

# COUNTY OF EL DORADO

## HEALTH & HUMAN SERVICES


## INTEROFFICE MEMORANDUM

Patricia Charles-Heathers, Ph.D.  
Director



Date: June 8, 2017

To: Chair, Supervisor Frentzen  
Supervisor Hidahl  
Supervisor Veerkamp  
Supervisor Ranalli  
Supervisor Novasel

From: Patricia Charles-Heathers, Ph.D., MPA   
Director, Health and Human Services Agency

Subject: Senior Legal Services

The purpose of this memo is to provide you with the concerns and challenges relative to the current Senior Legal Services model and to provide a recommendation of how these services would continue if the recommendation is approved.

### Concerns and Challenges:

1. It is important to note that El Dorado County is the only County that provides Senior Legal Services internally and the only County that provides General Fund support to the program; all other Counties have contracted out this service.
2. Program requirements prevent Senior Legal staff from doing any means testing to determine whether the client has the ability to pay.
3. County Counsel has advised that due to the attorney/client relationship, I am unable to provide oversight and effectively manage this service. Since the senior client holds the privilege, communications between the attorney and the senior client cannot be shared, and I am unable to effectively oversee or hold the attorney accountable for the services being provided.
4. Attorneys should not be supervised by non-attorneys. In *Hessinger Associates (1994, N.D. California)*, 171 B.R. 366, the court made it very clear that the attorneys in the case were taking direction from a non-lawyer, and indicated that a third person cannot control the attorney's professional judgment.

### Data/Demographics:

The following is a summary of demographic information provided by the California Department of Aging for Counties within our region.

	Total Population	Population 60+	% Pop 60+	Low Income 60+	% Low Income 60+
El Dorado	181,058	53,891	29.8%	3,425	6.4%
Placer	384,432	96,668	25.1%	7,405	7.7%
Nevada	98,764	34,778	35.2%	3,065	8.8%
Sacramento	1,418,788	296,456	20.9%	33,840	11.4%
Sutter	94,737	20,591	21.7%	2,910	14.1%
Yolo	200,849	38,340	19.1%	4,215	11.0%
Amador	36,742	13,146	35.8%	1,170	8.9%

El Dorado County has the third highest percentage of population over 60 years old, but has the lowest percentage of individuals over 60 years old classified as "low income."

If the program remains in its current form in FY 2017/18, it will result in a Net County Cost impact totaling approximately \$250,000. The General Fund support, in addition to approximately \$57,000 in Older American Act funding and approximately \$80,000 in donations, pay for 1.5 FTE Senior Citizen Attorney, 1.0 FTE Paralegal and 1.0 FTE Office Assistant.

Based on information provided by the Senior Legal Services program, as of May 30, 2017, the program served 1,315 unduplicated clients, 424 of which claimed an economic need. Assuming similar results are obtained in FY 2017/18, it results in a net County cost of approximately \$190/client, many of whom have the ability to pay.

**Recommendation:**

My recommendation is to contract for Senior Legal Services with the attorney who was recently hired to provide this service, utilize funding through the Older Americans Act, donations and if necessary, a minimal General Fund amount. Services would still be provided at the Senior Center site on Spring Street with HHSA serving as the Contract Administrator. Any legal issues that arise relative to the services being provided by the attorney would be covered by the attorney's own insurance, and County Counsel would be available to assist HHSA relative to any concerns regarding contract performance.

In order to change the way services are currently being conducted, the State would require the following steps:

1. A minimum 30 day notice to the California Department of Aging (CDA) of the intent to change a Title III program as a direct service.
2. Per the CDA contract, create a Transition Plan for the Senior Legal Services program, to be served by another entity in El Dorado County. This plan will detail how existing clients will be transitioned to a new provider, the services available from the new provider, transfer records, etc.
3. The Area Agency on Aging (AAA) will need to hold a Public Hearing on the Transition Plan. This will need to be noticed in the local papers at least 30 days prior to the Public Hearing. Comments from the Public Hearing will need to be included in the Transition Plan.
4. The Transition Plan will be sent to CDA for approval, prior to any changes in the existing services for structure of the program. A new budget for Aging Services will also need to be created and submitted to CDA for approval.
5. If the Transition Plan is approved, the Area Plan will need to be amended to reflect the change in services. This will require a Public Hearing with a 30 day notice in the local newspapers. Comments from the Public Hearing will then be included in the revised Area Plan submission.

Please let me know if you have any questions. Thank you.

Cc: Chief Administrative Officer

Attachment: Fact Sheet

# FACT SHEET



## *El Dorado County* Health and Human Services Agency

### EL DORADO COUNTY SENIOR LEGAL SERVICES PROGRAM Fiscal Year 2015/16

#### **Overview**

El Dorado County's Senior Legal Services program assists seniors with a variety of legal issues, including estate planning, public benefits, consumer issues, health care, real property, and abuse and exploitation. Senior Legal Services provides legal advice, prepares simple documents, and represents the elderly in court on matters related to elder abuse if they cannot represent themselves or have no other advocate. It is not means-tested; anyone 60 years or older is eligible for free services regardless of their ability to pay.

In-person legal assistance is provided at the Placerville Senior Center, El Dorado Hills Senior Center, Cameron Park Community Center, South Lake Tahoe Senior Center, Greenwood Community Center, and the Pioneer Park Community Center. Attorneys also visit homebound, hospitalized, and institutionalized seniors countywide, particularly those on hospice. They also present legal educational seminars and workshops to community, religious, senior and health care organizations.

El Dorado is the only county in California that directly provides these services. In its Recommended Budget for fiscal year 2017/18, the County proposes to change the delivery system of the services it provides to senior residents, coming in line with the practice of every other California County. This change would eliminate three-and-a-half full time employees and save the County \$250,000 annually while still providing essential legal services to the senior residents of El Dorado County.

#### **Funding**

Senior Legal Services receives approximately \$80,000 from the federal Older Americans Act (OAA). The OAA requires that the program cannot deny services to older individuals due to the income of such individuals, however, donations are allowed. In the last 12 months, the program received approximately \$94,000 in donations. The County spends approximately \$250,000 annually to administer the program.

#### ***The 1,908 individual clients served:***

- Were between the ages of 65 and 84 (68%)
- Self-declared themselves as low income (under the federal poverty level of \$1354/mo. for single, or under \$1832/mo. for a couple) (32%)
- Lived alone (37%)
- Were frail and/or disabled (11%)

#### ***Types of services included the following:***

- Wills, Trusts, Advanced Health Care Directives and Power of Attorney (71%)
- Consumer Finance (15%)
- Housing Including Evictions (8%)
- Individual Rights including Elder Abuse Cases (2%)
- Medi-Cal/Medicare and Other Health Related Issues (2%)
- Family Issues (1%)
- Employment and Income Maintenance (<1%)

***The County provided legal representation in 18 cases, comprised of the following issues:***

- Landlord/Tenant Issues (67%)
- Family Issues (22%)
- Elder Abuse (11%)

***LawLine***

This service allows seniors who are without transportation or who cannot wait for an in-person appointment to call with questions and/or concerns.

***Elder Abuse***

Senior Legal Services provides assistance to prevent and stop elder abuse, including:

- Preparing restraining orders or legal evictions
- Financial fraud cases
- Civil legal assistance for Adult Protective Services victims
- Preparing documents to safeguard seniors from financial and health care abuse, including:
  - Power of Attorney
  - Advanced Health Care Directives
  - Trusts

***Why the County is making this recommendation***

As it currently exists, the nature of the program creates an attorney-client relationship between the individual senior being provided legal services and the attorney providing those services, making the communications between them privileged and unavailable to the Health and Human Services Agency (HHS) director.

Another problem with the program is the supervision of a lawyer by a non-lawyer. As a general rule, a person that is not a lawyer, such as the HHS director, cannot control an attorney's professional judgement making meaningful oversight of Senior Legal Services by the County extremely difficult in practice.

In short, the current structure of Sr. Legal Services allows for no meaningful oversight or accountability by the County, but has the potential to expose the County to liability.

Lastly, due to increasing mandated costs, El Dorado County simply does not have the revenue to maintain all of our discretionary programs at their existing service levels, while continuing to support increasing cost to other programs such as senior nutrition and senior day care which have a direct nexus to the County's Strategic Plan.

For these reasons, the County is recommending that instead of directly providing legal services to seniors, it contracts out for the services it currently provides. If approved, current clients would be transitioned to the new provider(s) while new clients would be connected with the contractor(s) for their needs.

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