

PART IX. ACCESS TO JUSTICE ACT REGULATIONS

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Source

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CHAPTER 401. ELIGIBILITY REGULATIONS APPLICABLE TO ACCESS TO JUSTICE ACT FUNDING

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§ 401.1. Definition of Terms.

“**Act**” means the Access to Justice Act, Title 42, Chapter 49 of the *Pennsylvania Consolidated Statutes*, and as it may be amended.

“**Applicant**” is the person who voluntarily requests legal assistance, or on whose behalf service is requested. The Applicant is the determining factor in defining “individual or family status” for eligibility determination purposes.

“**Fee-generating case**” means any case or matter which, if undertaken on behalf of a client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.

“**Eligible Legal Services Provider**” is a not-for-profit entity incorporated in this Commonwealth, tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), or any successor provision, which operates within this Commonwealth for the primary purpose of providing civil legal services without charge, and which operates to provide such civil legal services to eligible clients and victims of abuse under contract or sub-contract with the Department of Public Welfare for the expenditure of funds appropriated by the General Assembly for the provision of legal services.

“Emancipated Minor”

(a) An emancipated minor is a person under 21 years of age (irrespective of whether he/she is receiving services designed for adults or children) who either:

- (1) is married, whether he/she lives within, or away from, his/her parent's household; or
- (2) has left the parental household or has established himself/herself as a separate entity within the parental household; and
 - (i) is acting for himself/herself independent of control by his/her parents, or persons acting as loco parentis; and
 - (ii) is financially independent of his/her parents, although he/she may be receiving financial assistance or benefits to which he/she is entitled in his/her own right.

(b) An unmarried minor who, after living outside the parental household, returns to live with his/her parents or someone acting in loco parentis, is no longer considered emancipated unless he/she remains independent of control by his/her parents or someone acting in loco parentis, and is financially independent of them although he/she may be receiving financial assistance or benefits in his/her own right.

“Family”

(a) A family is one or more adults and unemancipated minor children, if any, who are related by blood or law, and who reside in the same household.

A Family includes:

- (1) one person and his/her unemancipated minor children (natural and adoptive) who reside in the same household;
- (2) two persons in a marriage or common law relationship who reside in the same household;
- (3) two persons in a marriage or common law relationship and their joint unemancipated minor children (natural and adoptive) who reside in the same household;
- (4) two persons in a marriage or common law relationship and their joint unemancipated minor children (natural and adoptive) and the unemancipated minor children (natural and adoptive) of either/both persons who reside in the same household.
- (5) two persons who are residing together with a child(ren) in common.

(b) A pregnant woman shall be counted as one person in the determination of family size.

(c) A man and woman who are legally free to marry, who agree to live together as husband and wife without benefit of a marriage license, and both publicly and privately consider themselves married are regarded as living in a common law relationship.

(d) A person defined as “Individual” is not included in a family grouping.

(e) A person may choose to count as a family member any other person(s) residing in the same household who is claimed by that person as a tax dependent.

“Criminal proceeding” means the adversary judicial process initiated by a formal complaint, information, or indictment charging a person with an offense denominated “criminal” by applicable law and punishable by death, imprisonment, a jail sentence, or a fine.

“Individual” is any of the following:

- (a) an emancipated minor;
- (b) an unemancipated minor living with persons other than his/her natural or adoptive parents;
- (c) an unemancipated minor living in a residential facility serving dependent and delinquent children;
- (d) an adult who resides alone;
- (e) an adult who resides with another related or unrelated adult, other than persons who are married including those living in a common law relationship.

“Legal Assistance” means the provisions of any legal services consistent with the Rules of Professional Conduct of the Supreme Court of Pennsylvania and with the purposes and provisions of the Act.

“Lobbying Activities” are any efforts to influence Federal, State or local legislative or administrative action, including, but not limited to, activities intended to influence the issuance, amendment or revocation of any executive or administrative order or regulation of a Federal, State or local agency, or to influence the introduction, amendment, passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body.

“Recipient” means an eligible Legal Services Provider that receives a grant of funds derived from the Act.

“Telephone Advice and Brief Service” means civil legal assistance provided to eligible Applicants by Recipients through a telephone service system which provides legal advice, information and brief services at or near the time an eligible Applicant contacts the Recipient. Such telephone service systems are often referred to as “helplines” or “hotlines.” Legal assistance provided through these systems is limited to advice and counsel, brief services, and referral after legal assessments when such activities are likely to address the problem without the need for in-person initial contact and within a short time from the contact by the eligible Applicant.

§ 401.2. Application for Legal Assistance.

- (a) An individual eligibility determination requires completion of a dated application form containing information which enables the Recipient to determine an Applicant’s eligibility to receive the requested service.
- (b) A written application is not required for general non-legal information and referral service.
- (c) Application forms for extended services and in-person advice and brief services must be signed by the Applicant. The application form need not be signed by the Applicant for telephone advice and brief services.

(d) The application form must be completed by the Recipient from the information given by the Applicant, his/her authorized representative, or, by someone, including Recipient's staff, acting responsibly for the Applicant if he/she is physically incapable of completing an application form, or in an emergency situation.

(e) The Recipient shall ensure that the Applicant, or the person responsible for giving the information, receives all the help necessary to provide accurate and complete information. Arrangements must be made for an interpreter to assist non-English speaking, deaf, and visually handicapped Applicants, on an as-needed basis in those individual cases for whom no alternative methods for communication can be substituted effectively.

(f) Individual eligibility determinations are made using the declaration method. The declaration method is the acceptance of an Applicant's statements that he/she meets the applicable eligibility criteria. This does not preclude the requirement to obtain documentation when needed to comply with requirements of funding sources of the grant Recipient organization. Documentation also can be required and obtained if there is substantial reason to doubt the accuracy or completeness of the information provided by the Applicant, but such documentation must be obtained in a manner that promotes the development of trust between the attorney and client.

§ 401.3. Eligibility Criteria.

Those financially eligible for civil legal assistance are:

(a) applicants whose family monthly gross income does not exceed 125% of the Federal Poverty Guidelines, as published annually in the *Federal Register* by the Department of Health and Human Services, adjusted according to family size.

(b) The Commonwealth of Pennsylvania authorizes the issuance of medical assistance based upon the combination of income and certain public policy circumstances. When an Applicant has a current medical access card for a category for which eligibility is based upon 125% of poverty income, no additional eligibility determination is needed for legal assistance.

(c) The Applicant must be a resident of Pennsylvania. No requirements as to citizenship or length of residence in the State may be imposed as a condition of eligibility. Temporary absences from Pennsylvania, with subsequent returns, or with a plan to return when the purpose of the absence, such as a trip or a visit, has been accomplished, do not interrupt residence. Out-of-State students and foreign students who are living in Pennsylvania while attending an education or job-training institution in Pennsylvania are considered residents of Pennsylvania. Migrant workers who are seasonally employed or seeking seasonal employment in Pennsylvania are considered residents of Pennsylvania.

(d) Legal assistance may be provided without regard to income when the Applicant is in need of protective services under the Protection from Abuse Act.

(e) Authorized Exceptions to Income Eligibility. The governing body of the recipient may adopt policies for the provision of legal assistance under the Act to an applicant whose family, monthly gross income, does not exceed 150 percent of the 125% of poverty eligibility income level (i.e. 187.5% of poverty income level). The determination of family, monthly gross income shall be made pursuant to the income inclusions and exclusions defined within Sections 401.4 and 401.5 except that the definition of medical expenses is modified as included below in (f)(2). When a recipient's policies provide for authorized exceptions to income eligibility, legal assistance can be provided when:

(1) The Applicant's circumstances require that eligibility should be allowed on the basis of one or more of the factors set forth in Section 401.3(f); or

(2) The person is seeking legal assistance to secure benefits provided by a governmental program for the poor.

In the event that a recipient determines to serve a person whose family, monthly gross income exceeds 125% of poverty, the factual basis for the decision shall be documented and retained by the recipient.

(f) Factors which shall be used in the determination of the eligibility of clients over the 125% of poverty income level shall include:

(1) Current income prospects, taking into account seasonal variations in income;

(2) Medical expenses, and in exceptional instances, with the prior, written approval of the Recipient's project director based on written documentation received by the recipient and available for review, if an Applicant's family, monthly gross income is primarily committed to medical or nursing home expenses, a person may be served even if that person's gross income exceeds 187.5 percent of the poverty income eligibility level;

(3) Fixed debts and obligations, including unpaid Federal, state and local taxes from prior years;

(4) Child care, transportation, and other expenses necessary for employment;

(5) Expenses associated with age or physical infirmity of resident family members; and

(6) Other significant factors related to financial inability to afford legal assistance.

(g) A Recipient may provide legal assistance to a group, non-profit corporation, association or other entity if the Recipient has determined that the group, non-profit corporation or association or other entity lacks and has no practical means of obtaining private counsel in the matter for which representation is sought and:

- (1) at least a majority of the group's members are financially eligible for legal assistance; or
- (2) for a non-membership group, at least a majority of the individuals who are forming or operating the group are financially eligible for legal assistance; or
- (3) the group has as its principal function or activity the delivery of services to those persons in the community who would be financially eligible for legal assistance; or
- (4) the group has as its principal function or activity the furtherance of the interests of those persons in the community who would be financially eligible for legal assistance and the representation sought relates to such function or activity.

In order to make a determination that a group, non-profit corporation, association or other entity is eligible for legal services as required by paragraph (a) of this section, a recipient shall collect information that reasonably demonstrates that the group, corporation, association or other entity meets the eligibility requirements set forth herein.

§ 401.4. Income Inclusions.

The sources of income to be included in determining the total monthly gross income are:

- (a) money wages or salary earned by individuals 14 years of age or older before deductions for taxes, social security, bonds, pensions, union dues, health insurance, and similar purposes for work performed as an employee including commissions, tips, piece-rate payments, and cash bonuses;
- (b) Armed Forces pay which includes base pay plus cash housing and/or subsistence allowances, but does not include the value of rent-free quarters;
- (c) voluntary or court-ordered spousal and/or child support received by a present or former spouse;
- (d) voluntary or court-ordered child support;
- (e) net income from non-farm self employment, defined as gross receipts minus expenses from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and service rendered. Business expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (no personal income taxes), and similar expenses. Inventory changes may be considered in determining net income only when they are documented by income tax returns or other official records which reflect inventory changes. The value of marketable merchandise consumed by the proprietors of retail stores is not included as part of net income;
- (f) net income from farm self-employment, defined as gross receipts minus operating expenses from the operation of a farm by a person on his/her own account, as an owner, renter, or share-cropper. Gross receipts include the value

of all products sold, government subsidies—crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand gravel and similar items. Operating expenses include the cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farm hands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not State and Federal income taxes), and similar expenses. The value of fuel, food, or other farm products used for family living is not included as part of net income. Inventory changes may be considered in determining net income only when they are documented by income tax returns or other official records which reflect inventory changes;

(g) net income from non-resident real property income, defined as gross receipts minus the expenses for continuing the income such as depreciation charges, business taxes (not personal income taxes), interest on mortgage, repairs, and similar expenses;

(h) Social Security pensions, survivors' benefits, permanent disability insurance payments, and special benefit payments made by the Social Security Administration before deductions of health insurance premiums;

(i) Railroad retirement, disability, and survivors' benefit payments made by the U.S. Government under the Railroad Retirement Act before deductions of health insurance premiums;

(j) State Blind Pension payments made by the Department of Public Welfare;

(k) Public assistance or welfare payments such as General Assistance, SSI and State Supplemental payments, only when the person is not the Applicant;

(l) private pension and annuities, including retirement benefits paid to a retired person or his/her survivors by a former employer or by a union, either directly or through an insurance company;

(m) government employee pensions received from retirement pensions paid by Federal, State, County, or other governmental agencies to former employees including members of the Armed Forces or their survivors;

(n) unemployment compensation received from government unemployment agencies or private companies during periods of unemployment and any strike benefits received from union funds;

(o) worker's compensation received from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the worker;

(p) Veterans payments, defined as money paid periodically by the Veterans Administration to disabled members of the Armed Forces or to the survivors of deceased veterans, and subsistence allowances, paid to veterans for education and on-the-job training, as well as the so-called "refunds" paid to ex-service persons as GI insurance premiums. The two basic educational programs sponsored by the Veterans Administration are the G.I. Bill Educational Training Program and the VA Vocational Rehabilitation Program. There is a different

method for providing funds to veterans in these programs. The veteran in G.I. Bill Education Training Program receives a monthly sum which may be used totally for education or subsistence, or partially for education and partially for subsistence. The VA calls this monthly sum a "rate." Therefore, all the money received by the G.I. Bill veteran is counted as income. The Veteran in a VA Vocational Rehabilitation Program receives what the VA calls a "subsistence allowance" and the VA itself handles the educational costs directly. Therefore, for the disabled veteran in the Vocational Rehabilitation Program, the subsistence allowance and the veteran's disability allowance are counted as income;

(q) dividends including dividends from stockholdings or memberships in associations;

(r) interest on savings, checking accounts and bonds;

(s) income from estates and trust funds;

(t) net income from royalties;

(u) net income from room and board payments, paid singly or in combination, and for rent from apartments, determined by deducting the sum of (1) and (2) from the total gross receipts.

(1) Deductions for minimal costs:

(i) \$10 per month for each tenant (lone person) or tenant group (two or more persons living together as a family normally would) whose rent arrangements with the landlord/landlady are independent of other persons, or

(ii) \$20 per month for each boarder, or

(iii) \$30 per month for each separate tenant-boarder (person not included in (a) or (b) above) whose rent and board arrangements with the landlord/landlady are independent of other persons.

(iv) \$30 per month for the first person and \$20 per month for each additional person in a tenant-boarder group (persons not included in (a), (b), or (c) above) whose joint rent and board arrangements with the landlord/landlady are independent of other persons, and;

(2) The following amount is deducted to recognize costs above the minimum: 50% of the remainder after the deduction in (1).

§ 401.5. Income Exclusions.

Sources of income not counted in determining monthly gross income and income exclusions are:

(a) earnings of a child under 14 years of age;

(b) any medical expense not reimbursed through medical insurance which exceeds 10% of the total family monthly gross income. The medical expense must have been incurred within 90 days from the date of the application and be expected to continue or be incurred for a period of six months after the application. Medical expenses include bills for doctors, hospital costs, dental services, and health care premiums;

- (c) voluntary or court-ordered child support paid out by the Primary Recipient or a member of his/her family to a present or former spouse not residing in the same household;
- (d) voluntary or court-ordered child support paid out by the Primary Recipient or a member of his/her family for his/her child who is not residing in the same household;
- (e) payments made pursuant to the Alaska Native Claims Settlement Act, to the extent that such payments are exempt from taxation under Section 21(a) of the Act;
- (f) per capital payment to, or funds held in trust for, any individual in satisfaction or judgment of the Indian Claims Commission or the court of claims;
- (g) money received from the sale of property, such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from self-employment;
- (h) withdrawals of bank deposits;
- (i) money borrowed;
- (j) tax refunds including tax rebate from any source;
- (k) gifts;
- (l) lump sum inheritances or insurance payments;
- (m) lump sum lottery winnings;
- (n) capital gains;
- (o) the value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons;
- (p) the value of USDA donated foods;
- (q) the value of supplemental foods assistance under the child Nutrition Act of 1966 and the special food service programs of children under the National School Lunch Act, as amended;
- (r) loans and grants, such as scholarships, obtained and used under conditions that preclude their use of current living costs;
- (s) any grant or loan, to an under-graduate student for education purposes, made or insured under any program administered by the Commissioner of Education under the Higher Education Act;
- (t) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (u) any home produce used for household consumption;
- (v) the value of rent-free quarters;
- (w) any payment made on behalf of any individual for household expenses such as rent, food, utilities;
- (x) payments to VISTA volunteers pursuant to Section 404(g) of the Domestic Assistance Act of 1973;

- (y) any payments to vendors by a State agency including foster care payments;
- (z) payments made to an institution by an Applicant's relative or other person for the costs of institutional care for the Applicant; and
- (aa) stipends derived from the Foster Grandparents Programs under P. L. 93-113, Section 404(9).

§ 401.6. Change in Circumstances.

If an eligible client becomes financially ineligible through a change in circumstances, a Recipient shall discontinue representation if the change in circumstances is sufficiently likely to continue such that the client could afford private legal assistance, and discontinuation is not inconsistent with the attorney's professional responsibilities.

§ 401.7. Grievance Procedure.

- (a) Complaints about legal assistance.
 - (1) A Recipient shall establish procedures for determining the validity of a complaint about the manner or quality of legal assistance that has been rendered.
 - (2) The procedures shall provide at least:
 - (i) Information to a client at the time of the initial visit about how to make a complaint, and
 - (ii) Prompt consideration of each complaint by the director of the Recipient, or the director's designee, and, if the director of the Recipient is unable to resolve the matter,
 - (iii) An opportunity for complainant to submit an oral and written statement to a member(s) of the Recipient's grievance committee established by the governing body, preferably a board member who is himself/herself client eligible.
 - (3) A file containing every complaint and a statement of its disposition shall be preserved for examination. The file shall include any written statement submitted by the complainant.
- (b) Complaints about denial of assistance. A Recipient shall establish a simple procedure for review of a decision that a person is financially ineligible, or that assistance is prohibited by the Act or Regulations, or by priorities established by the Recipient pursuant to section 401.9. The procedure shall include information about how to make a complaint, adequate notice, an opportunity to confer with the director of the Recipient or the director's designee, and, to the extent practicable, with a representative of the governing body, preferably a board member who is himself/herself client eligible.

§ 401.8. Prohibited Use.

Recipients of funds under this Act are prohibited from using them for the following purposes:

(a) *Political and Lobbying Activities.* Funds shall not be used to contribute to or be made available to any political party or association, or the campaign of any candidate for public or party office or similar political activities or to support or oppose candidates from public or party office or to support or oppose candidates for public or party office or to support or oppose any ballot questions or to engage in lobbying activities, except that:

(1) A Recipient of funds may engage in lobbying activities in response to a request from a governmental agency, legislative body, committee, member or staff thereof made to the recipient, consistent with the Rules of Professional Conduct.

(2) A Recipient may engage in lobbying activities in the provision of legal services to an eligible client on a particular application, claim or case, which directly involves that client's legal rights and responsibilities, however this shall not be construed to a permit a Recipient to solicit a client, in violation of the Rules of Professional Conduct, for the purpose of making such representation possible.

(b) *Fee generating case.* Funds shall not be used to provide legal assistance in a fee-generating case unless other adequate representation is unavailable. All Recipients shall establish procedures for the referral of fee-generating cases.

(1) Other adequate representative is deemed to be unavailable when the Recipient has determined that free referral is not possible because:

(i) The case has been rejected by the local lawyer referral service, or by two private attorneys, or the Recipient's experience within the previous six months with similar cases is that the current case will not be accepted by a private attorney; or

(ii) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee; or

(iii) 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; or

(2) 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 non-pecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims; or

(3) A court appoints a Recipient or an employee of a Recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction; or

(4) An eligible client is seeking benefits under Subchapter II of the Social Security Act, 42 U.S.C. 401, et seq., as amended, Federal Old Age, Survivors, and Disability Insurance Benefits; or Subchapter XVI of the Social Security Act, 42 U.S.C. 1381, et seq., as amended, Supplemental Security Income for Aged, Blind, and Disabled.

(5) A Recipient may seek and accept a fee awarded or approved by a court or administrative body, or included in a settlement, if the requirements of sub-section 401.8 (b)(1) are met.

(6) When a case or matter subject to this sub-section results in a recovery of damages, other than statutory benefits, a Recipient may accept reimbursement from the client for out-of-pocket costs and expenses incurred in connection with the case or matter, if

- (i) The requirements of sub-section 401.8(b)(1) are met, and
- (ii) The client has agreed in writing to reimburse the Recipient for such costs and expenses.

(7) Nothing in this part shall prevent a Recipient from:

- (i) Requiring a client to pay court fees when the client does not qualify to proceed *in forma pauperis* under the rules of the jurisdiction; or
- (ii) Acting as a co-counsel with a private attorney when the case meets the standards set forth in sub-section 401.8(b)(1) and accepting part of any fees that may result from a shared case.

(c) *Defense of Criminal Prosecutions.*

(1) Funds shall not be used to provide legal assistance with respect to a criminal proceeding, unless authorized by sub-section 401.8(c)(2).

(2) Legal assistance may be provided with respect to a criminal proceeding;

- (i) Pursuant to a court appointment made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, if authorized by the Recipient after a determination that it is consistent with the Recipient's primary responsibility to provide legal assistance to clients in civil matters; or
- (ii) When professional responsibility requires representation in a criminal proceeding arising out of a transaction with respect to which the client is being, or has been, represented by a Recipient.

(3) *Actions Attacking Criminal Convictions.* Funds shall not be used to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or fail-

ures to act and the action is brought against an official of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction.

However, this sub-section does not prohibit legal assistance pursuant to a court appointment made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, if authorized by the Recipient after a determination that it is consistent with the primary responsibility of the Recipient to provide legal assistance to eligible clients in civil matters.

(d) *Statutory Right to Counsel.* Funds shall not be used to provide legal assistance in cases in which the Commonwealth of Pennsylvania has an obligation to provide counsel to the indigent through another source identified by statute.

§ 401.9. Priorities in Allocation of Resources.

Recipients daily must make decisions concerning what cases to handle, what area of client need to pursue, what models of delivery of services to choose, what communities to serve, and related issues. A high quality Recipient program responds effectively to changing client needs and integrates its priority setting process into its daily operations. This section is intended to assure that Recipients plan and perform services provided under the Act in a way that responds to existing and changing client and community needs, promptly and strategically.

(a) The governing body of a Recipient shall adapt procedures for establishing priorities in the allocation of its resources. The procedures adopted shall:

(1) Include an effective appraisal of the needs of eligible clients in the geographic areas served by the Recipient;

(2) Insure an opportunity for participation by representatives of all significant segments of the client community and the Recipient's employees in the setting of priorities.

(b) The following factors could be among those considered by the Recipient in establishing priorities:

(1) the appraisal described in paragraph (a)(1) of this section;

(2) the population of eligible clients in the geographic areas served by the Recipient, including all significant segments of that population with special legal problems or special difficulties of access to legal services;

(3) the resources of the Recipient;

(4) the availability of another source of free or low-cost legal assistance in a particular category of cases or matters;

(5) the availability of other sources of training, support, and outreach services;

(6) the relative importance of particular legal problems of the individual clients of the recipient;

(7) the susceptibility of particular problems to solution through legal processes;

(8) whether legal efforts by the recipient will complement other efforts to solve particular problems in the area served; and

(9) whether legal efforts will result in efficient and economic delivery of legal services.

(c) A Recipient shall allocate resources consistent with the purposes and requirements of the Act and regulations, and in a manner that assures such resources are put to their highest and best use in meeting client needs. To the extent possible efforts should be made to provide that all potentially eligible clients in the Recipients' service area have reasonably equal access to similar types of services. If the governing body of the Recipient so desires, the types of services may vary so as to take into account different priorities in different parts of the Recipient's service area, a higher incidence of a particular kind of problem, the considerably higher costs of providing services, or differences in individual client financial resources.

(d) The governing body of a Recipient shall establish policies and procedures that assure clients that cases which are accepted for representation of eligible clients substantially comply with the priorities adopted by the Recipient.

(e) Annual Review. Priorities shall be set periodically and shall be reviewed by the Recipient at least annually.