2 | 4 | 1 | 1 | 1 | 2 | 0 | 0 | 13 |
| Sevier | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| Union | 0 | 0 | 1 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 4 |
| White | 0 | 1 | 0 | 4 | 0 | 0 | 0 | 0 | 1 | 2 | 8 |
| Yell | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 26 | 124 | 20 | 121 | 44 | 15 | 57 | 50 | 37 | 32 | 526 |

| COUNTIES | No. of Persons Living Below 125% of the Poverty Level (2015) | Closures 10/31/2016- 11/01/2017 | Rounded Penetration Rate Percentage |
|-----------------|---|--|--|
| Boone | 8,300 | 364 | 4.4 |
| Jackson | 4,660 | 174 | 3.7 |
| Crittendon | 15,137 | 514 | 3.4 |
| Craighead | 25,292 | 756 | 3 |
| Independence | 10,234 | 265 | 2.6 |
| Greene | 9,915 | 245 | 2.5 |
| Baxter | 8,387 | 187 | 2.2 |
| Poinsett | 7,519 | 163 | 2.2 |
| Washington | 53,204 | 1,121 | 2.1 |
| Clay | 4,341 | 86 | 2 |
| Lawrence | 5,578 | 111 | 2 |
| St. Francis | 8,187 | 161 | 2 |
| Lee | 3,064 | 59 | 1.9 |
| Sharp | 5,614 | 101 | 1.8 |
| Benton | 41,217 | 695 | 1.7 |
| Mississippi | 14,796 | 253 | 1.7 |
| Monroe | 3,133 | 54 | 1.7 |
| Cleburne | 5,316 | 87 | 1.6 |
| Phillips | 8,549 | 136 | 1.6 |
| Carroll | 7,100 | 106 | 1.5 |
| Marion | 4,410 | 67 | 1.5 |
| Randolph | 4,616 | 68 | 1.5 |
| Searcy | 2,400 | 34 | 1.4 |
| Cross | 4,890 | 60 | 1.2 |
| Newton | 2,474 | 30 | 1.2 |
| Van Buren | 4,896 | 57 | 1.2 |
| Woodruff | 2,245 | 28 | 1.2 |
| Madison | 4,620 | 53 | 1.1 |
| Fulton | 3,099 | 32 | 1 |
| Izard | 3,404 | 34 | 1 |
| Stone | 4,322 | 33 | 0.8 |
| | 290,919 | 6134 | 2.1 |

Table 1: Top Ten Counties with the Highest Number of Decline in Closures between 2016 and 2017

| | County | 2016 | 2017 | Decrease in Closures | |
|----|--------------|------|------|----------------------|---------|
| | | | | No. of Cases | % |
| 1 | Washington | 1125 | 799 | -326 | -28.98% |
| 2 | Benton | 642 | 539 | -103 | -16.04% |
| 3 | Jackson | 207 | 139 | -68 | -32.85% |
| 4 | Craighead | 625 | 573 | -52 | -8.32% |
| 5 | Sharp | 115 | 82 | -33 | -28.70% |
| 6 | Independence | 233 | 204 | -29 | -12.45% |
| 7 | Greene | 233 | 207 | -26 | -11.16% |
| 8 | Clay | 78 | 54 | -24 | -30.77% |
| 9 | Cross | 68 | 44 | -24 | -35.29% |
| 10 | Van Buren | 63 | 40 | -23 | -36.51% |

Table 2: Top Ten Counties with the Highest Rate of Decline (%) in Closures between 2016 and 2017

| | County | 2016 | 2017 | Decrease in Closures | |
|----|------------|------|------|----------------------|---------|
| | | | | No. of Cases | % |
| 1 | Woodruff | 34 | 20 | -14 | -41.18% |
| 2 | Van Buren | 63 | 40 | -23 | -36.51% |
| 3 | Cross | 68 | 44 | -24 | -35.29% |
| 4 | Jackson | 207 | 139 | -68 | -32.85% |
| 5 | Clay | 78 | 54 | -24 | -30.77% |
| 6 | Stone | 41 | 29 | -12 | -29.27% |
| 7 | Washington | 1125 | 799 | -326 | -28.98% |
| 8 | Sharp | 115 | 82 | -33 | -28.70% |
| 9 | Searcy | 40 | 30 | -10 | -25.00% |
| 10 | Monroe | 56 | 43 | -13 | -23.21% |

- 1. Increasing counties.** Between 2016 and 2017, only two counties, Baxter and Fulton, increased their number of closures. *See Table 3 below.*

Table 3: Top Five Counties with the Highest Number of Increase in Closures between 2016 and 2017

| | County | 2016 | 2017 | Increase | % |
|---|-------------|------|------|----------|---------|
| 1 | Baxter | 116 | 159 | 43 | 37.07% |
| 2 | Fulton | 19 | 23 | 4 | 21.05% |
| 3 | Crittendon | 0 | 0 | 0 | #DIV/0! |
| 4 | St. Francis | 0 | 0 | 0 | #DIV/0! |
| 5 | Boone | 294 | 292 | -2 | -0.68% |

2. **Major declines by case type.** There was a significant decrease in the number of closures of (1) Health, (2) Family, (3) Income Maintenance, (4) Housing, (5) Individual Rights, and (6) Consumer cases between 2016 and 2017. Most significant decrease is in Health cases with 65% less closures in 2017 than in 2016. *See Table 4.*

While Family case group ranks as second highest in the number of decrease in closures between 2016 and 2017, their rate of decrease in closures (%) is significantly lower (-9.16%) than Employment cases (-16.9%). *See Table 4.*

Of cases within the Health category, State and Local Health (-90%) and Medicaid (-60%) cases have decreased most significantly. *See Table 5.* Within the Income Maintenance group, SSDI (-65%) and Food Stamps (-60%) have decreased most significantly.

Also worth noting is the 100% decrease in “14 Access (Including Bilingual, Residency, Testing)” cases, going from 10 in 2016 to zero in 2017.

Table 4: Highest Number of Decrease in Closures by Case Type Category between 2016 and 2017

| | Problem Category | 2016 | 2017 | + / - | % |
|----|--------------------------|------|------|-------|---------|
| 1 | 50-59 Health | 539 | 191 | -348 | -64.56% |
| 2 | 30-39 Family | 2763 | 2510 | -253 | -9.16% |
| 3 | 70-79 Income Maintenance | 425 | 250 | -175 | -41.18% |
| 4 | 60-69 Housing | 723 | 601 | -122 | -16.87% |
| 5 | *80-89 Individual Rights | 379 | 264 | -115 | -30.34% |
| 6 | 01-09 Consumer | 584 | 493 | -91 | -15.58% |
| 7 | 40-49 Juvenile | 359 | 313 | -46 | -12.81% |
| 8 | 20-29 Employment | 213 | 177 | -36 | -16.90% |
| 9 | 10-19 Education | 173 | 158 | -15 | -8.67% |
| 10 | 90-99 Misc | 281 | 295 | 14 | 4.98% |

Table 5: Highest Number of Decrease in Closures by Case Type between 2016 and 2017

| | Case Type | 2016 | 2017 | + / - | % |
|----|---|------|------|-------|---------|
| 1 | 89 Other Individual Rights | 370 | 31 | -339 | -91.62% |
| 2 | 57 State and Local Health | 310 | 31 | -279 | -90.00% |
| 3 | 32 Divorce/Sep./Annul. | 1072 | 925 | -147 | -13.71% |
| 4 | 63 Private Landlord/Tenant | 431 | 323 | -108 | -25.06% |
| 5 | 51 Medicaid | 168 | 67 | -101 | -60.12% |
| 6 | 31 Custody/Visitation | 427 | 356 | -71 | -16.63% |
| 7 | 73 Food Stamps | 101 | 50 | -51 | -50.50% |
| 8 | 44 Minor Guardianship / Conservatorship | 303 | 255 | -48 | -15.84% |
| 9 | 75 SSI | 191 | 144 | -47 | -24.61% |
| 10 | 02 Collect/Repo/Def/Garnish | 256 | 212 | -44 | -17.19% |
| 11 | 74 SSDI | 63 | 22 | -41 | -65.08% |
| 12 | 25 Employee Rights | 53 | 20 | -33 | -62.26% |
| 13 | 03 Contract/Warranties | 106 | 75 | -31 | -29.25% |
| 14 | 38 Support | 63 | 37 | -26 | -41.27% |
| 15 | 64 Public Housing | 51 | 25 | -26 | -50.98% |

3. **Major increases.** There was no one category of case types where significant increases in closures occurred. However, there was significant increase in closures of Home and Community Based Care cases, 47 more in 2017 than 2016, a 391.67% increase. Advanced Directives/Powers of Attorney and Special/Learning Disabilities closures increased significantly, in number of cases closed and rate of closures. *See Table 6.*

Table 6: Highest Number of Increases in Closures by Case Type between 2016 and 2017

| | Case Type | 2016 | 2017 | + / - | % |
|---|---|------|------|-------|---------|
| 1 | 54 Home and Community Based Care | 12 | 59 | 47 | 391.67% |
| 2 | 08 Unfair and Deceptive Sales Practices (Not Real Property) | 4 | 18 | 14 | 350.00% |
| 3 | 66 Housing Discrimination | 9 | 21 | 12 | 133.33% |
| 5 | 96 Advanced Directives/Powers of Attorney | 55 | 80 | 25 | 45.45% |
| 6 | 61 Federally Subsidized Housing | 37 | 52 | 15 | 40.54% |
| 8 | 30 Adoption | 26 | 36 | 10 | 38.46% |
| 9 | 13 Special Education/Learning Disabilities | 65 | 89 | 24 | 36.92% |

SUPREME COURT OF ARKANSAS

No. CV-17-183

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

APPELLANT

V.

BRADLEY LEDGERWOOD, LOUELLA
JONES, PEGGY SANDERS, MARCUS
STROPE, WINNIE WINSTON, DANA
WOLF, AND MICHAEL YARRA

APPELLEES

Opinion Delivered: November 9, 2017

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT
[NO. 60CV-17-442]HONORABLE WENDELL
GRIFFEN, JUDGEAFFIRMED.**JOHN DAN KEMP, Chief Justice**

Appellant Arkansas Department of Human Services (DHS) has filed an interlocutory appeal from an order entered by the Pulaski County Circuit Court granting a motion for temporary restraining order (TRO) in favor of appellees Bradley Ledgerwood, Louella Jones, Peggy Sanders, Marcus Strobe, Winnie Winston, Dana Wolf, and Michael Yarra. For reversal, DHS argues that the circuit court abused its discretion in finding that appellees demonstrated a likelihood of success on the merits of their claims and that they would suffer irreparable harm in the absence of a TRO. We affirm.

I. Facts

Appellees, who are low-income individuals with profound physical disabilities, are the beneficiaries of the ARChoices in Homecare Program¹ (“ARChoices” or “waiver

¹ The ARChoices in Homecare Program is a home-based and community-based waiver that was approved under the authority of 42 U.S.C. § 1915(c) by the Centers for

program”), a state Medicaid program that provides home-based and community-based services to eligible and enrolled participants. Appellees receive these services through a program called Attendant Care that pays caregivers to assist appellees with daily tasks such as bathing, dressing, preparing food, eating, ambulating, toileting, taking medication, shopping, and maintaining personal care, nutrition, and hygiene.

For approximately seventeen years, DHS determined a beneficiary’s number of attendant-care hours based on the professional discretion of a DHS registered nurse who assessed the beneficiary. Under this specific assessment, known as ArPath, DHS nurses determined that appellees required attendant care with a maximum of fifty-six hours per week. DHS later planned to implement a new reassessment system, known as the Resource Utilization Groups system (“RUGs”), that was based solely on a set of complex computer algorithms. These algorithms took patient information gathered from a 286-question ArPath assessment and placed the beneficiary into one of twenty-three RUGs tiers. Each RUGs tier is associated with an allocation of attendant-care hours that is determined by DHS. These possible allocations of weekly attendant-care hours span from six hours to eighty-one hours. Once an individual is assigned to a RUGs tier, DHS nurses do not have the discretion to move a beneficiary to another tier based on his or her specific needs.

In August 2015, DHS promulgated a 242-page packet, which included a Notice of Rulemaking along with a proposed RUGs rule and final RUGs rule. Dawn Stehle, director of the Division of Medical Services, issued the Notice of Rulemaking, stating,

Medicare & Medicaid Services on November 19, 2015, and became effective on January 1, 2016. ARChoices is administered by DHS’s Division of Aging and Adult Services under the authority of the DHS, the Medicaid agency for the State of Arkansas.

Effective January 1, 2016, [DHS] is renewing the ElderChoices 1915(c) HCBS waiver. The renewal combines the ElderChoices and Alternatives for Adults with Physical Disabilities (AADP) waivers into one waiver to be called the ARChoices in Homecare waiver covering participants 21 and older with a physical disability and individuals aged 65 and older. Effective January 1, 2016, the Department is also increasing the rate for Personal Care Services from \$4.19 to \$4.50 per 15 minute unit. The estimated annualized budget impact of the rate increase for the State Plan Personal Care Services is \$11,439,689.

The proposed policy is available for review at the Division of Medical Services You may also access it on the Medicaid website (www.medicaid.state.ar.us) and download it from the “Proposed Rules for Public Comment” section of the Website’s *General* menu. . . . All comments must be submitted in writing, at the above address, no later than September 1, 2015.

On December 1, 2015, Craig Cloud, director of the Division of Aging and Adult Services, sent a letter to the waiver-program beneficiaries, stating,

Effective January 1, 2016, the ElderChoices waiver program will be renamed ARChoices in Homecare. Your services and provider will remain the same way. When your reassessment is due, the DAAS Nurse will explain how your services will have a new name and will explain new options and choices available to you under ARChoices.

For now, just know that the name of your current services is being changed to ARChoices in Homecare. You will continue to receive the same services[,] and the DAAS Nurse will provide more information at your next reassessment.

On January 26, 2017, appellees filed a complaint, seeking a declaratory judgment challenging the validity of DHS’s new RUGs rule. They alleged, *inter alia*, that the RUGs rule did not substantially comply with the Administrative Procedure Act (“APA”), codified at Arkansas Code Annotated sections 25-15-201 to -219 (Repl. 2014 & Supp. 2015), and sought injunctive relief. Specifically, they alleged that “the unlawful switch to the computer algorithm reduced [appellees’] Attendant Care hours by an average of 43%, with one [appellee’s] cut reaching 56%.” Appellees also made the following factual allegations concerning their specific health histories. Appellee Ledgerwood, diagnosed with cerebral palsy, requires attendant-care services to perform all life activities. Until 2016, he received

fifty-six weekly attendant-care hours, and in February 2016, DHS reduced his hours to thirty-two weekly hours. Appellee Jones, diagnosed with cerebral palsy, multiple sclerosis, hiatal hernia, cardiac arrhythmia, obesity, and an acute gastric ulcer, received forty weekly attendant-care hours. From April to August 2016, her weekly attendant-care hours were reduced to nineteen. Appellee Sanders, who was diagnosed with congestive heart failure, atrial fibrillation, coronary-artery disease, stage three kidney disease, hypothyroidism, osteoarthritis, gout, depression, anxiety, anemia, allergies, urinary incontinence, and chronic pulmonary disease, received forty-eight weekly attendant-care hours; however, from April to November 2016, DHS reduced her attendant-care hours to twenty-one. Appellee Strobe, who was diagnosed with incomplete tetraplegia after breaking his neck and is confined to a bed, had been authorized fifty-six weekly attendant-care hours. From April to September 2016, he received approximately thirty-two hours after his reassessment. Appellee Winston, who suffers severe spinal conditions, including bulging discs, fused vertebrae, and spinal lesions, was diagnosed with neuropathy and arthritis and suffers from severe pain. She had received forty-four weekly attendant-care hours, but after her reassessment, DHS reduced her hourly allotment to twenty-two hours. Appellee Wolf suffered serious injuries, resulting in quadriplegia after a car accident at the age of fifteen. He received fifty-six attendant-care hours, but from April to August 2016, DHS reduced his attendant-care hours to thirty-seven. Appellee Yarra, who was injured in a car accident, had one leg amputated, has severe bladder problems, has sustained nerve damage, and suffers from chronic infections. Confined to a wheelchair, he received forty-two hours, but DHS reduced those hours to thirty-three

from September 2016 to January 2017. Appellees claim that DHS's reduction in their attendant-care weekly hours will be insufficient to meet their care needs.

On January 31, 2017, appellees filed a motion for temporary restraining order and preliminary injunction. In their brief in support, appellees contended that DHS's switch from the nurses' assessment to RUGs "[a]s of May 1, 2016, the last date for which DHS has data, the shift to the RUGs system had resulted in cuts for a [sic] 47% of ARChoices beneficiaries, increases for 43%, and no change for the remainder[,]” but that they, “the most acute beneficiaries[,] have been hit the hardest.” Appellees claimed that they (1) had been forced to go without food, (2) remained in soiled clothes or have gone without bathing, (3) missed key exercises, treatments, or turnings, (4) faced an increased risk of falling, (5) have become more isolated in their homes; (6) have suffered worsened medical conditions directly due to a lack of care; and (7) have considered moving to nursing homes. Appellees concluded that they had met the requirements for a TRO in proving that they faced irreparable injury and were likely to prevail on the merits of their claims. In their prayer for relief, they requested, *inter alia*, a temporary restraining order that would (1) enjoin DHS from conducting reassessments on the appellees and reducing their attendant-care hours under RUGs and (2) require DHS to maintain or restore appellees' attendant-care hours to the amounts determined as of December 31, 2015.

The circuit court held a hearing on appellees' motion for TRO and preliminary injunction. After receiving evidence and hearing testimony and closing arguments, the circuit court made the following ruling from the bench:

[Appellees] . . . argue they suffered and will continue to suffer irreparable harm in the absence of a temporary restraining order.

....

The court finds that the plaintiffs have presented evidence that shows there's a substantial likelihood they will be able to succeed, that the proposed rule was not given with notice with regard to the specific nature and significance of the change in assessment methodology.

....

The court makes this recitation [of the evidence before it] to indicate the basis for its conclusion that [appellees] have demonstrated a substantial likelihood of success on the merits as to whether or not the notice required under Arkansas Code 25-15-204 has been adopted and filed in substantial compliance so as to be valid.

The second aspect or the second element that [appellees] must prevail on in order to obtain a temporary restraining order is to demonstrate irreparable harm, that irreparable harm will ensue as a result of the alleged conduct. [Appellees] alleged that they have suffered and will continue to suffer irreparable harm in the absence of a temporary restraining order.

In this regard, the court finds that the [appellees] have met their burden of proof. . . . Based upon the testimony of Ms. Jones with regard to the effect of RUG[s] methodology, the court finds that not only does she [appellee Jones] suffer from conditions that make it evident that she would likely suffer irreparable harm, but based upon the affidavits of the other plaintiffs, it appears to the court that those plaintiffs simply suffer from conditions which would subject them to irreparable harm if the temporary restraining order is not issued.

....

Thus, the court finds that the [appellees] have met their burden of proof on the issue of likelihood of success on the merits and irreparable harm.

....

The court does, however, pursuant to [appellees'] motion, grant the motion for temporary restraining order and enjoin the defendant from conducting reassessments on the [appellees] under the RUGs system pending the existence of the temporary restraining order.

Subsequently, on February 7, 2017, the circuit court entered an order granting appellees' motion for temporary restraining order and temporarily enjoining DHS from conducting annual reassessments on appellees and from reducing their attendant-care hours.

In its order, the circuit court found that (1) exhaustion of administrative remedies was not required, as irreparable injury would result if appellees were compelled to pursue administrative remedies, and an administrative appeal would be futile; (2) appellees have suffered and will continue to suffer irreparable harm in the absence of a TRO, as they have suffered harm to their physical and emotional well-being from the reduction in attendant-care services; and (3) appellees have demonstrated a likelihood of success on the merits. The circuit court enjoined DHS from conducting reassessments on appellees and reducing their attendant-care hours under RUGs, pending a hearing on the preliminary injunction. DHS now brings this interlocutory appeal from the February 7, 2017 order pursuant to Rule 2(a)(6) of the Arkansas Rules of Appellate Procedure–Civil. This court granted DHS’s stay of the circuit court proceedings pending our decision on this interlocutory appeal.

II. *Temporary Restraining Order*

On appeal, DHS contends that the circuit court abused its discretion in granting appellees’ motion for temporary restraining order and enjoining it from reassessing appellees by using the RUGs methodology. Specifically, DHS argues that the circuit court abused its discretion in finding that appellees (1) demonstrated a likelihood of success on the merits and (2) will suffer irreparable harm in the absence of a TRO.

Rule 65 of the Arkansas Rules of Civil Procedure governs the issuance of TROs. In determining whether to issue a TRO pursuant to Rule 65, a circuit court must consider two issues: (1) whether irreparable harm will result in the absence of an injunction or restraining order, and (2) whether the moving party has demonstrated a likelihood of success on the merits. *Baptist Health v. Murphy*, 362 Ark. 506, 209 S.W.3d 360 (2005) (per curiam).

The issuance of a temporary restraining order is a matter addressed to the sound discretion of the circuit court. *Three Sisters Petroleum, Inc. v. Langley*, 348 Ark. 167, 72 S.W.3d 95 (2002). We will not reverse the circuit court’s ruling unless there has been an abuse of discretion. *Doe v. Ark. Dep’t of Human Servs.*, 357 Ark. 413, 182 S.W.3d 107 (2004). In reviewing the circuit court’s findings, we give due deference to the circuit court’s superior position to determine the credibility of the witnesses and the weight to be accorded to their testimony. *Monticello Healthcare Ctr., LLC v. Goodman*, 2010 Ark. 339, 373 S.W.3d 256.

A. Justiciability

As an initial matter, DHS urges this court to reverse the circuit court’s TRO and to dismiss the complaint because the claims are not justiciable. DHS contends that the controversy is not ripe for judicial determination because any claims are speculative and contingent on the possibility of a future decrease in attendant-care hours. Appellees respond that their claims are ripe because they belong to a class of persons affected by the RUGs system.

Our declaratory-judgment statute provides that “[a]ny person. . . whose rights, status or other legal relations are affected by a statute. . . may have determined any question of construction or validity arising under the. . . statute . . . and obtain a declaration of rights, status or other legal relations thereunder.” Ark. Code Ann. § 16-111-102 (Repl. 2016).

In this instance, the circuit court has not ruled on appellees’ underlying declaratory-judgment action, but it granted appellees’ motion for TRO. In doing so, the circuit court found that appellees suffered irreparable harm and demonstrated a likelihood of success on

the merits of their claims, in part, because DHS had reduced appellees' attendant-care hours. "A party thus is not required to prove his [or her] case in full at a preliminary-injunction hearing." *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). Accordingly, we conclude that appellees present a justiciable controversy in this instance. For these reasons, we reject DHS's argument.

B. Irreparable Harm

DHS argues that the circuit court abused its discretion in finding that appellees have suffered irreparable harm in the absence of a TRO.² Appellees respond that the circuit court did not abuse its discretion in concluding that appellees would suffer irreparable harm because, by using RUGs, DHS's reduction of their hours caused them to go without needed care.

This court has held that "[e]ssential to the issuance of a temporary restraining order is a finding that a failure to issue it will result in irreparable harm to the applicant." *Kreutzer v. Clark*, 271 Ark. 243, 244, 607 S.W.2d 670, 671 (citing Ark. R. Civ. P. 65). The prospect of irreparable harm or lack of an otherwise adequate remedy is the foundation of the power to issue injunctive relief. *Wilson v. Pulaski Ass'n of Classroom Teachers*, 330 Ark. 298, 954 S.W.2d 221 (1997). Harm is normally considered irreparable only when it cannot be adequately compensated by money damages or redressed in a court of law. *Three Sisters Petroleum, Inc.*, 348 Ark. 167, 72 S.W.3d 95.

² In its brief, DHS presents (1) likelihood of success on the merits and (2) irreparable harm in that order. We first address the issue of irreparable harm.

In the case at bar, the circuit court found that appellees “have suffered and will continue to suffer irreparable harm in the absence of a TRO. [Appellees] have suffered harm to their physical and emotional well-being from [DHS’s] reduction in Attendant Care services.” In support of its ruling, the court emphasized the testimony of Louella Jones in stating,

Plaintiff Jones . . . contends that she will undergo assessment for care under RUGs within the coming week. Jones testified that in 2016 she underwent RUGs reassessment which resulted in a decrease in her Attendant Care hours from 40 hours per week to 19 hours per week. Jones testified that she is not able to pay out of pocket for additional care, and does not have family or friends residing nearby. Jones, who suffers from cerebral palsy, multiple sclerosis, a heart condition, bladder incontinence, and has trouble walking, further testified that when her Attendant Care hours were reduced[,] she suffered difficulties with cleanliness, she had to remain in her urinary waste, soiled clothing and diapers, and that she suffered skin irritation as a result of that. Jones also stated that she had an increased fear of falling during that time, and that she went without food because she was unable to prepare her own meals.

The circuit court also noted that the “[a]ffidavits of the remaining [appellees] mirrored Jones’s experience and concerns” and that they “have been forced to go without food, remain in soiled clothes or go without bathing, miss key exercises, treatments, or turnings, face increased risk of falling, be more isolated in their homes, suffer worsened medical conditions directly due to the lack of care, and consider moving into nursing homes.”

We agree with the circuit court’s finding that appellees have suffered and will continue to suffer irreparable harm in the absence of a TRO. Here, appellees have sustained injuries for which money damages are not available. Based on their sworn affidavits, appellees admit that they have suffered lack of food, have remained in soiled clothes, have gone without bathing, have missed treatments and turnings, face increased risk of falling, have become more isolated, and have suffered worsened medical conditions as a result of

their lack of care provided by DHS. Given this evidence, appellees have provided a sufficient showing of irreparable harm to justify the circuit court's issuance of a temporary restraining order. Based on our standard of review, we conclude that the circuit court properly found irreparable harm in this instance.

C. Likelihood of Success on the Merits

DHS argues that the circuit court abused its discretion in finding that appellees demonstrated a likelihood of success on the merits. Specifically, DHS contends that appellees' claims are not ripe for our consideration because they do not constitute a justiciable controversy, that it substantially complied with section 25-15-204, and that appellees had actual knowledge of the rule.

Appellees contend that the circuit court did not abuse its discretion in concluding that they were likely to succeed on the merits because (1) they belonged to the class of persons affected by the RUGs system; (2) the circuit court had ample evidence that DHS did not substantially comply with section 25-15-204; and (3) actual knowledge of the rule is irrelevant.

This court has held that, "to justify a grant of preliminary injunction relief, a plaintiff must establish that it will likely prevail on the merits at trial." *W.E. Long Co. v. Holsum Baking Co.*, 307 Ark. 345, 351, 820 S.W.2d 440, 443 (1991) (citing *Smith v. Am. Trucking Ass'n*, 300 Ark. 594, 781 S.W.2d 3 (1989)). The test for determining the likelihood of success is whether there is a reasonable probability of success in the litigation. *Custom Microsystems Inc. v. Blake*, 344 Ark. 536, 42 S.W.3d 453 (2001). Such a showing "is a benchmark for issuing a preliminary injunction." *Id.* at 542, 42 S.W.3d at 457-58. The

appellate court will not delve into the merits of the case further than is necessary to determine whether the circuit court exceeded its discretion in granting the injunction. *Villines*, 340 Ark. 319, 11 S.W.3d 516.

In the present case, the gravamen of appellees' complaint and underlying action seeking declaratory judgment is that the RUGs rule is invalid and violates section 25-15-204(h). In their complaint, appellees alleged that DHS failed to provide adequate notice of rulemaking when it promulgated changes to the waiver program in 2015. Appellees relied on section 25-15-204, which provides in pertinent part:

- (a) Prior to the adoption, amendment, or repeal of a rule, the agency shall:
 - (1)(A)(i) Give at least thirty (30) days' notice of its intended action.
 - (ii) The thirty-day period shall begin on the first day of the publication of notice.
 - (B) The notice shall include:
 - (i) A statement of the terms or substance of the intended action or a description of the subjects and issues involved; and
 - (ii) The time, location, and manner in which an interested person may present his or her position on the intended action of the agency or on the issues related to the intended action of the agency.
 - (C) The notice shall be mailed to:
 - (i) A person specified by law; and
 - (ii) A person who has requested advance notice of rule-making proceedings.
 - (D) Unless otherwise provided by law, the notice shall be published:
 - (i) In a newspaper of general daily circulation for three (3) consecutive days and, when appropriate, in those trade, industry, or professional publications that the agency may select; and
 - (ii) By the Secretary of State on the Internet for thirty (30) days under § 25-15-218;
 - (2)(A) Afford all interested persons reasonable opportunity to submit written data, views, or arguments, orally or in writing.
-
- (h) A rule adopted after June 30, 1967, is not valid unless adopted and filed in substantial compliance with this section.

In their motion for TRO, appellees claimed that they would have a likelihood of success on the merits of their claims because, "in violation of the Administrative Procedures [sic] Act's rule-making provisions, DHS has adopted and implemented a policy of general

applicability and future effect—the RUGs system—while failing to provide proper notice, meaningful opportunity for public comment, reasoned consideration of the issues involved, and legislative oversight.”

With section 25-15-204 in mind, the circuit court found that the appellees “have presented evidence that shows that there is a substantial likelihood that they will be able to succeed on the merits of the underlying action.” This evidence included the following exhibits: (1) appellees’ exhibit 2, a DHS notice entitled “Notice of Rule Making,” dated December 1, 2015, that omits any mention of a proposed rule implementing the new RUGs methodology; (2) appellees’ exhibit 3, a letter prepared by Craig Cloud, director of DHS’s Division of Aging and Adult Services, in which he states that, effective January 1, 2016, “the name of your current services is being changed to ARChoices in Homecare[,] [and] [y]ou will continue to receive the same services; and the DAAS Nurse will provide more information at your next reassessment;” (3) appellees’ exhibit 4, a report of the administrative hearing of the Rules Subcommittee of the Arkansas Legislative Council; and (4) appellees’ exhibit 5, a recording of a December 15, 2015 subcommittee hearing during which DHS sought legislative approval of the proposed rule with no reference to RUGs or the changes in the ARChoices assessment methodology. Additionally, at the TRO hearing, the circuit court heard Cloud’s testimony that DHS’s proposed rule was submitted to the public and that the proposed rule and policy manual mentions RUGs; however, Cloud admitted that there was no mention of RUGs in DHS’s Notice of Rule Making.

Based on the evidence presented at the TRO hearing, we agree with the circuit court’s finding that appellees, as the moving party, have demonstrated a likelihood of success

on the merits. Without delving into the underlying merits of appellees' ongoing claims, it appears that they have demonstrated a substantial likelihood of success on the merits that, by failing to provide proper notice, DHS did not substantially comply with section 25-15-204 in promulgating the new RUGs methodology. Thus, we hold that the circuit court did not abuse its discretion in finding that appellees have demonstrated a likelihood of success on the merits.

III. *Exhaustion of Remedies*

Finally, DHS argues in its brief that appellees should have pursued the exhaustion-of-remedies doctrine before filing an action in the circuit court. Citing Arkansas Code Annotated section 25-15-207(d) (Repl. 2014), appellees submit that they were not required to exhaust their administrative remedies before seeking a declaratory order from the court.

Generally, declaratory-judgment actions are intended to supplement, rather than replace, ordinary actions. *Ahmad v. Beck*, 2016 Ark. 30, 480 S.W.3d 166. Accordingly, litigants must exhaust their administrative remedies before seeking a declaratory judgment. *Id.*, 480 S.W.3d 166. Still, there are exceptions to the exhaustion-of-administrative-remedies doctrine. *Id.*, 480 S.W.3d 166. For example, exhaustion of remedies is not required when no genuine opportunity for adequate relief exists or when irreparable injury will result if the complaining party is compelled to pursue administrative remedies. *Id.*, 480 S.W.3d 166. Exhaustion of remedies is also not required when an administrative appeal would be futile. *Id.*, 480 S.W.3d 166.

Here, in its order, the circuit court ruled that “[e]xhaustion of administrative remedies is not required, as irreparable injury will result if the [appellees] are compelled to

pursue administrative remedies, and an administrative appeal would be futile.” We agree with the circuit court’s ruling for two reasons. First, any irreparable harm to appellees warrants application of the futility exception set forth in our exhaustion-of-remedies case law. Second, Arkansas Code Annotated section 25-15-207(d) provides appellees the statutory scheme for seeking a declaratory judgment in lieu of pursuing the exhaustion of remedies. That statute provides that “[a] declaratory judgment may be rendered whether or not the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question.” Ark. Code Ann. § 25-15-207(d). Based on our review of this statute, we conclude that the plain language offers appellees the option of pursuing a declaratory judgment as they have done in this instance.

Therefore, we hold that the circuit court did not abuse its discretion in granting appellees’ motion for temporary restraining order. Accordingly, we affirm.

Affirmed.

David Sterling and *Richard Rosen*, Office of Chief Counsel, for appellant.

Kevin De Liban, Legal Aid of Arkansas, West Memphis; and *Amy Pritchard*, Legal Aid of Arkansas, Jonesboro, for appellees.

Justices uphold ruling on in-home care

 arkansasonline.com/news/2017/nov/10/justices-uphold-ruling-on-in-home-care--1/

11/10/2017

The Arkansas Supreme Court on Thursday unanimously upheld a lower judge's decision to temporarily block the Arkansas Department of Human Services from implementing changes to in-home health services for a group of low-income patients.

The court sided with seven disabled Medicaid recipients who had sued the state when their services were cut after a computer program was installed to determine how much care they needed. Previously, the level of care was determined by a nurse.

The patients had argued that in installing the computer program, the Human Services Department skirted public notice requirements. After a six-hour hearing in February, Pulaski County Circuit Judge Wendell Griffen issued a temporary restraining order barring the state from using the new program to cut services to the patients, whose conditions included cerebral palsy and near-total paralysis.

The order was put in place until a full trial could be heard, and one was scheduled for July.

Instead, the state appealed, arguing that Griffen abused his discretion in determining that the patients had a likelihood of winning their case. The high court on Thursday said there was no error in Griffen's call.

The lawsuit was prepared by Legal Aid attorney Kevin De Liban, who called Thursday's ruling "the latest in a string of losses for the Department of Human Services about this issue.

"If the state hadn't appealed, the issue would have already been decided at trial," De Liban said.

Now, a trial will likely occur next year, he said.

A spokesman for the Department of Human Services did not return a request for comment left Thursday afternoon.

According to court filings, the seven patients who sued the state saw the number of hours of care they received in a given week cut by more than 40 percent. In a phone call, De Liban said his clients had lived with their reduced care in periods ranging from a few days to a few months.

The court filings alleged that as a result of the reduced care, some clients went without food because they were not being looked after as much, and some laid in soiled clothes, missed exercises and had increased risks of falling.

Throughout the program, called ARChoices, about 47 percent of patients saw their services cut because of an evaluation by the computer program, called Resource Utilization Groups system or RUGs. Another 43 percent got more services, the state alleged in court papers, and the rest saw no change.

The ARChoices program uses Medicaid funds to provide in-home care to patients with debilitating conditions, rather than placing those people in a nursing home.

The restraining order only applied to those patients who had joined the lawsuit, who De Liban said were among the hardest hit by the change.

The appeal of Griffen's restraining order was argued before the high court Oct. 26. Thursday's opinion was penned by Chief Justice Dan Kemp.

Metro on 11/10/2017

Health Law Project

Appendix A – Project Description

The goals of the Health Law Project are to:

- Preserve and protect access to high quality health care, including through Medicaid, the ACA, and the Americans with Disabilities Act;
- Shape policy debates at the state level by educating policymakers, newsmakers, health care providers, and reporters about the importance of the Medicaid and other related provisions under attack and what proposed changes will mean for people in the state;
- Build robust administrative records, at the state and federal level, regarding proposed administrative actions;
- Bring litigation that will, to the extent possible, block or delay the implementation of illegal actions and bad policy impacting health care for low income people; and
- Build strong ongoing relationships between NHeLP and state advocate organizations and among state advocate organizations.

As part of this Project, the Grantee will:

- Announce the formation of the Health Law Project, using a project title to be provided by NHeLP, to state contacts, national partners, and funders;
- Form a monitoring and enforcement team with NHeLP, and, where needed, additional local, state, and national partners;
- Identify state and federal actions that are resulting or will result in significant reductions in health coverage, and formulate enforcement and litigation strategies for addressing the problems;
- With support from NHeLP, develop written materials that make clear what is at stake in harmful policy proposals and the importance of resisting actions that will reduce access to care for people in the state; share those materials with state policymakers, health care providers, newsmakers, and media;
- Identify and engage with significant state stakeholders, including health care providers, experts, clients and others, to submit comments on proposed changes to ensure a robust evidence-based administrative record at the state and federal levels;
- Partner with NHeLP to bring litigation, including developing legal arguments and strategies, identifying plaintiffs, drafting pleadings and participating in hearings;

- In coordination with NHeLP, develop and implement a communications strategy that supports and enhances the legal strategy and elevates the visibility of the Health Law Project;
- Meet annually with other state advocate organizations that are involved in this Initiative;
- Share materials and best practices with other state advocate organizations involved in this Project;
- Seek funding to bolster and sustain the work of the Project; and
- Meet annually with other state organizations that are involved in this effort.

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Executive Director

