

Call to Service: Judicare Opportunitites for Family Law Attorneys

By: Harriet Robinson

In response to the critical need to assure the administration of justice for low-income litigants so that they have appropriate representation in divorce, custody, visitation and other contested family law matters, the Maryland Legal Services Corporation (MLSC) in partnership with the Administrative Office of the Courts (AOC) has revived the “Judicare” program, which was so successful in the 1970s and 1980s.

Access to lawyers for contested family law cases is critical for litigants to achieve just outcomes and equally important for the judicial system and society as a whole. Recent reports by the Maryland State Bar Association and the Maryland Judiciary document the plight of self-represented family litigants, unmet legal needs of low-income persons in the state and the past success of efforts by lawyers paid reduced fees to serve low-income persons who otherwise would be unrepresented.¹

The revival of the Judicare model in its present form compensates private attorneys accepting Judicare cases in family law matters at the rate of \$80 per hour with a cap of \$1,600 for 20 hours of work. Furthermore, the project will pay an additional \$80 an hour, up to an additional \$800 (\$2,400 total cap), for every hour over 25 hours that the attorney spends on the case (thus 5 hours must be pro bono).

This updated Judicare program presents a wonderful opportunity for the private bar to help fill the gap of unrepresented low-income clients. The benefits of this delivery model to Judicare attorneys are guaranteed compensation, support of litigation expenses, malpractice insurance and mentoring support if needed. In order to be a panel member, attorneys must be licensed in Maryland and either have family law experience or be supervised or mentored by an experienced family law attorney. Participating attorneys must affirm that they are in good standing and have not been disciplined by the courts or Attorney Grievance Commission.

In January 2008 MLSC and AOC began the Judicare Family Law Pilot Project, initially funding legal services organizations serving Allegany, Harford, Prince George’s and Washington Counties² to administer the project and screen and place cases in cooperation with local bar associations, family courts and pro bono committees. The pilot project, which will soon be expanded to Baltimore City, Montgomery County and five counties on the Mid-Shore, will continue through June 2009. AOC will conduct an evaluation of the pilot project with the anticipation of expanding services to all jurisdictions in the future.

Since 1999, through a project initiated by MLSC and AOC, services have been provided throughout the state by private attorneys representing low-income persons in complex child

custody cases at significantly reduced rates.³ The Judicare Family Law Pilot Project is an extension of these services to litigants in any contested family law matter. In FY 2007, over 200 private attorneys handled 366 contested custody cases throughout the state for reduced fees.

In a recently reported case, a private, reduced-fee attorney helped a single mother get custody of her two children. The father, to whom she was never married, was subject to a protective order and incarceration for significant violence during the relationship. The children had witnessed the domestic violence and required therapy. The father, represented by an attorney, filed for joint physical and legal custody or alternatively open and reasonable visitation. The mother was fearful of him, and although a good witness when prepared, she really needed the assistance of an attorney to keep her focused on the proper issues when on the stand. The reduced-fee attorney was able to convince the court that joint legal or physical custody was not proper or in the best interests of the children in this case, and that supervised visitation was appropriate given that the children had not seen their father in 3 years, coupled with their witnessing the domestic violence and the therapy needed as a result. The court ordered 1-day-a-week supervised visitation with a review by the court in 6 months.

Although this is a fairly routine case for a family law attorney, a self-represented litigant would likely have difficulty in achieving these results, while also placing an undue burden on members of the bench and our state’s entire judicial system.

MLSC is issuing a “Call to Service” to all family law practitioners to participate in the Judicare project. The reduced fees you will be paid for your services will be justly supplemented with the gratification that comes from making a significant contribution to access to justice for low-income family law litigants.

Harriet Robinson is deputy director of the Maryland Legal Services Corporation, which was established by the Maryland General Assembly in 1982 to receive and distribute funds to nonprofit organizations that provide civil legal assistance to low-income persons

¹ Final Report and Recommendations on the Potential Use of Private Lawyers, Michael Millemann, University of Maryland School of Law for Maryland State Bar Association Section Council on Delivery of Legal Services and the Administrative Office of the Courts, May 2007; Clearing a Path to Justice: A Report of the Maryland Judiciary Work Group on Self-Representation in the Maryland Courts, Maryland Judiciary, August 2007.

² The four pilot projects to expand representation in family law matters at reduced fees from January 1 through June 30, 2008 were awarded to Allegany Law Foundation, Community Legal Services of Prince George’s County, Harford County Bar Foundation and Maryland Volunteer Lawyers Service for a pilot in Washington County.

³ A complementary component of the Child Custody Project is operated by the Legal Aid Bureau through staff attorneys in various county offices.