

## **2023 Income & Asset Requirements for Persons to be Eligible. For Assistance with Foundation Grants**

*Please distribute to all staff involved in screening for household income eligibility  
And/or providing TAJF funded legal aid.*

Each year, the Texas Access to Justice Foundation (TAJF) adopts criteria relating to income, assets, and liabilities defining the indigent persons eligible to benefit from TAJF grants. Household income-eligibility guidelines are based on the Department of Health and Human Services' (DHHS) most recent federal poverty guidelines. DHHS issues these guidelines each year in the Federal Register.

These guidelines establish maximum household income levels for individuals and families eligible for assistance from TAJF-funded legal aid programs whether funded by Interest on Lawyers Trust Accounts (IOLTA), Basic Civil Legal Services (BCLS), Crime Victim Civil Legal Services (CVCLS), Legal Aid to Veterans (LAV), Legal Aid to Survivors of Sexual Assault (LASSA) or any other TAJF grant funds. The purpose of the criteria for house income, asset, and liabilities is to determine whether an individual qualifies for legal assistance under one of the TAJF grants.

Organizations receiving any TAJF grants must use such funds to provide free civil legal services to eligible low-income persons or low-income client groups, associations, and nonprofit organizations eligible under these guidelines and the enacting [rules of the source of funds located at the tajf.org website](#). Grantees must adopt and utilize this criteria relating to income, assets, and liabilities defining the indigent persons eligible to benefit from TAJF grants.

See the **2023 Financial Income Guidelines** document for client eligibility under specific grants.

Grantees must have written asset & liabilities criteria in place for defining indigent persons eligible for TAJF-funded free civil legal services. See section on Assets Limitations below.

### **DEFINITIONS**

1. Family: Includes only those persons related by blood or by law as relatives to the applicants for whom the applicant has a legal responsibility to support.
2. Income: Includes wages & earnings, unemployment compensation, workers' compensation, Social Security, Supplemental Security Income, public assistance, veterans' payments, survivor benefits, pension or retirement income, interest, dividends, rents, royalties, income from estates, trusts, educational assistance, alimony, child support, assistance from outside the household, and other miscellaneous sources.
  - Noncash benefits (such as food stamps and housing subsidies) do not count towards income.
  - Income considered before taxes
  - Income excludes capital gains or losses.

- If a person lives with a family, add income of all family members. (Non-relatives, such as housemates, do not count unless they contribute regularly to help financially support the household.)
3. Liquid Assets: Assets that can readily and promptly convert to cash by the individual seeking assistance, prior to the time that the assistance is required. Only net liquid assets, after subtracting all expenses of conversion and taxes, are considered.
  4. Non-Liquid Assets: All assets other than liquid assets.
  5. Available Assets: Assets to which the individual seeking assistance has legal and actual access without having to obtain the consent or cooperation of another person over whom the individual does not have control and who does not, in fact, consent or cooperate

### **No Exceptions to Income Guidelines**

TAJF income guidelines differ from those of Legal Services Corporation (LSC). TAJF does not allow for LSC-type deductions or exceptions to income, which reduce household income to meet income guidelines. There are no provisions in TAJF grant guidelines permitting the reduction of household incomes below TAJF grants' maximum household income caps.

### **Manner of determining financial eligibility.**

In making financial eligibility determinations regarding individual applicants, a grantee shall make reasonable inquiries regarding sources of the applicant's income, income prospects and assets. The grantee shall record income and asset information.

In making financial eligibility determinations regarding groups seeking TAJF-supported legal assistance, a grantee shall follow the requirements set forth by the individual TAJF grant.

A grantee shall adopt simple intake forms and procedures to obtain information from applicants and groups to determine financial eligibility in a manner that promotes the development of trust between attorney and client. The forms shall be preserved by the grantee.

If there is substantial reason to doubt the accuracy of the financial eligibility information provided by an applicant or group, a grantee shall make appropriate inquiries to verify the information, in a manner consistent with the attorney-client relationship.

When one grantee has determined that a client is financially eligible for service in a particular case or matter, that grantee may request another grantee to extend legal assistance or undertake representation on behalf of that client in the same case or matter in reliance upon the initial financial eligibility determination. To transfer client's financial eligibility, the referring grantee must provide, and the receiving grantee must retain a copy of the intake form documenting the initial financial eligibility of the client. In such cases, the receiving grantee is not required to review or re-determine the client's financial eligibility unless there is a change in financial eligibility status as described below or there is substantial reason to doubt the validity of the original determination.

Grantees' screening and intake procedures must be able to reasonably demonstrate that staff practice and follow procedures uniformly and consistently.

A total amount of the applicant's household income must be recorded even if it is zero. Records of TAJF client eligibility must be retained and be available for inspection in a manner consistent with attorney-client confidentiality.

To determine monthly income, divide annual income by 12. For weekly income, divide annual income by 52, or divide monthly income by 4.2. Your approach must be in writing and used consistently. Income received twice a month should be multiplied by 2 to establish monthly income. If the applicant is a seasonal employee, consideration can be based on previous year. Applicants shall be informed of their duty to report changes in their income to grantee should grantee accept their case.

If an applicant's total household income is derived solely from a government program for low-income individuals or families on a needs-based test, then the grantee may determine that the applicant is financially eligible based on those benefits. However, the grantee must record household size, household income, and the specific identity of the government program.

### **Group Representation**

Group legal assistance must: 1) be limited to groups with no resources for legal assistance, and 2) benefit the low-income individual or low-income community in which they reside. In representing a client group, association, or nonprofit organization, the grantee must comply with all of the other provisions of these rules and is subject to all of the prohibitions contained herein. A client group, association, or nonprofit organization is eligible to represent a group if it provides information showing that the group lacks, and has no practical means of obtaining, funds to retain private counsel and either:

- i. The group (or the organizing or operating body of a non-membership group) is primarily composed of individuals who would be financially eligible for this TAJF-funded legal assistance, or
- ii. A principal activity of the group is the delivery of services, assistance or advocacy to those persons in the community who are otherwise financially eligible for this TAJF-funded legal assistance and the legal assistance sought relates to such activity, or

### **Change in Financial Eligibility Status**

After determining that a client is financially eligible and after accepting that client for service, the client's changed circumstances may make them ineligible for TAJF funded services. Upon learning that a client is no longer financially eligible for TAJF services, the grantee shall discontinue TAJF supported services and representation as long as: 1) the change in circumstances is sufficient, likely to continue, and enables the client to afford private legal assistance; and 2) discontinuation is consistent with applicable rules of professional responsibility.

This same rule applies when the grantee later determines the client is financially ineligible on the basis of later discovered or disclosed information.

### **Legal Assistance Documentation Requirements**

For each case reported to TAJF, the client's case file or the CMS must contain a description of the legal assistance provided to the client. Such description should be sufficient to document that the assistance is a case and to support the level of assistance selected by the grantee to close the case.

### **Asset Limitations**

Grantees must have an assets & liabilities policy that caps the amount of assets for eligibility determinations regarding TAJF-funded cases and clients. Grantees may select one of the below options or develop an alternative asset policy that is consistent with the intent to provide free civil legal services to indigent individuals. Staff and volunteers must adhere to the policy in determining eligibility for free civil legal services. The policy must be approved by the Board of Directors/Board of Trustees or governing body of the organization. If the legal program is a component of a larger non-legal aid institution, such as a religious organization, the chief executive officer may approve the policy. In the case of a law school clinical program or bar association pro bono grantee, another designated authorized body or individual beyond the manager/director of the legal aid program must approve policy. The asset policy regarding TAJF eligibility must be in writing and available upon request.

### **Asset Documentation Requirements**

At a minimum, for each case reported to and funded by TAJF, grantees shall document the total value of assets held by all members of the applicant's household (except for categories of assets such as principal residence, work tools, or a vehicle needed for transportation excluded from consideration pursuant to grantee Board guidelines).

Grantees' intake procedures must include sufficient questions of the applicant to determine the total amount of non-excluded household assets and the program must be able to provide reasonable evidence that staff practice follows these procedures. Programs shall use the equity value of a non-excluded asset as opposed to its fair-market value in calculating asset eligibility. A total value of the applicant's non-excluded household assets must be recorded, even if it is below the program's guidelines or zero. For cases in which the applicant's household has non-excluded assets which exceed the program's asset ceiling but the grantee determines that the asset ceiling should be waived, the documentation of eligibility shall also indicate the factual basis for the decision to waive the assets ceiling.

If an applicant's total household income is derived solely from a government program for low-income individuals or families, then the grantee may determine that the applicant is financially eligible based on participation in that grantee as described in above, in which case no further asset documentation is required.

### **SAMPLE DRAFT OPTION 1**

In general, an individual client may have up to \$10,000 in liquid assets (plus \$5,000 for each additional qualifying family member) and \$15,000 in non-liquid assets (plus \$5,000 for each additional qualifying family member). Exempted from the asset limit are the client's principal residence, one car, personal and household goods, tools, or equipment essential to employment, trusts restricted to educational or medical purposes, interest in IRA or Keogh plans, assets not counted by public assistance programs, and burial plots or trusts.

Where a client owns property, each asset must be identified (e.g., *savings account* or *vacation villa*), and its value must be entered into the client's financial eligibility field in their case-management system or paper application. The client's home, household goods, one car, or checking and/or savings account whose combined value is less than \$2,000 need not be listed. If the client has no countable assets, the grantee will report "None" in the appropriate area of the financial eligibility field.

### **SAMPLE DRAFT OPTION 2**

- 1) An individual seeking assistance may not have total family assets disregarding exclusions, if in excess of the following:
  - a) Liquid assets of \$2,500 or non-liquid assets of \$20,000.
  - b) \$5,000 in liquid assets or \$40,000 in non-liquid assets if a member of the applicant's family is elderly, handicapped, or institutionalized.
- 2) An individual seeking assistance may not have total family assets, disregarding exclusions, in excess of the following:
  - a) Liquid assets in excess of double or non-liquid assets in excess of four times the estimated cost of obtaining private legal assistance for the matter on which assistance is sought.
  - b) Liquid assets in excess of three times the estimated cost of obtaining private legal assistance for the matter on which assistance is sought, if a member of the applicant's family is elderly, handicapped, or institutionalized, in which case non-liquid assets may be disregarded.
- 3) Exclusion: The following items are to be excluded from consideration in determining whether an individual seeking assistance has assets in excess of those permitted:
  - a) The principal residence of an individual seeking assistance, or of any member of the applicant's family.
  - b) The reasonable equity value in work-related equipment, which is essential to the employment or self-employment of an applicant or members of an applicant's family.
  - c) Any assets, which are exempted from execution by Texas or Federal Law.

### **Use of Automated Case Management Systems**

Grantees shall utilize automated case management systems (CMS) and procedures that ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. Such systems and procedures shall ensure that program management has:

- (a) timely access to accurate information on cases; and
- (b) the capacity to meet funding sources' reporting requirements.

To meet reporting requirements, programs' case management systems and procedures shall include the ability to report cases by funding source, grant type (e.g., BCLS, IOLTA), Pro Bono (private attorney volunteer, jurisdiction (e.g., county or city), and individual office.

Case management systems should also employ sufficient technological capacity to ensure cost effective and efficient management of data and workflow. Hallmarks of sufficient technological capacity include:

- single entry of data;
- automated reporting that eliminates onerous and time-consuming manual calculation or tabulation;
- the ability to readily review data and information from multiple perspectives; and
- the promotion of data integrity and assistance in the identification of erroneous data.

Furthermore, Grantees should keep their case management system technology sufficiently up-to-date to enable them to benefit from future technological advances.

### **Management Review of Case Service Reports**

Grantees shall institute procedures for ensuring management review of case service information for accuracy and completeness prior to its submission to TAJF. At a minimum, such procedures shall include either a review of management reports, or another method of review that ensures that cases are timely closed and are not reported more than once in the same year.

In addition, the executive director, or a designee, shall review the program's case service reports prior to their submission to TAJF in order to ensure that the information contained in the reports fairly represents the volume and types of CSR cases that the program provided during the grant year. When necessary to determine the accuracy of case service information, programs shall have the capacity to generate a detailed listing of open and closed cases to support case service information reported to TAJF.