

Call for Justice, LLC—United Way 2-1-1 Training Paper
Session 18: Legal Resources for Government Benefits Issues
March 13 and 14, 2014: Kathleen Davis, Mid-Minnesota Legal Aid.

Featured Speakers' Topics

This month, we hear from Kathleen Davis, an attorney with Mid-Minnesota Legal Aid, on the legal resources that are available for people who encounter legal problems that arise from various government benefits/programs.

What are Government Benefits?

Government benefits—sometimes also called “public benefits”—are a myriad of programs that serve as a safety net for low-income, disadvantaged, and disabled individuals. The programs are intended to protect at-risk families, the recent or chronic unemployed, individuals with disabilities, persons with health emergencies, and individuals and families who cannot afford medical insurance. The programs are administered or overseen by various state and federal agencies, such as the Minnesota Department of Human Services and the federal Social Security Administration.

Eligibility for many government benefit programs is determined by income and application of Federal Poverty Guidelines. Some programs, such as Social Security Disability Insurance or unemployment insurance through the Minnesota Department of Employment and Economic Development (DEED), determine eligibility on factors wholly apart from income. Other programs have multiple eligibility criteria, such as age, residence, and disability status.

The Concept of “Due Process”

In order to understand legal issues that arise from government benefits, it’s important to consider what “due process” means.

Due process is the legal requirement that the state (e.g. governmental agency) must respect all of the legal rights that are owed to a person. In the context of government benefits, someone obtains a “right” to a benefit by virtue of Congress or a state legislature mandating that certain programs (such as the public welfare) exist for the betterment of various individuals. Once a person is vested with the right to participate in a government program, that right can’t be taken away without certain procedures being followed. (The idea is to prevent the government from arbitrarily or indiscriminately withdrawing benefits and leaving a person without any recourse.)

Typically, "due process" requires written notice of any adverse government action, some instructions on a right to appeal the government action, and a formalized appeal process so the affected person has a right to be heard.

With government benefits, due process usually means the person has been denied a benefit, terminated from a benefit, or had their benefit reduced or modified. Some programs provide a “grievance” procedure (such as where a person having problems with a managed care program can request a grievance meeting or persons faced with a welfare program sanction can request a conciliation meeting prior to imposition of the sanction) as a prerequisite to an appeal.

An appeal from an adverse government action affecting benefits must be in writing or completed online (depending on the benefit program), filed within specific time periods. Appeals usually result in hearings before administrative law judges. (See below.)

When legal issues arise out of government benefits, usually we’re talking about “administrative law” where disputes are decided by an “administrative law judge” (also known as an “ALJ”). Instead of trials at courthouses with juries and judges in black robes, there are “hearings” in government office conference rooms with ordinary lawyers or agency employees (ALJs) who have been empowered to handle the precise kind of dispute at hand. An ALJ is usually restricted to deciding cases for a particular kind of government program (for example, an ALJ deciding unemployment claims works for the Department of Employment and Economic Development; he/she usually doesn’t also decide appeals from the denial of Medicaid benefits since that would involve an ALJ who works for the Department of Human Services).

There is also the concept of “exhausting administrative remedies.” This means that an individual who’s adversely affected by a government benefits decision must go through all of the appeal procedures that an agency requires. Once that process has been completed (e.g. once the individual has “exhausted” his/her chances of getting the agency to reverse the adverse decision), the affected individual usually then can resort to state or federal court to appeal the agency’s action. As you’d expect, this is a time-consuming process which often requires the help of a lawyer.

RED FLAG: It’s exceedingly crucial that a person adversely affected by an agency’s benefits decision follow the agency’s procedures for appealing that decision. Complying with deadlines (e.g. that a written notice disputing the action be submitted by X date) is paramount since being late by just one day can nullify a person’s appeal. Thus, with callers, it’s very important to (1) remind them to be aware of any deadlines specified in a notice they may have received and (2) tell them to do what’s necessary to appeal as soon as they get off the phone with 2-1-1. HOWEVER, do not assist them in counting out the days for determining an appeal deadline. It’s not practical when you’re speaking with someone on the telephone and the caller is reading from a document.

Types of Government Benefits/Programs

There are many government benefits/programs, and it’s near-impossible to formulate a complete list. However, some of the more common programs that callers will be asking about are:

- ▶ MFIP: Minnesota Family Investment Program
- ▶ SNAP: Supplemental Nutrition Assistance Program
- ▶ Health Care: Medical Assistance and MinnesotaCare (MNCare)
- ▶ Child Care Assistance (MFIP, Transitional and Basic Sliding Fee)
- ▶ GA: General Assistance
- ▶ SSI: Supplemental Security Income
- ▶ RSDI: Retirement Survivors Disability Income
- ▶ MSA: Minnesota Supplemental Assistance
- ▶ EA: Emergency Assistance
- ▶ EGA: Emergency General Assistance
- ▶ Unemployment Compensation benefits through DEED

Common Government Benefits Issues

Just as there is a near-countless list of government benefits/programs, so too is there a long list of potential issues that may impact eligibility or continued participation in such programs.

Among the common issues are:

- ▶ Immigrant status—people in the U.S. without documents may not qualify for programs;
- ▶ Changes in employment status—a participant gets a raise in their minimum wage job which makes them income ineligible or someone in the family (who had been unemployed) obtains employment;
- ▶ Changes in household numbers or composition—the household size decreases or a child who had been in the home moves to another residence or a senior who had been receiving benefits dies;
- ▶ Changes in disability status—a person who’s receiving RSDI improves health-wise or finds part-time work;
- ▶ Compliance with program requirements—for example, with MFIP, adults in the household are required to conduct job searches and participate in community volunteer activities; if they fail to participate with a program’s requirements, benefits can be reduced or terminated;
- ▶ Government funding—Congress or a state legislature may reduce or cut-off funding for a program, resulting in a reduction or complete loss of benefits;
- ▶ Documentation issues—not only relative to citizenship or immigrant status, but birth certificates, social security numbers, proof of paternity, etc. can come into play; and
- ▶ Length of residency—issues can arise depending on how long someone has lived in Minnesota or a particular city or county.

A number of factors go into whether someone is eligible for a program or whether a person is complying with a program’s requirements. For example, if a participant becomes a survivor of domestic violence, they may then become entitled to a waiver from certain program requirements or excused from not complying with a program’s rules.

General Legal Resources—Twin Cities Metro and Greater Minnesota

1. Mid-Minnesota Legal Aid, 430 First Ave. N. Suite 300, Minneapolis MN 55401 (612-334-5970, TDD 612-332-4668)(www.mylegalaid.org). Serves people at 125% of Federal Poverty Guidelines and people aged 60 and over (income doesn't matter) in Hennepin County, St. Cloud and Willmar. Handles housing, public benefits, immigration, tax, consumer, seniors, family law and youth law cases.

2. Central Minnesota Legal Services, 430 First Ave. N. Suite 390, Minneapolis MN 55401 (612-332-8151, TDD 612-332-4668)(www.centralmnlegal.org). Serves people in a 21 county service area; income requirements established according to federal poverty guidelines and type of legal problem. Handles family law, consumer, housing, government benefits and employment cases.

3. MN Disability Law Center (DLC), 430 First Ave. N., Suite 300, Minneapolis MN 55401 (612-334-5970; TDD 612-332-4668; also Toll Free 1-800-292-4150). DLC helps clients statewide with community-based services, abuse and neglect, discrimination and special education.

4. Southern Minnesota Regional Legal Services, 55 5th St E #400, St Paul, MN 55101 (651) 222-5863 (www.smrls.org). Serves people at 125% on problems with welfare, food stamps, Medicaid, Medicare, Social Security Disability, SSI, unemployment compensation and veteran's benefits. SMRLS states on its website: "You may have been recently denied or terminated from one of these programs or had the amount of your grant reduced. If you don't understand the reason for the action or if you believe the action was wrong, you should get in touch with SMRLS."

5. Deinard Legal Clinic (formerly the Leonard, Street and Deinard Clinic), 2100 Bloomington Avenue, South Community University Health Care Center, Minneapolis 55404 (612-638-0700). The clinic provides pro bono legal services to residents of the Phillips and surrounding neighborhoods of Minneapolis. The Legal Clinic is located in the Community-University Health Care Center (CUHCC) which provides comprehensive medical, dental and mental health services to those who might not have access to mainstream health care services due to socioeconomic or cultural barriers. Most of the Legal Clinic's cases involve family law issues, such as divorce, parenting time and child support, and housing, immigration, consumer and government benefits matters (approx. 15% of their work is advice on government benefits). First priority are residents of the Phillips neighborhood, then patients of CUHCC, but we are advised they will see anyone assuming they have capacity.

6. Upper Midwest Pension Rights Project, 2365 N. McKnight Rd., North Saint Paul, MN 55101 (651)251-5765; Toll-free: 1-866-783-5021(www.midwestpensions.org).The Upper Midwest Pension Rights Project (UMPRP) is one of six free regional pension counseling projects funded by the U.S. Administration on Aging to provide free legal help to individuals in the five

state region of Minnesota, Wisconsin, Iowa, North Dakota and South Dakota. The UMPRP is a joint effort of the Metropolitan Area Agency on Aging (in MN) and Iowa Legal Aid. Eligibility: not dependent on age or income. Can assist with pension claims of any amount and from any employer; the only requirement is that the individual or the former employee either lives, formerly worked within, or had their benefit administered in, the five state region. All services are offered to clients at no charge.

7. Minnesota Assistance Council for Veterans, 360 Robert Street N, Suite 306 Saint Paul, MN 55101 (651.291.8756) (mac-v@mac-v.org). Sara Sommarstrom's (Vetlaw Director) direct contact is 651-224-0292 (office); 612-367-6786 (cell); ssommarstrom@mac-v.org. Recall our training from Session 17 and how MACV can assist any qualified veteran with his/her benefits issues.

8. Ramsey County Veterans Services, 90 West Plato Boulevard, Suite 210, St. Paul, MN 55107(651.266.2545)(AskVeteransService@co.ramsey.mn.us) (www.co.ramsey.mn.us/vs). Recall our training from Session 17 and how the state Offices of Veterans Services will help veterans across the state with benefits issues.

Let us know if you have any questions!

Ellie and Emily, Call for Justice, LLC