

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.1485 Indigent civil legal assistance.

Sec. 1485.

(1) The money in the state court fund created in section 151a that is designated for indigent civil legal assistance shall be expended as provided in this section.

(2) The money designated for indigent civil legal assistance shall be administered by the state court administrator upon the recommendation of the Michigan state bar foundation. Subject to the standards and requirements prescribed in this section, the Michigan state bar foundation annually shall receive bids for the awarding of contracts to service providers for the provision of those legal services and shall, subject to the approval of the state court administrator, award the contracts. Upon approval of the contracts, the state treasurer shall distribute the entire amount available each fiscal year for indigent legal services as follows:

(a) To service providers pursuant to contracts, to be distributed according to the schedule, eligibility criteria, and fund distribution criteria set forth in this section.

(b) Subject to approval by the state court administrator, to the Michigan state bar foundation for reimbursement for performing its duties under this section, in an amount equal to 1% of the total amount distributed each year for indigent legal services, or \$40,000.00, whichever is greater.

(3) Except as provided in subsection (6), an organization that provides legal services within this state may bid to be awarded a contract under this section for the provision of legal services during the calendar year following the calendar year in which the bid is submitted. Except as provided in subsection (6), an applicant shall bid for a contract not later than November 1 of the calendar year immediately before the calendar year to which the contract applies. The application shall include all of the following:

(a) Evidence that the provision of legal services will be on a nonprofit basis.

(b) The proposed budget of the applicant for the funds for the calendar year to which the contract applies.

(c) A summary of the services to be offered by the applicant in the calendar year to which the contract applies.

(d) Evidence that the applicant provides a client grievance procedure to investigate any claim of discrimination, poor quality of service, or inappropriate denial of service.

(e) A specific description of the area to be served by the applicant.

(f) An estimate of the number of indigents to be served by the applicant during the calendar year for which financial assistance is requested.

(g) A general description of additional sources of funds available to the applicant.

(h) The amount of the applicant's total budget for the calendar year in which the application is filed and the amount that the applicant will expend in that calendar year for legal services to indigents in the area to be served by the applicant.

(i) A specific description of any services, programs, training, or legal technical assistance to be delivered by private attorneys or through programs using private attorneys including, but not limited to, reduced fee plans, judicare panels, and organized pro bono programs. The description shall include a detailed list of the conditions, if any, pursuant to which compensation will be provided to private attorneys for providing the services, programs, training, or legal technical assistance.

(j) A general description of the ability of the applicant to provide the legal services required by the contract, including the ability to provide any necessary training and supervision for persons providing those services, supported by any evidence of those abilities as the Michigan state bar foundation considers necessary.

(k) An explanation of the procedures to be used by the service providers to establish the legal services priorities described in subsection (8)(d).

(l) Any other information the Michigan state bar foundation considers necessary.

(4) Except as provided in subsection (6), and subject to the approval of the state court administrator under subsection (2), on or before December 15 of each calendar year, the Michigan state bar foundation shall notify each applicant that submitted a bid under subsection (3), in writing, whether the applicant has been awarded a contract under this section. If a contract is awarded, the Michigan state bar foundation shall estimate the amount that will be available for that applicant for each 3-month distribution period, as determined under subsection (5).

(5) The state court administrator shall allocate money under this section quarterly for distribution to service providers. Except as provided in subsection (6), the state court administrator shall allocate all money available for indigent legal assistance on January 1 of a calendar year to service providers and the state treasurer shall distribute the money to the service providers on or before January 15 of that calendar year. Except as provided in subsection (6), the state court administrator shall allocate all money available for indigent legal assistance on April 1 of a calendar year to service providers and the state treasurer shall distribute the money to the service providers on or before April 15 of that calendar year. Except as provided in subsection (6), the state court administrator shall

allocate all money available for indigent legal assistance on July 1 of a calendar year to service providers and the state treasurer shall distribute the money to service providers on or before July 15 of that calendar year. Except as provided in subsection (6), the state court administrator shall allocate all money available for indigent legal assistance on October 1 of a calendar year to service providers and the state treasurer shall distribute the money to the service providers on or before October 15 of that calendar year.

(6) For the awarding of contracts for the provision of legal services during the calendar year 1994, the following special provisions apply:

(a) The period of provision of legal services shall be from July 1, 1994 to December 31, 1994, and the bids for those contracts shall be submitted not later than May 1, 1994.

(b) On or before June 15, 1994, the Michigan state bar foundation shall notify each applicant that submitted a bid for a contract for the provision of legal services, in writing, whether the applicant has been awarded a contract.

(c) The state court administrator shall allocate all money available for indigent legal services on July 1, 1994, to service providers and the state treasurer shall distribute the money to service providers on or before July 15, 1994.

(7) A service provider shall provide civil legal assistance to indigents under this section in compliance with the standards described in the standards for providers of civil legal services to the poor first approved by the American bar association delegates in August, 1986.

(8) The Michigan state bar foundation and the state court administrator, in awarding contracts, shall comply with all of the following:

(a) The contracts awarded, taken together, shall provide for indigent legal services to be provided in every area of the state, on a nonprofit basis.

(b) A contract shall provide that funds paid under a contract shall be expended only for the provision of civil legal services to indigent persons, as described in subsection (9).

(c) Contracts shall be awarded so that civil legal services are provided on a statewide basis for support and training for other service providers, civil legal services for persons who are Native Americans, and civil legal services for persons who are migrant agricultural workers. Ten percent of the total amount awarded under all contracts, taken together, shall be earmarked for services described in this subdivision.

(d) A contract shall require that a service provider shall have a procedure for determining priorities among the civil legal services needed by the indigent population in its service area, which procedure shall include obtaining regular input from those indigent persons as to those priorities. The priorities among legal needs shall include, at a minimum, legal services related to residential housing and domestic violence, except for legal services funded by contract awarded to meet the requirements of subdivision (c).

(e) A contract shall require that the service provider include the participation of the private bar, on a pro bono basis, in its provision of legal services.

(f) The amount of funding provided under any contract shall be proportional to the number of indigent persons residing in that service area, as a percentage of all indigent persons in the state, according to the most recent federal decennial census.

(9) A service provider that receives money under this section shall use the money for 1 or more of the following purposes:

(a) To defray the costs of providing legal services to indigents.

(b) To provide legal training and legal technical assistance to other eligible legal aid societies.

(c) If the service provider has entered into an agreement with a local bar association, a private attorney, or a group of private attorneys pursuant to subsection (15) and pursuant to the description and list of conditions set forth in the service provider's application under subsection (3)(i), to provide funds for the services, programs, training, and legal technical assistance provided by the local bar association, private attorney, or group of private attorneys.

(10) A service provider shall not use money received under this section to provide legal services in relation to any criminal case or proceeding or in relation to any fee-generating case.

(11) A service provider shall not do either of the following:

(a) Use money received under this section to provide legal services in relation to any lawsuit against the state of Michigan unless the claim against the state had been the subject of an administrative proceeding.

(b) Use money received under this section for cases that are not permissible under the legal services corporation act, title X of the economic opportunity act of 1964, Public Law 88-452, 42 U.S.C. 2996 to 2996 l, and related regulations.

(12) In providing legal assistance to indigents, each service provider that receives money under this section shall ensure all of the following:

(a) That quality service and professional standards are maintained.

(b) That no person interferes with any attorney funded in whole or in part by this section in carrying out his or her professional responsibility to his or her client as established by the rules of professional responsibility.

(c) That the funds received pursuant to this section are expended only in accordance with this act.

(d) That client confidentiality is preserved.

(13) A service provider that receives money under this section shall file an annual report with the Michigan state

bar foundation detailing the number and types of cases handled and the amount and types of legal training and legal technical assistance provided, by means of that money. The information contained in the report shall not identify or enable the identification of any person served by the service provider or in any other way breach client confidentiality.

(14) The Michigan state bar foundation, with the assistance of the state court administrator and the state treasurer, shall make an annual report to the governor, the legislature, and the supreme court on the distribution and use of money distributed under this section. The information contained in the report shall not identify or enable the identification of any person served by a service provider, or in any way breach client confidentiality.

(15) A service provider may enter into an agreement with a local bar association, a private attorney, or a group of private attorneys pursuant to which the bar association, private attorney, or group of private attorneys provide services, programs, training, or legal technical assistance for the service provider or to indigent persons.

(16) As used in this section:

(a) "Fee-generating case" means a case or matter that, if undertaken on behalf of an indigent by an attorney in private practice, reasonably would be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered a fee generating case if adequate representation is unavailable and if any of the following circumstances exist concerning the case:

(i) The service provider that represents an indigent in the case has determined that free referral is not possible for any of the following reasons:

(A) The case has been rejected by the local lawyer referral service or, if there is no such service, by 2 attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the local lawyer referral service, if one exists, nor an attorney in private practice will consider the case without payment of a consultation fee.

(C) The case is of a type that an attorney in private practice in the area ordinarily does not accept or does not accept without initial payment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(ii) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(iii) A court has appointed the service provider or its employee to represent the indigent in the case pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(iv) The case involves the right of a claim under a publicly supported benefit program for which entitlement is based on need.

(b) "Indigent" means either of the following:

(i) An individual whose income is not greater than 125% of the official poverty line established in the poverty guidelines issued by the secretary of health and human services under authority of section 673(2) of the community services block grant act, subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902.

(ii) An organizational client or group of clients if 1 or more of the following apply:

(A) The client is composed of a minimum of 75% of persons eligible for legal assistance under this section.

(B) The client is organized for the purpose of furthering the interests of indigent persons.

(C) The client provides information showing it lacks and has no practical means of obtaining funds to retain private counsel.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993