

Bridging the Aging Network and Legal Services: Introducing the National Center on Law and Elder Rights

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Justice in Aging is a national non-profit legal advocacy organization that fights senior poverty through law. Formerly the National Senior Citizens Law Center, since 1972 we've worked for access to affordable health care and economic security for older adults with limited resources, focusing especially on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

Through targeted advocacy, litigation, and the trainings and resources we provide to local advocates, we ensure access to the social safety net programs that poor seniors depend on, including Medicare, Medicaid, Social Security, and Supplemental Security Income (SSI).

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration on Community Living's Administration on Aging.

Today

- Legal services as a component of HCBS
 - OAA guidance on legal services
- Bridge between aging and disability network and legal services
- New NCLER's role connecting the two
- Discussion: Bridging the networks in your state

Legal services as a component of HCBS

And guidance from the Older Americans Act

Legal Services as a HCBS

Legal services is a critical component of services that help older adults age at home and in the community:

- “[It is] **clear that access to justice** helps individuals and families secure basic necessities, **like health care, housing**, employment and education while also enhancing stability and **increasing public safety.**”

2016 White House Legal Aid Inter
Agency Roundtable Report

Example

- Mr. C, in his 60s, wanted to leave his nursing home and receive HCBS in his own apartment as part of the Money Follows the Person program. However, just before he was going to leave, he was assessed as not meeting the necessary medical “level of care”.
- Mr. C worked with the local Title IIB legal services provider, who represented him in an administrative appeal, and he was able to retain his medical eligibility for long term services through Medicaid. The legal services attorney partnered with the aging and disability network to quickly get him set up with all the necessary HCBS to live in his community apartment.

Older Americans Act directs funding for legal services

- Older Americans Act (OAA) Title IIIB:
 - Directs area agencies on aging to award funds to legal assistance providers
- OAA Legal Services Providers = IIIB attorneys
- OAA calls for state legal services leadership through a Legal Assistance Developer (LAD):
 - Title III: Requirements for a State Plan
 - Title VII, Chapter 3: State Legal Assistance Development Program

OAA: State level guidance on legal services

- Role of the Legal Assistance Developer:
 - Work with IIB providers, AAAs to coordinate IIB services with the Legal Service Corporation
 - Determine need for attorney training and education
 - Facilitate communication between AAAs, legal providers and advocates
 - Identify elder legal issues to be included in the State Unit on Aging's State Plan

That's what the law says...but how
does this work in reality?

Legal services help advance access to HCBS

- Legal services provide **necessary link** between older adults and social safety net programs.
- *Example:* A low-income older adult requires LTSS following a hospitalization. By default, she may end up in a nursing facility. With the help of an attorney, she may have been able to access Medicaid waiver services to provide nutrition, home modification, and other personal care assistance to remain in her home.

Access to justice gap

- When legal services are available, they can be life saving. However,
 - Too many older adults do not receive the help they need
 - The access to justice gap is well documented
 - Legal Services Corporation (LSC) funded programs turn down one individual for every individual they serve
 - Only 1 in 4 low-income older adults receive the legal assistance they require

Challenges with legal services delivery

- III-B of the OAA requires local area agencies on aging (AAAs) to fund legal assistance providers to meet the needs of older adults
- Funding is focused at the local level, so it is variable and fragmented-both within states and from state to state
- Due to a lack of quality metrics, local funders may focus on **quantity** of cases rather than **systemic** change

Legal services not always perceived as part of HCBS network

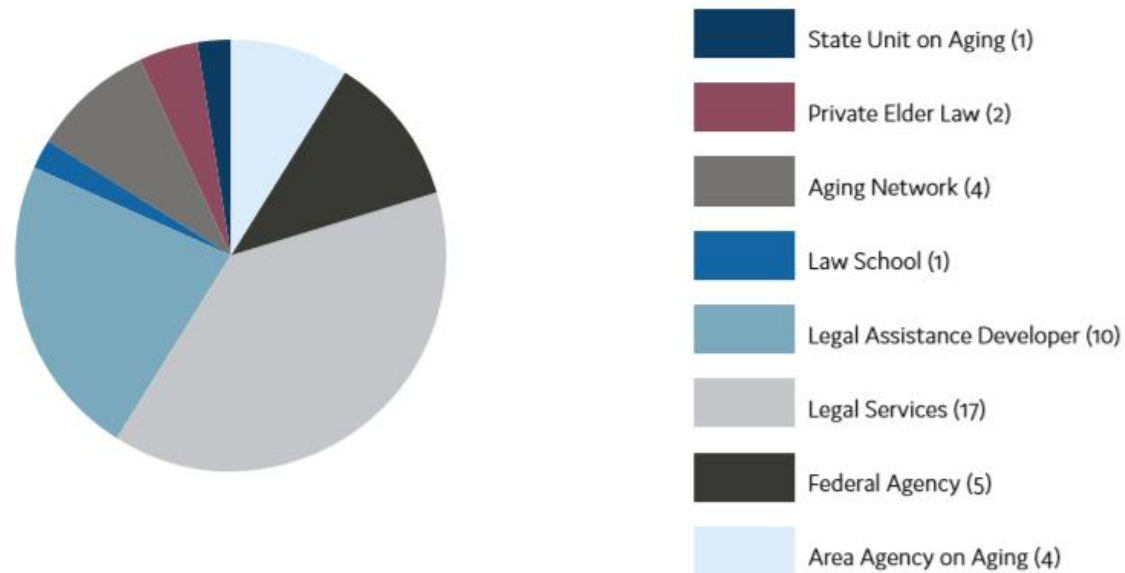
- Administration for Community Living views legal assistance and elder rights programs as a critical factor in furthering the community living mission: empowering older adults to remain independent, health and safe in their homes for as long as possible.
- However, in practice, legal services programs are sometimes overlooked as a component of the home and community-based services network.

Bridge between aging and disability network and legal services

Findings from stakeholder interviews with the network

Interviews with the network

Justice in Aging interviewed 44 individuals from organizations that fell into the following categories:



The interviews spanned 24 states and the District of Columbia.

Interviews with the network



Interviews with the network

- Findings: Aging network professionals, attorneys, and LADs share common sentiment:
 - There is a disconnect between the legal and aging world. When they two work together, it is mutually beneficial, but making that happen can be difficult.

“(Advocacy) is not a secondary thing for (legal services attorneys), this is their primary life: advocating for people who are struggling. We know the attorneys and we support their work, and there is mutual respect, and I think that is outstanding. I have presented nationally about this, and I’m always amazed that people don’t have this relationship, and I say I’m sorry, but you should replicate this.” Area Agency on Aging Director

Interviews with the network

- Findings: LADs and legal services providers shared frustrations over the aging network and AAAs not understanding the role of legal services.
- *“There is a challenge with each entity understanding the other’s role. This is particularly a problem with the aging network not understanding the confidentiality and reporting requirements attorneys face. We need better ways to bridge the networks.”* Legal services organization

National Center on Law and Elder Rights

New support center to bridge aging and legal networks

Why NCLER?


- Need to focus on elder justice and elder rights
- Federal interest in unifying resources available to legal services into one, easy to find center
- Need to train new cohort of legal services attorney and front-line aging and disability networks to understanding legal issues impacting older adults
- Understanding of need for consultation and technical assistance on systemic legal challenges and improvements to the legal services delivery system

Partners involved in NCLER

- Justice in Aging: Lead contractor under a contract from the Administration on Community Living
- Partners:
 - ABA Commission on Law and Aging
 - National Consumer Law Center
 - The Center for Social Gerontology

NCLER offers

Case Consultations:



**NATIONAL
CENTER ON
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ELDER
RIGHTS**

Case Consultations

NCLER provides free case consultation assistance for attorneys and professionals seeking more information to help older adults. Topics can include: Advance Planning, Elder Abuse, Guardianship, Health/LTSS, Economic Security, Supported Decision-Making, Consumer Protection, and Housing. Please contact NCLER@acl.hhs.gov for assistance.

NCLER offers

Basic and Advanced Training Curriculum:

Basic Legal Training

+ MEDICARE PARTS A, B, AND C

+ ELDER ABUSE

+ FORECLOSURE PREVENTION

+ SUPPLEMENTAL SECURITY INCOME (SSI)

+ MEDICARE PART D

+ SOCIAL SECURITY

+ SUPPORTED DECISION-MAKING

Advanced Legal Training

+ BENEFITS FOR CONSUMERS IN THE REVISED NURSING FACILITY REGULATIONS

- SOCIAL SECURITY OVERPAYMENTS AND LOW-INCOME CLIENTS

Free Webinar: I Can't Pay That!— Social Security Overpayments and Low-Income Clients
from Justice in Aging
"I Can't Pay That!": Social Security Overpayments and Low-Income Clients
Kate Lang, Senior Staff Attorney
Trinh Phan, Senior Staff Attorney
59:15
February 21, 2017
vimeo

[READ THE ISSUE BRIEF \(145KB\)](#)

What else does NCLER offer?

- Technical Assistance for Legal Services Delivery Systems:
 - Example: Helping Legal Assistance Developers strengthen the legal network in their state

Discussion

Bridging the networks in your state

Small Group Discussion Questions

- What are you looking for from the NCLER?
- How do older adults in your state get connected to legal services
- What are some of the challenges to providing legal services to older adults in your state?
- What are common legal issues for your clients? What legal trends do you see in the future?
- How do you suggest NCLER develop resources that would help your agency and your colleagues?

More information

- Please visit our interim website: <https://ncler.acl.gov>
- Questions: NCLER@acl.hhs.gov for assistance