

Changes in Financial Eligibility Rules Effective April 7, 1997

Financial eligibility

The Legal Services Society (LSS) has been forced to reduce financial eligibility levels for legal aid as a result of funding cuts by government. LSS assesses applicants' financial eligibility based on the applicant's household size, net monthly income, and assets.

Income eligibility

The new eligibility levels are divided into areas of law rather than different regions of the province, as before. There are now two eligibility levels: one for clients with criminal problems and one for clients with civil law problems. The eligibility levels have dropped by approximately 5.5 % for each area of law.

Income guidelines

Household size	Criminal cases (including Appeals)	All other cases (including Appeals)
1	\$ 833	\$ 941
2	\$1,250	\$1,412
3	\$1,458	\$1,647
4	\$1,612	\$1,821
5	\$1,778	\$2,008
6	\$1,932	\$2,183
7 or more	\$2,065	\$2,333

Effective April 7, 1997, this table applies to all offices.

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Contributions

Contributions will still be collected from those clients LSS assesses as able to afford to contribute to the cost of their legal services. Contributions are assessed on the basis of household size and net monthly income. Because eligibility levels have dropped, the highest contribution level (\$150) has also disappeared, because it was based on income that is now above our eligibility guidelines. The following table sets out the contribution levels in effect as of April 7, 1997.

Table of contributions by income level

Household size	Net monthly income			
	\$ 0 - 678	\$ 679 - 775	\$ 776 - 872	over \$ 872
1	\$ 0 - 678	\$ 679 - 775	\$ 776 - 872	over \$ 872
2	0 - 972	973 - 1,111	1,112 - 1,250	over 1,250
3	0 - 1,189	1,190 - 1,359	1,360 - 1,529	over 1,529
4	0 - 1,350	1,351 - 1,543	1,544 - 1,736	over 1,736
5	0 - 1,469	1,470 - 1,679	1,680 - 1,889	over 1,889
6	0 - 1,567	1,568 - 1,791	1,792 - 2,015	over 2,015
7 or more	0 - 1,665	1,666 - 1,903	1,904 - 2,141	over 2,141
Assessed contribution	None	\$ 30.00	\$ 65.00	\$ 100.00

As a result of a recent Board decision, contributions will be changing again in the near future. Further changes to the Financial Eligibility and Contributions policy will be implemented to yield another \$280,000. The details of these changes will be circulated as soon as possible.

Eligibility reassessments

Clients whose eligibility is reassessed *after* April 7, 1997, whether the reason is a change of counsel, a change in circumstances, or an investigation as the result of a complaint, will be reassessed under the new guidelines. If the client's income is above the new monthly guidelines, legal aid coverage will be terminated and the referral lawyer advised. LSS is *not* pursuing a policy to have all clients reassessed under the new guidelines, but will continue, as always, to require reassessment of eligibility from time to time, depending on the circumstances of the case.

Assets

The eligibility test based on assets has not changed. Legal aid eligibility is still based

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on the client's share of equity in disposable assets being less than the total allowable exemption. Disposable assets are assets that can be used, or whose equity (or portion of equity) can be used, to raise money to retain counsel privately. Equity in an asset is determined by its approximate market value, less any money owed and secured against the asset. The client's share of equity refers to the client's direct interest in ownership of the asset; for example, an undivided 50% interest. If the client has no ownership interest in an asset, it is not included as part of their eligibility assessment.

Disclosing changes in financial eligibility

Clients who receive legal aid do so on the condition that they agree to inform LSS of any changes in their financial circumstances. Clients also agree to include in their instructions to referral lawyers that their lawyers advise LSS of any changes in the client's financial circumstance or of any change in their instructions to report in that regard.

If your client's income changes, you should send him/her back to the referring office to have his/her eligibility reassessed. If the client is still eligible, your referral will continue. If the client is no longer eligible, then all open referrals for that client will be terminated and you will be informed.

When a client receives or is about to receive property or a sum of money, he/she is required, according to the instructions on the Legal Aid Application — Accepted letter (or the back of the Eligibility Assessment form), to report this to LSS. The referring office then:

- determines what the total amount is;
- applies the procedure set out in the Financial Eligibility Reassessment policy to determine whether to convert the legal aid referral to a private fee retainer and collect a payment from the client; and
- reassesses the client's financial eligibility to determine whether he/she is still entitled to legal aid.

If the client is no longer financially eligible, legal aid services are discontinued.

If the client receives a total amount that is less than \$10,000, no re-payment to LSS is required.

If the client receives a total amount that is \$10,000 or more, his/her legal aid referral is converted to a private fee retainer, and depending on the value of the

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property/money received, he/she will be asked to pay something toward the cost of legal services already provided.

The amount of payment required is calculated at the rate of 50% of all amounts over \$10,000 received by the client, up to the total amount LSS has already paid out on the case.

The formula used by the referring office to arrive at the amount of payment is as follows:

1. If the client receives 15,000, subtract \$10,000 from the total amount, and divide by 2. This is the *net amount* of asset(s) received.

Example

$$\begin{array}{r} \$ 15,000 \\ - 10,000 \text{ (basic exemption)} \\ \hline = 5,000 \\ \div 2 \\ \hline = 2,500 \text{ (net amount)} \end{array}$$

2. Determine the *total cost of legal expenses* for the case.
3. If this amount (#2) is *less* than the net amount of the asset(s) received (the figure from #1, above), they convert the case retroactively from the assignment date and assess a payment equal to the total paid by LSS for legal expenses.
4. If this amount (#2) is *more* than the net amount (#1), the office either:
 - assesses a payment equal to the net amount (#1), up to the total amount LSS has spent on the client;
 - OR
 - asks the Client Services manager or regional director to authorize a partial conversion.

Please note that referral counsel must confirm the amount of any retainer with their clients or this amount may be deducted from the billing.

If you have any questions, please call the Tariff Help Desk at (604) 601-6155, or your referring office.

Nancy Henderson
Director of Tariff