



### *Financial eligibility for legal representation*

Anyone whose net household income and assets fall below set limits is financially eligible for a referral to a lawyer, as long as their problem is covered by LSS rules. Applicants do not have to be financially eligible to receive legal information.

- Income** A limited number of income sources are not included in net monthly income totals — for example BC family bonus, child tax benefits; GST credits; tuition or book fees under federal or provincial student loans.
- Deductions** A limited number of deductions can be made from the net monthly household income totals: daycare expenses; court fines if the applicant or her/his partner faces imprisonment for failure to pay; medication that a doctor says is required for the applicant or her/his dependents that the applicant must pay for personally; child or spousal maintenance payments that are required by court order or separation agreement and that the applicant or her/his partner is actually paying.
- Assets** Applicants whose income is below the guidelines may own some assets and still be eligible for legal representation through LSS. However, if their share of equity in assets is above the asset guidelines, they are ineligible for legal representation regardless of their net monthly income.

There are five asset categories. Each category has different limits, but generally applicants may have some personal property (e.g. reasonable household furnishings), a small amount of liquid assets (e.g. cash, bank accounts), and equity up to \$5000 in vehicle(s), without becoming ineligible for legal representation. The categories are:

- **Family home** – Applicants are ineligible if the family home is considered disposable and there is equity available to them after a reasonable exemption has been deducted. The home generally is considered non-disposable (for example, it may be part of a division of property dispute in a family matter). If applicants have a significant share of equity in the home, eligibility may be reassessed at a later date (see reassessments, below).
- **Real property** (any kind of real estate except the family home) – Applicants are ineligible if their total share of disposable real property exceeds \$10,000.
- **Vehicles** – Applicants are ineligible if their total share of equity in vehicle(s) exceeds \$5,000.
- **Business assets** – Applicants are ineligible if they have any available equity in business assets.
- **Personal property** (excluding vehicles but including savings accounts, RRSPs, furniture, jewellery, etc.) – Applicants are ineligible if their total equity in personal property exceeds the limits based on household size (see table, below).

**Note:** Verification of income and deductions is required. The onus is on the applicant to satisfy LSS eligibility requirements. An applicant does not need to be a Canadian citizen or a permanent resident of BC to qualify for a legal aid lawyer.

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#### Income / asset guidelines

The following table sets out the financial eligibility levels (effective February 9, 2005):

Household size	Net monthly household income (all family, criminal, and immigration cases, including appeals)	Personal property exemption (all cases)
1	\$ 1,304	\$ 2,000
2	\$ 1,804	\$ 4,000
3	\$ 2,112	\$ 4,500
4	\$ 2,516	\$ 5,000
5	\$ 2,862	\$ 5,500
6	\$ 3,208	\$ 6,000
7 or more	\$ 3,554	\$ 6,000

#### Reassessments

Upon receiving a referral for legal representation services, clients must agree to repay all or some of their legal aid costs if LSS decides they should do so because of changes in their financial circumstances.

Clients may be reassessed from time to time to determine if they are still financially eligible for legal representation through LSS. If they are found to be no longer financially eligible, their referral is discontinued (in which case they pay their own lawyer privately).

Reassessments normally occur —

- if clients' financial circumstances have changed during the course of a referral,
- to verify financial information provided in the original application,
- if the referring office becomes aware of assets, income, or family relationships that the client did not disclose during intake,
- when a new case is opened,
- when a change of lawyer is processed,
- if more than 90 days have passed since the last financial assessment,
- as a result of a complaint about the client's financial eligibility, or
- on a random basis for auditing purposes.

Clients are also reassessed when they receive asset(s) and/or money during or at the end of their case. In these instances LSS —

- calculates the total amount received,
- determines whether to convert the legal aid referral to a private fee retainer and collect a payment from the client, and
- reassesses clients' financial eligibility to determine whether they are still entitled to legal representation through LSS.

**Note:** There is a basic exemption of \$10,000 in asset(s)/money received to cover basic needs, including housing. The maximum a client will have to pay toward legal expenses is 50% of the amount received, after deducting the \$10,000 exemption.

#### Windfall

LSS discusses future reimbursement of legal aid costs with clients whenever there is a reasonable chance that they will receive a substantial amount of money during or after the conclusion of their case. When clients receive such funds, the society normally expects full recovery of the costs it paid on their behalf.

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**Liens** Part 3 of the Legal Services Society Act authorizes LSS to register a lien against a client's land and/or personal property to recover costs he or she owes the society.

**Termination** LSS terminates legal representation services whenever —

- a client receives a financial windfall after a case has begun, but before it is finished (for example, a lottery or inheritance),
- a client's income rises above the eligibility guidelines (LSS will not pay for any services provided after eligibility terminates), or
- the referring office becomes aware of undeclared assets, income, or family relationships that make the client ineligible.

### *Financial eligibility for legal advice*

LSS adopted a separate financial eligibility test in 2002/2003 for most LSS legal advice services.

Initially applied to family duty counsel (FDC) services, the test is based on the one used by family justice counsellors. LSS also uses this test for brief legal services under the enhanced LawLINE pilot project and for some family advice lawyer services.

To be eligible, a client's net income must fall within the limits set out in the financial eligibility test chart (see box, below).

Clients who are not financially eligible can still receive —

- legal information and referral services from the LawLINE,
- 20 to 45 minutes of general assistance from family duty counsel (depending on their availability), and
- an initial 45 minute appointment with a family advice lawyer (with a referral from a family justice counsellor).

**Effective February 9, 2005:**

Legal advice financial eligibility test	
Number of family members <sup>1</sup>	Annual / monthly net income <sup>2</sup>
4 or fewer	\$32,000 / \$2,666
5	36,000 / 3,000
6	40,000 / 3,333
7 or more	43,000 / 3,583

<sup>1</sup> Family members include children and parent(s) or other adult(s) responsible for and living with the children.

<sup>2</sup> Income is the person's net income from all sources but does not include that of a new spouse or child support payments.