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July 9, 2015

New York State Office of Indigent Legal Services
80 South Swan Street
Albany, New York 12210

RE: Outline: Testimony at ILS Hearing on Eligibility for Assignment of Counsel

New York State Office of Indigent Legal Services,

My name is Jason Zeigler. I have been on the Onondaga County Assigned Counsel Panel since 2006. I am also a member of the Onondaga County Gideon Society. The Onondaga County Gideon Society is an organization supporting the professionals who work in the field of mandated legal representation in Onondaga County, New York.

I am speaking today for myself and on behalf of a number of people from the Onondaga County Gideon Society.

CRITERIA for eligibility

- Ability to Post Bond
 - o Did the defendant or someone else post the bond?
 - o If the defendant posted the bond, does the defendant still have the funds to retain an attorney?

- Actual Cost of Retaining Counsel
 - o Severity of the Case:
 - AUO 3rd is not a Class B Felony
 - Burglary in the First Degree is not an Unclassified Misdemeanor
 - o Determining the realistic actual cost of retaining counsel. How much work involved in the average case:

- Pretrial, Motions, and Trial
 - First-Offense Petit Larceny v. DWI v. Felonies
 - Prior Record
 - Client's decision to accept//reject an offer
 - Client's decision to go to trial
- A chart should be developed to determine eligibility based on the actual cost of retaining counsel on a type of charge in relation to for income and assets, A simplified and truncated example would be as follows:

Murder/Manslaughter	\$d.00/wk or \$q.00 in assets	h/wk or u in assets	l/wk or y in assets
Felony	c/wk or p in assets	g/wk or t in assets	k/wk or x in assets
DWI	b/wk or o in assets	f/wk or s in assets	j/wk or w in assets
Misdemeanor	a/wk or n in assets	e/wk or r in assets	i/wk or v in assets
Family size of	1	2	3

- Living Expenses of the charged individual and his/her dependents
 - Gross income versus net income after taxes
 - Bank account amounts derived from fixed income payments (eligible based on SSI, SSI payment sitting in the bank makes them ineligible)
 - Child support inquiries when applicant has stated they are not receiving child support
- Ownership of an Automobile
 - Transportation to and from work in Central New York
- Receipt of Public Benefits, Home Ownership, and Non-Liquid Assets
 - Actual equity in the home
 - Whether equity can be accessed
 - Penalties associated with early withdrawal of retirement accounts, which reduce the amount of assets actually available
- Income and Assets of Family Members
 - Who is the one charged with the crime?
 - How is the family responsible to provide counsel?
 - When family is the alleged victim

- When family is estranged: refusal of family to submit paperwork
- Debts, Financial Obligations, and Housing Status in a Correctional Facility
 - Incarceration and
 - The likelihood of release
 - The likelihood of still having the job/place to live
- The use of Fixed Poverty Guidelines
 - Eligibility if receiving public assistance, SSD, SSI, Worker's Compensation
 - Some on SSI have been deemed ineligible because over income, own a home (with no regard to equity)

PROCESS for disseminating criteria for determining eligibility

- Published online and given to defendant upon initial assignment

PROCESS for reviewing, appealing and/or reconsidering eligibility determinations

- Who makes the determination and how to appeal/reconsider eligibility determinations should be given to those assigned and posted.
- Multiple Judge Assignments: Who decides v. current hodgepodge system where one judge says eligible who another judge says ineligible?

UNIFORM GUIDELINES to determine eligibility

- Realistic and uniform guidelines are necessary for the system to be workable

CONFIDENTIALITY of information submitted to determine eligibility

- Does one have to waive the Fifth to get the Sixth?: Instances of ACP information being subpoenaed by the DA's Office: example: forgery cases.

STANDARDIZATION and its related social and economic benefits

- How can a system of eligibility be fair without standardized eligibility?

ELIGIBILITY STANDARDS IN ONONDAGA COUNTY (2014)

- Eligibility for Supplemental Nutrition Assistance Program, a/k/a Food Stamps, is less stringent than current eligibility standards as put out by the Onondaga County Assigned Counsel Program: you can't afford to buy all of your food, but you can afford an attorney.

HOW INFORMATION IS COLLECTED IN ONONDAGA COUNTY

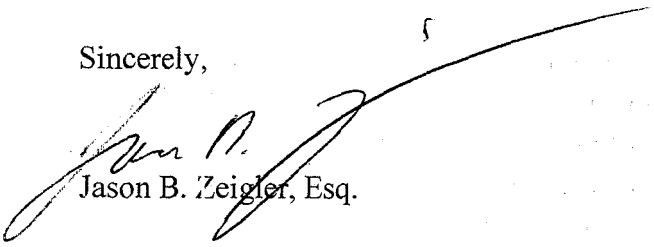
- Attorneys should not be the primary method of collecting information

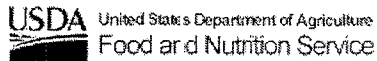
- Individuals seeking court-appointed counsel should be able to go to the Assigned Counsel Office during regular business hours to drop off paperwork and make eligibility inquiries
- Online access to eligibility processing: so that those seeking a court-appointed attorney can see what paperwork needs to be submitted
- Online application should be allowed.
- Information gathering should be streamlined: ACP's insistence on getting aq document with the original signature as opposed to a copy is outdated and slows down the processing of paperwork
- Focus of whoever is processing applications for court-appointed counsel should be on processing paperwork and not in finding creative ways to deny eligibility.

WRITTEN COMMENTS FROM OTHER PANEL ATTORNEYS

- Karin Marris
- Anthony Belletier
- Martha Hertzberg
- Marcus Stornelli

Sincerely,


Jason B. Zeigler, Esq.



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Supplemental Nutrition Assistance Program (SNAP)

Income (Rules on income limits)

Households must meet income tests UNLESS all members are receiving Title IV (TANF), SSI, or in some places general assistance.

Most households must meet both the gross and net income tests, but a household with an elderly person or a person who is receiving certain types of disability payments only has to meet the net income test. Gross income means a household's total, non-excluded income, before any deductions have been made. Net income means gross income minus allowable deductions.

Households, except those noted, that have income over the amounts listed below cannot get SNAP benefits.

Income Chart

(Oct. 1, 2014 through Sept. 30, 2015)

Household size	Gross monthly income (130 percent of poverty)	Net monthly income (100 percent of poverty)
1	\$1,265	\$ 973
2	1,705	1,311
3	2,144	1,650
4	2,584	1,988
5	3,024	2,326
6	3,464	2,665
7	3,904	3,003
8	4,344	3,341
Each additional member	+440	+339

Last Published: 09/25/2014

OCBA Assigned Counsel Program, Inc. 2014 Eligibility Guidelines

(Applicable to cases assigned after February 1, 2014)

CLIENT INCOME

Family Size (include client)	Gross Income Annually	Gross Income Monthly	Gross Income Bi-Weekly	Gross Income Weekly
1	\$14,588	\$1,216	\$561	\$281
2	\$19,663	\$1,639	\$756	\$378
3	\$24,738	\$2,062	\$951	\$476
4	\$29,813	\$2,484	\$1,147	\$573
5	\$34,888	\$2,907	\$1,342	\$671
6	\$39,963	\$3,330	\$1,537	\$769
7	\$45,038	\$3,753	\$1,732	\$866
8	\$50,113	\$4,176	\$1,927	\$964
Each additional person add	\$5,075	\$423	\$195	\$98

Based upon HHS Guideline published in the Federal Register, January 22, 2014

Family Size

This figure includes the client, client's spouse, and their children under 21 years, RESIDING with client full time. DO NOT include children in the primary custody of another person, children of a non-spouse or other dependents such as siblings or grandchildren. Absent unusual circumstances, client receives credit for EITHER child support or for resident children, but not both.

Income

This figure is the total gross income, from all sources, for all members of the family. This should include wages of all family members, as well as public assistance, TANFF assistance, disability, Worker's Compensation, SSI, or other sums received by or on behalf of ALL members of the family, including resident children. Child support (current care) actually paid, pursuant to a Court Order, will be deducted from gross income, assuming verification can be provided.

Client Assets

Assets, such as real estate, bank accounts or trust accounts, pension funds, 401(k) or IRA accounts, as well as stocks, bonds, cash bail, or any other assets which could be applied to payment of attorney's fees, or which could be used as collateral for a loan sufficient to pay fees, are also considered.

**FAILURE TO COOPERATE WITH THE ACP ELIGIBILITY PROCESS (INCLUDING
FAILURE TO PROVIDE DOCUMENTATION REQUESTED) MAY RESULT IN A
RECOMMENDATION OF INELIGIBILITY.**

SNAP Benefits (formerly Food Stamps)

What are SNAP Benefits (formerly Food Stamps)?

SNAP Benefits (formerly Food Stamps) are benefits that can help you buy food. Benefits are provided on an electronic benefit card, similar to a debit or credit card. Eligibility and benefit levels are based on household size, income, expenses and other factors. **Anyone can apply for SNAP Benefits (formerly Food Stamps).**

How do I know if I qualify for SNAP Benefits (formerly Food Stamps)?

If your income (based on your family size) is less than or equal to the amounts in the charts below, you *may* be eligible for Food Stamp benefits. **The only way to know for sure if your household is eligible for SNAP Benefits (formerly Food Stamps) is to apply.**

What counts as income?

"Income" means your household's total gross monthly income before taxes and withholdings are subtracted. Certain household expenses, such as monthly Child Support payments, also can be deducted from gross income when calculating your household's income. Benefits from other assistance programs such as Unemployment Insurance Benefits, public assistance payments, Social Security or SSI benefits count as income.

What are the income guidelines?

2013 Income Guidelines (no elderly or disabled member) Effective October 1, 2013 to September 30, 2014 (130 Percent of the Poverty Level)		
Family Size	Monthly Gross Income	Annual Gross Income
1	\$1,245	\$ 14,940
2	\$ 1,681	\$ 20,172
3	\$ 2,116	\$ 25,392
4	\$ 2,552	\$ 30,624
5	\$ 2,987	\$ 35,844
6	\$ 3,423	\$ 41,076
7	\$ 3,858	\$ 46,296
8	\$ 4,294	\$ 51,528
Ea. Add. Person	+ \$436	+ \$5,232

Is there a resource limit for SNAP Benefits (formerly Food Stamps)?

Sometimes. The only time resources count is if you are on public assistance and a member of your household has been sanctioned or disqualified from getting SNAP Benefits (formerly Food Stamps).

7/8/2015

Gmail - Qualifying clients



Jason Zeigler <zeiglerlawoffice@gmail.com>

Qualifying clients

Martha Hertzberg <hertzberglaw@gmail.com>
To: Jason Zeigler <zeiglerlawoffice@gmail.com>

Wed, Jul 8, 2015 at 4:12 PM

I would add: what do they do??? They should be qualifying the clients, otherwise, we take the assignment then have to make a motion to be relieved—this costs the county MORE than if AC would just qualify applicants (line is done everywhere else).

Sent from my iPhone

