
LEGAL AID JUSTICE CENTER

June 12, 2009

Dan Ruben
Executive Director
Equal Justice America
Building II, Suite 204
Midlothian, Virginia 23112

RE: Post-Graduate Fellowship Report II

Dear Mr. Ruben:

Attached, please find my Post-Graduate Fellowship Report.

Sincerely,

Geraldine M. Doetzer
LAJC—Petersburg

I. Goals & Objectives

In my initial project report, I outlined the overarching goal of my fellowship: to use my two years as an Equal Justice America fellow to establish a public benefits practice in the Petersburg office of the Legal Aid Justice Center. As I noted in December, our practice area is home to some of the state's poorest residents, but since at least 2005, there has not been a legal aid attorney in the area dedicated to providing advice and representation in cases involving public benefits programs. At that time I also identified two major preliminary steps to establishing such a program. First, I need to educate myself about substantive public benefits law. Second, I need to raise the profile of the project by reaching out to the community and like-minded organizations and agencies.

In terms of self-education, I can report that I know significantly more about a range of public benefits programs than I did when I began in October or submitted my first report at the end of December. In some ways, this may not seem like a particularly impressive achievement—after all, like most recent law school graduates, I had very little substantive understanding of public benefits law on my first day of work. However, because of the nature of the project, I was also charged with the task of becoming the resident public benefits expert as quickly as possible. This has certainly involved plenty of time spent studying manuals full of regulations, but my real education has come from other people. Certainly, I have relied heavily on more experienced public benefits advocates, both in the Charlottesville office of LAJC and in different legal aid organizations around the state. I have driven around the state attending task force meetings; become a fixture on the statewide listserv, and attended webinars held by national policy organizations. But my most educational resources are my clients. Perhaps because they can seem so complex and abstract, the laws that govern benefits programs are best understood in the context of an actual case. It is one thing to read the Social Security Administration's policy manual on impermissible asset transfer; it is quite another to be presented with the reality of two elderly people whose family home is standing in the way of the benefits they need to survive. Listening to other lawyers discuss the need for better notifications is informative, but it is not until a woman stops me at a local food pantry to ask me to translate a printout from social services that I really grasp the problem. At this point, I am still very new to the practice, and so each case brings up brand new issues. Nonetheless, I know that I am building a real knowledge base that I can and do apply every day—an important asset for legal aid attorneys, who typically have to think independently and on their feet. As I go forward, I will continue to need assistance with new issues, but I am also gaining confidence in my ability to assist clients in all stage of their cases.

My second goal is to establish the public benefits practice as a reliable source of assistance within the community. In December, I noted that this is a major challenge to the program in its early stages, because of the fact that such a program has not existed in our practice area for so many years. As I began handling more cases, I became further aware of the special importance of community outreach for my particular practice area. In order to be eligible for benefits programs, individuals must be especially needy, in terms of income, age, disabilities, access to transportation, and other factors. The same barriers, however, often mean that the neediest individuals are the least likely to be integrated into the social services network, much less aware of their legal rights and the availability of legal aid services. Clients with potential public benefits issues are therefore less likely to seek out an attorney on their own. Realizing this, I have in the last few months established a number of outreach projects, described in more detail

in Part II of this report, including regular intake sessions at a local food pantry, a medical/legal partnership with a community health clinic, and a veterans benefits initiative with the assistance of the William & Mary School of Law. With the help of an undergraduate law clerk who is working in our office this summer, I am researching more potential community partners, ranging from churches to local government agencies and non-profits.

Finally, although this is more of a general professional goal, since my last progress report, I took and passed the Virginia Bar Exam, and was recently sworn in as a fully licensed attorney before the Supreme Court of Virginia.

II. Summary

Overview:

I currently have thirty-one open cases for clients whose legal issues involve benefits programs ranging from unemployment claims to Medicaid appeals. Fourteen of these cases were opened in May and June. Since my December progress report, my clients have been awarded roughly \$25,000 in benefits payments, including unemployment and Medicaid benefits, and avoided nearly \$3,000 in unjust charges. My representation ranges from providing advice and counsel to negotiations with adverse parties to full representation in administrative hearings before agencies including the Department of Medical Assistance Services and the Virginia Employment Commission.

Case Studies:

I am currently working with two clients on cases involving representative payee fraud. Supplemental Security Income provides cash benefits to elderly or severely disabled individuals with very low income. SSI recipients deemed unable to manage their own funds may select a representative payee, who is charged with the responsibility of managing monthly benefit checks for the sole benefit of the intended recipient. Perhaps unsurprisingly, this program is rife with fraud and abuse. The Social Security Administration has chosen to investigate only cases where the fraud involves tens of thousands of dollars—the agency has been unwilling to provide me an exact threshold amount—which represents four or five years of typical benefits. Therefore, clients whose funds are mishandled for less than several years at a time cannot rely on Social Security to help them, even though SSI recipients are by definition living so close to extreme poverty that relatively small amounts of money can have major negative effects. In the case of one of my clients who relied on his representative payee to pay his rent, fraud led to eviction and homelessness. I met with the client several times and helped him to negotiate a payment plan with the representative payee who had mishandled his funds. When this fell through, I assisted him with obtaining evidentiary documents from Social Security and filing a still-pending small claims action against her. In a second case that I opened only this week, my client's payee (who also happened to be her landlord) created an account in her name that he has now emptied and repeatedly overdrawn, leading to significant fees for which she is being held responsible. My advocacy will likely involve negotiations with entities including Social Security and a major bank, not to mention the former payee responsible for the fraud, but at this early stage of the case, I cannot predict what a successful outcome will require. In other words, this is a typical public benefits case—time-consuming, complex, and with no clear road map, but incredibly rewarding because of the impact that they can have on the lives of my clients and the fact that legal aid is the only resource for victims of this kind of fraud.

Next week, I will represent a client and her infant daughter at a Medicaid fair hearing, which will be a major step in a very complicated but important case. The baby was nearly four months premature, weighing less than two pounds at birth in August 2008. She has spent her entire life in the Neonatal Intensive Care Unit at MCV Hospital, and continues to reside there, receiving intensive treatment for a variety of medical problems including Short Bowel Syndrome. When she is released, she will require significant care at home: 14-16 hours of nursing care per day; durable medical equipment needs including intravenous home infusion, tube feedings, and a home cardiopulmonary monitor; and sensitive prescriptions that will have to be delivered by daily Fed-Ex. My client works full-time at Central State Hospital in Petersburg, where she makes \$12.50 an hour as an aid, but lives with her two older children in rural Surry County, close to an hour away from her job and an hour and a half away from MCV. Because she is a state employee, the family is not eligible for coverage under FAMIS, Virginia's health insurance program for children under 200% of the Federal Poverty Limit. The children would be eligible for FAMIS Plus, which provides coverage for children under 133% of the poverty limit, except that one of the pay stubs that my client submitted during her initial Medicaid application included one-time holiday pay. This pushed her monthly income just over the threshold for FAMIS Plus. The basis of my appeal argument is two-fold: first, that the mother's income should not attach to the baby, who meets the standards for a medically institutionalized person; and second, that the denial letter failed to comply with notice requirements, and thus is in violation of federal and state Medicaid law. Because of the complexity of the issues, I prepared an in-depth pre-hearing brief to the hearing officer, including an extensive documentary appendix. Additionally, I will meet personally with the client to strategize at least twice before the hearing itself. In addition to the Medicaid case, I have filed an appeal with the Social Security Administration to fight an October 2008 denial of Supplemental Social Security Income (SSI). Although Social Security found that the baby met their strict disability requirements, her application was denied, apparently because she was in the hospital. In fact, hospitalized persons may enroll in SSI—although they receive a reduced cash benefit, this is one way of getting Medicaid coverage, and so the collateral benefits can be extremely valuable. After being misinformed by her local office and receiving a written notice that failed to provide any explanation of the denial, my client did not appeal the decision within the mandatory sixty-day deadline. I have filed an appeal noting the improper notice and arguing that my client's circumstances constitute "good cause" for late filing under Social Security regulations.

I am also preparing for an upcoming unemployment hearing on behalf of a client who was fired from her job as a security guard. Her employer is now seeking to deny her unemployment benefits because she allegedly "abandoned" her post. In fact, my client completed a full eight-hour shift and waited more than an hour after she was to have been relieved before leaving. As a diabetes sufferer, she had repeatedly informed supervisors that she could not work more than eight hours at a time. On the day in question, she informed the command post multiple times that her symptoms were worsening between the end of her shift and the time that she left, fearing a medical emergency. LAJC has begun representing strong cases at the first stage of unemployment investigation—the so-called "Deputy Determination"—which is uncommon for legal aid organizations. This less formal hearing has become critical in the current economic climate, however, because claimants are being forced to wait up to six months without benefits of any kind for a full appeal hearing.

Outreach:

In early 2009, I read an article in the Petersburg Progress-Index about the Colonial Heights Food Pantry, a non-profit founded and staffed entirely by volunteers to provide groceries to local low-income residents. The pantry had seen such an increase in the number of clients in the last year that it was moving for the second time to a much larger facility. I contacted the organization's director and since March have been providing legal information, literature, and brief services on alternate Thursday evenings and Friday afternoons. In my first month, I provided information to nearly 100 individuals, but even as I become a familiar face for repeat food pantry clients, I find that between ten and twenty people consistently approach me during each visit with a specific legal issue—including families, senior citizens, and even volunteers who are seeking advice for themselves or family members.

My work at the Food Pantry has also led me to embark on two additional advocacy projects. First, the director of the pantry contacted me after becoming aware of an increasing number of veterans seeking food assistance. LAJC typically has not been involved in veterans' benefits cases, but her call plus the planned BRAC expansion at Fort Lee (which will nearly double the military and civilian population of the base) encouraged me to prepare for an increased number of clients with veterans benefits issues. Ultimately, I contacted the co-director of the new Veterans Benefits Clinic at the William & Mary School of Law. With her assistance, I have applied to become accredited as a claims agent with the Department of Veterans Affairs and have arranged to attend the clinic's summer "boot camp" for pro bono attorneys interested in working with low-income veterans.

Second, I have been interested in expanding LAJC's Child Health Advocacy Program (CHAP) to Petersburg since attending a session on medical/legal partnerships at the Statewide Legal Aid Conference in November 2008. In a medical-legal partnership, attorneys and medical professionals work together to address legal issues before they lead to critical medical problems, primarily through referrals and training opportunities. For example, a family forced to choose between food and medicine could benefit from the assistance of a public benefits attorney who could help them gain access to programs like food stamps, WIC, or Medicaid/FAMIS. Because of the relationships that are built between family doctors and their patients, physicians are an excellent source of referrals to individuals who might never otherwise contact legal aid lawyers. CHAP has been very successful in Charlottesville and Richmond, through partnerships between LAJC and the hospitals at the University of Virginia and Virginia Commonwealth University/Medical College of Virginia. However, there are no large teaching hospitals in the cities and counties within the Petersburg office's practice area, so I knew that I would have to structure a Petersburg CHAP on a different model. After unsuccessfully reaching out to more than a dozen potential medical partners, a referral by one of the volunteers at Colonial Heights Food Pantry led me to the Hopewell/Prince George Community Health Clinic. This clinic, which provides services on a sliding fee scale to roughly five thousand largely low-income patients per year, has agreed to be our first medical partner. I am currently working on a Memorandum of Understanding that will establish the program, and we hope to begin accepting referrals July 1, 2009.

III. Supplemental Materials (attached)

- “How Do I Apply For Benefits?”
- “Contacting Your Local Social Services Department”
- “FAQ: Supplemental Social Security Income”
- “FAQ: TANF & VIEW”

IV. Supervisors’ Report

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LEGAL AID JUSTICE CENTER

June 15, 2009

Dan Ruben
Executive Director
Equal Justice America
Building II, Suite 204
Midlothian, Virginia 23112

Re: Geraldine Doetzer

Mr. Ruben:

Please accept this letter as the supervisors report for Equal Justice America's post graduate fellowship with the Legal Aid Justice Center.

Geraldine Doetzer began work at the Petersburg office of Legal Aid in October 2008. Since then she has demonstrated excellent work and has exceeded expectations on almost every level. She quickly developed her expertise in the law concerning Food Stamps, Medicaid, TANF, and other public benefits and then found ways to expand her practice into other areas.

She takes an active role in every aspect of our practice, not only at the local office but throughout our program and statewide. She has helped create a Child Health Advocacy Program (CHAP) in connection with a local health clinic and a Veterans benefit program with Fort Lee, the Army base between Hopewell and Petersburg. She established regular outreach at a neighborhood soup kitchen. She also is regular contributor on the state public benefits listserv and is the liaison between Legal Aid Justice Center and our statewide training coordinator at the Virginia Poverty Law Center. And she accomplished all of this while maintaining a regular caseload and studying for the Bar exam.

In her individual case work Geraldine is thoughtful and thorough. She shows sensitivity to clients and is aware of the practical issues as well as the legal ones. She continues to be a hard working committed advocate to the most vulnerable people in our community.

Please do not hesitate to contact me if you have any further questions.

Very truly yours,

Stephen E. Dickinson
Managing Attorney