

Changes to Family Coverage and Family Tariff

Family Coverage

As the result of budget reductions, implementation of the federal child support guidelines, and the provincial government's family justice initiatives, the Legal Services Society (LSS) has made significant changes to its family coverage guidelines. As of June 23, 1997, LSS will no longer provide coverage:

- for applications to increase, decrease, or enforce existing maintenance orders
- for respondents to applications to increase, decrease, or enforce existing maintenance orders
- for respondents to enforcement proceedings, *unless* the respondent is facing an immediate and substantial prospect of going to jail
- for applications to vary custody or access *unless* there is a risk of harm to the child(ren), which has been documented by a health-care professional, or in situations where the applicant needs a restraining order and changes to the custody and access order are required to ensure the applicant's safety. (A copy of the form to be used by health care professionals is attached)
- where division of property is the sole issue, *unless* the property being divided is the family home and the applicant is not married to the opposing party, is not registered on title, and has a minimum interest in the property of more than \$5,000

In exceptional circumstances, LSS may provide coverage to:

- an applicant who is a respondent to an application to vary custody and access
- OR
- when division of pension is the sole issue and there are extenuating circumstances

Note that counsel must now have specific authorization to act in *any* variation proceeding (maintenance, custody, or access). The retainer instructions line on your referral must include the statement:

"This referral allows counsel to apply to vary an existing maintenance, custody, or access order"

or you will *not* be paid to act in the variation proceeding.

LSS emergency criteria

LSS has changed its emergency coverage criteria. The new criteria for defining a family problem as an emergency are now as follows:

1. The applicant needs a restraining (physical) order.
2. The applicant needs an initial maintenance order and no appropriate alternative service is available.
3. The applicant seeks custody (no court orders yet made) because he/she will lose contact with his/her children, or the applicant has been repeatedly denied access.
4. The applicant is a respondent in a Supreme Court action and to a Notice of Motion where one or more of the emergency coverage criteria are involved.
5. The applicant is a respondent in a maintenance enforcement committal proceeding and faces an immediate and substantial prospect of going to jail.
6. The applicant needs a restraining order to prevent his/her spouse from disposing of or wasting a valuable family asset.

- 7. The applicant seeks to vary an existing custody or access order because there is a risk of harm to the children that has been documented by a health-care professional.

Applicants with problems defined as emergencies under the new LSS guidelines may be either referred to a lawyer for emergency services or, under certain circumstances, diverted to available alternative services.

Diversion may occur where:

- there is no past or recent history of abuse,
- OR
- interim orders are not immediately necessary to ensure the immediate safety of the applicant and/or his/her children,
- AND
- the applicant agrees to be diverted to an available alternative service. The applicant's agreement is not required if the only issue is obtaining an initial maintenance order.

Applicants diverted to alternative services or agencies are instructed to return to LSS if their problem is not resolved.

New Tariff Item

Independent Legal Advice Referrals

Applicants who are diverted to family justice counselors for dispute resolution services may be advised to return to the referring office for independent legal advice before signing a consent order. Limited referrals will be issued for this purpose with the following statement entered at the retainer instructions line:

ILA — 2 hours

Such a referral will authorize you to spend up to 2 hours providing services which may include interviewing and advising the client, reviewing the proposed agreement, negotiating any necessary changes, and completing any necessary documentation. You should bill actual time, as detailed in time records.

If you advise the client *not* to sign the agreement and the client requires representation, complete and submit an opinion letter to the FCMP. Bill for these services using code 2090 for the independent legal advice, and code 2050 for the opinion letter.

A new replacement page for page 23/24 for your family tariff will follow .

Please note that the first page of the revised opinion letter form (also attached to this notice) now contains a box to indicate if your referral is for independent legal advice.

Revised opinion letter form

Attached to this notice is a revised opinion letter form for your family tariff. Please take out pages 67, 67a, and 68, and replace them with the attached opinion letter form. Use this revised form for all opinion letters you submit to the FCMP on or after June 23, 1997.

Converting non-emergency to emergency referrals

As of June 23, 1997, A non-emergency referral can *only* be converted to an emergency referral if your client's circumstances change and one or more of the seven emergency criteria arise.

Retroactive authorizations for approved services

In light of the current budget situation, LSS would like to remind you to seek approval before providing services beyond your authorized retainer. Retroactive authorization for approved services will only be granted in exceptional circumstances. In urgent situations, you can obtain approval by sending an opinion letter to the FCMP and marking it "urgent."

If you have any questions, please contact Heidi Mason at (604) 601-6014.

Heidi Mason
FCMP Supervisor



Legal
Services
Society

Providing legal aid and
legal education for
British Columbia

- Please ask a health-care professional to provide the information below.
- Bring the completed form to our office to apply for legal aid services.

Client no _____	Case no _____
Client name _____	
Birthdate _____	

ASSESSMENT BY HEALTH-CARE PROFESSIONAL

Name of health-care professional _____

Address _____ phone _____

- FIELD:**
- | | |
|--|--|
| <input type="checkbox"/> Physician | <input type="checkbox"/> School or community nurse |
| <input type="checkbox"/> Psychiatrist | <input type="checkbox"/> Psychologist |
| <input type="checkbox"/> Social Worker | <input type="checkbox"/> Transition house worker |

Name of child(ren) _____ Date of birth _____

What is your relationship to the child(ren)? _____

How long have you known the child(ren)? _____

When did you last see the child(ren)? _____

In your opinion, is(are) the child(ren) at risk of being harmed (physically, emotionally or sexually)?

On what do you base your opinion? _____

Other comments: _____

Signature: _____ Date _____