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ABSTRACT

This report describes a project designed to educate adult education staff on legal issues that affect students so that staff could instruct and support students on the problems they faced. Staff were trained to help students recognize which problems they could handle and which required professional legal consultation. Six workshops (3 hours each) were presented on these legal issues, which were identified as areas of need: family law; housing law; public benefits; health law; consumer law; and employment law. Over 20 adult educators and literacy providers attended each workshop. A training packet was developed as a prototype for inservice training elsewhere. In addition, three student workshops were offered. The 14-page report is accompanied by appendixes that contain the following: public relations/publicity materials and communications dealing with staff development and student workshops; staff development and student workshop evaluations; and all training materials in reproducible form for the staff development workshops on all 6 issues and student workshops on benefits, family law, and housing law. These workshop materials include content outlines, handouts, and sample forms.
 (YLB)

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ED 368 885

Student Legal Issues

Final Report

by

Carol Molek, Project Director

92-93

June 30, 1993

TIU Adult Education and Job Training Center
3 West Monument Square - Suite 103
Lewistown, PA 17044

99-3031 - \$13,500

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Acknowledgments

We wish to thank the Pennsylvania Department of Education for funding this project and especially Dr. John Christopher, Ed.D., Director, Bureau of Adult Basic and Literacy Education for his support of our programs.

We also extend gratitude to PDE Special Projects Advisor, Dan Partin, for his technical assistance and guidance. Funding for "Student Legal Issues" has allowed us to enhance and develop our programming and delivery of much needed services to our area's adults.

As always we value the support of the Tuscarora Intermediate Unit Board and our Executive Director, Dr. Dale Heller. The Intermediate Unit continues to recognize our unique contribution to the total organization.

A special thanks to Roberta Mueller and the staff at Keystone Legal Services for working with us on this cooperative effort. Their understanding of and empathy with our mutual clients created an exciting, productive project.

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Abstract

Title: Student Legal Issues
Project No. 99-3031
Project Director: Carol Molek
Agency Address: TIU Adult Education and Job Training Center
3 West Monument Square - Suite 103
Lewistown, PA 17044 **Phone Number:** (717) 248-4942
Funding: \$13,500

Description:

"Student Legal Issues" addressed the holistic needs of our students by recognizing that many face legal issues which are barriers to their academic success. We recognize that in our rural communities legal aid resources are extremely limited. Because of this we trained staff so that they, in turn, can assist their students on legal issues that the students can handle themselves and can help students recognize when professional legal consultation is required. This process will empower our students with a new feeling of control in their lives. Six staff development workshops were presented on the following legal issues: family law, housing law, public benefits, health law, consumer law, and employment law. In addition, three student workshops were offered. The project was a coordinated effort between the TIU Adult Education and Job Training Center and Keystone Legal Services.

Objectives:

- to educate adult education staff from five counties on legal issues their students face
- to train staff to make referrals
- to train staff on procedures students can use themselves
- to create and disseminate this model training packet

Target Audience:

Adult education staff from Mifflin, Perry, Juniata, Huntingdon, Centre, and Clearfield Counties.

Product:

"Student Legal Issues" final report including all training materials in reproducible form.

Method of Evaluation:

Short term evaluation of the project's success was based on feedback from participants (adult educators) by means of evaluation questionnaires at each workshop to discern the practicality and importance of the training provided.

Findings:

Both staff and students greatly benefited from this project. Keystone Legal Services has become an important resource for us that both staff and students will access in the future. Both staff and students are newly empowered to deal with legal issues that arise.

Conclusions:

The value of this project is high. It is recommended that this type of training be offered statewide through the Regional Staff Development projects, fall workshops, or the PAACE MidWinter Conference.

Student Legal Issues

Introduction

"Student Legal Issues" addressed priority A: staff development proposal designed for regional impact. This project developed and delivered in-service training for ABE practitioners on the most important legal concerns of their students. The training area covered practitioners from six counties: Mifflin, Juniata, Perry, Centre, Huntingdon, and Clearfield.

The project was developed because of an ever increasing awareness of staff that our students must overcome many personal barriers that are prohibiting them from improving their basic skills. One group of barriers that we have noted as particularly frustrating for our students are the various legal issues they must deal with as part of their daily lives. These issues concern housing, public benefits, health issues, family law and more. Our goal in this project was to educate our staff so that they could work more constructively with our students. As our project developed we were fortunate to receive additional funding under this project so that we were also able to provide direct training for our students through a series of three workshops provided by attorneys from Keystone Legal Services.

The time frame for the project follows:

Time Schedule - 7/1/92 - 6/30/93

July/August/September '92 - Specifically design workshop content with input from staff, students, Keystone Legal Services

October - March - One workshop per month (6 workshops)

May - June - Three student workshops presented

April - June - Production and dissemination of training packets and final reports.

The project director was Carol Molek. Ms. Molek directs programs at the TIU Adult Education and Job Training Center. Ms. Molek has over nine years experience directing adult programs and developing curriculum for the Intermediate Unit. Ms. Molek directed the project, supervised the other personnel involved, was responsible for maintaining the planned time frame, recruited staff to be trained, recruited student participants, and reported to and communicated with the Department. Ms. Molek was responsible for organizing and planning meetings, designing curriculum with Keystone Legal Services, overseeing the operational aspects of the training, analyzing the information presented and writing the final product for dissemination.

The audience benefiting from the project are all staff and students who were directly involved in the training this year. The larger audience to benefit from the program are our future students who will now be served by a more knowledgeable staff and other practitioners in the state who will utilize the information in this report and who will also form a liaison with the legal services agencies in their vicinities.

Permanent copies of this report can be obtained from:

Bureau of Adult Basic and Literacy Education Programs
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126-0333

and

AdvancE
Pennsylvania Department of Education
333 Market Street
Harrisburg, Pa 17126-0333

"Student Legal Issues" was administered by the Tuscarora Intermediate Unit No. 11. The TIU is a local education agency which provides educational and management services to 9 school districts and 3 area vocational technical schools in Fulton, Huntingdon, Juniata, and Mifflin Counties.

The Intermediate Unit operates or oversees all Adult Center programs at the TIU Adult Education and Job Training Center. Center programs have included 306/322 ABE and GED programs; ACT 143 Program; the GED Alumni Association; various JTPA Programs; Carl Perkins project for single parents and displaced homemakers and thirty-seven 310/353 special projects, including this year's Region 5 Staff Development Center.

"Student Legal Issues" was based at the TIU Adult Education and Job Training Center in Lewistown, Mifflin County. The Adult Center is the home of a wide variety of adult education programs meeting the needs of area adults. February '93 marked the Adult Center's 9th year of successful operation.

Statement of Problem

Why train adult educators on the legal issues that affect our students? The rationale for the development of this project was based on two premises. First, our experience has taught us that adult education is not narrow in scope. It is the rare student who comes to our Center with only one, isolated need. Rather, students come to us with a wide variety of needs and goals and an equally wide variety of barriers to success. Because of this our staff have found it necessary to broaden their perspectives and become responsive to the holistic needs of our students in order to have them reach their goals. Our students often have various legal issues that must be overcome in order for them to concentrate on improving their basic skills and moving on to more training or employment.

The second premise for our rationale is the lack of resources on legal issues in our rural communities for our students. Because of this our staff training was two-fold. Certainly we focused on the referral process, but we also taught our staff areas of the law that our students can handle themselves. Our staff are advocates for our students in many ways. This project allowed us to enhance this role.

The reality for the majority of our students is an inaccessibility to professional legal assistance. This is most unfortunate but must be dealt with accordingly. The primary counties involved in this project were served by Keystone Legal Services, based in State College. This organization provides legal

services to poor people in counties with extremely few (and dwindling) resources and overwhelming demands. What Keystone accomplishes with very little is admirable. However, what is left to be done cannot be managed by their staff.

Our project was based on the premise that we would access the expertise of Keystone Legal Services by working cooperatively with them on this training program. Keystone recognizes their limitations in providing direct services to our mutual clients and strongly supported our efforts to educate our staff so they in turn may educate our students. Once again, our goal in this project was not to have adult educators "play lawyer." On the contrary, our goal was to train our staff so that they may help in empowering our students to deal with these frustrating and complicated issues in their lives. This empowerment should promote a total enhancement of the student's self esteem and remove some of the feelings of helplessness and lack of control that often accompanies legal issues in their lives.

As a result of the training provided by this project adult educators are now able to offer their students new insights and information on relevant legal issues. This can be presented to students in a variety of ways. Students can learn about legal issues through basic skills instruction in reading and math. For example, students will be provided with reading that impacts directly on them by addressing legal issues they face. Also, in areas such as rent, credit and other financial legal concerns we can use this context to teach basic math skills. The legal issues we're addressing have very serious implications for our students.

Because of this, students are highly motivated to utilize basic skills curriculum that included legal issues as content.

Additionally, instructors are now able to advise and refer students individually. Again, our students enter our classes with so many social and legal issues that our instructors need to be able to offer direction to help our students. Once these barriers have been addressed students are more open to learning.

The long-term results of this project should greatly enhance the adult education services we provide. Those educators who participated in the training and those who later utilize the training packet will have practical tools to use in assisting our students. Adult educators must not adopt a narrow perspective when planning instruction for our students. Their needs are diverse and must be met in order for them to achieve academic success. A long term result of this project is to assure that adult educators have an additional knowledge base from which to draw to better serve our students.

Goals and Objectives

The goal of the "Student Legal Issues" project was to educate adult education staff on legal issues that affect our students so that staff can instruct and support students on, the problems they face.

Objectives for "Student Legal Issues" were:

- 1) to train approximately 20 adult education staff from Mifflin, Juniata, Perry, Huntingdon, Centre and Clearfield Counties on common legal issues their students face.
- 2) to train staff to recognize issues that require referrals and to identify resources for the referral process.
- 3) to train staff on procedures students may use themselves to solve certain legal problems.
- 4) to create and disseminate a model training packet on these issues which may then be utilized in other areas of the state.

Procedures

The general design of "Student Legal Issues" was in 3 stages:

-The first stage of the project was to meet with adult education practitioners, students, and staff of Keystone Legal Services to decide on the exact content of the training. The input of the participants of our program was vital in planning the program. The areas of need were identified as: 1) Family Law, 2) Housing Law, 3) Public Benefits, 4) Health Law, 5) Consumer Law, and 6) Employment Law. The last session also allowed for covering miscellaneous items and responding to situations that arose during the six months of training. See appendix for detailed content of each workshop. Recruitment for participants for the staff development training was done in-house, through our contacts in the field, and through the data base of the Region 5 Staff Development Project.

-The second stage was the delivery of the training. Six workshops (3 hours each) were presented by four attorneys of Keystone Legal Services. The Adult Education and Job Training Center recruited adult educators and communicated with the literacy providers in each county. Over 20 participants attended each workshop.

-The third stage was the development of the training packet which can then serve as a prototype for this type of in-service training elsewhere in the state. The packet and documentation of this project will be disseminated. In this way the project will have long range effects.

Results

Objective 1

To train approximately 20 adult education staff from Mifflin, Juniata, Perry, Huntingdon, Centre and Clearfield Counties on common legal issues their students face.

Over 20 adult educators were trained at each of the six workshops; there were over 30 participants at three workshops. Responses from staff involved were extremely favorable and appreciative. Adult educators strongly recognize the need for this training and were excited to be involved. Keystone Legal Services staff demonstrated a great understanding for our students and were excellent presenters.

Objective 2 and Objective 3

To train staff to make referrals.

To train staff on procedures students can use themselves.

Both these objectives were met throughout the training. The presenters gave us excellent training packages (see Appendix). They were always very explicit concerning areas where referrals to their agencies, other community resources (Abuse Network), or other attorneys would be necessary. Also they were clear on areas where students could help themselves. All the workshops gave us information to allow us to empower our students in new ways.

Objective 4

To create and disseminate this model training packet.

This objective was also met. Included in this report are the six staff development training packets developed by Keystone. The information presented is of great value to adult educators and can

easily be incorporated into adult basic education classes or a workshop setting. A wealth of information was given to us and, in addition, an excellent relationship was developed between Keystone and Adult Education and Job Training Center staff. This relationship will allow for us to continue to work productively together in the future.

Keystone has become a valuable resource for our staff. They continue to keep us alert to new legislation that affects our students so that we can update them. For example, they supplied us with information on changes to the medical assistance program that has great impact on our students (see Appendix). They also send us copies of their quarterly newsletter ("Keynotes") which we utilize as a part of our curriculum with our adult students.

* * * * *

Additional funding received towards the end of the program allowed us to develop and present three workshops for students on: public benefits, family law, and housing issues. Attorneys from Keystone were the presenters. Materials were written at or below the sixth grade level. These three topics were selected in response to the greatest areas of need as expressed by our students. The student workshop served over 60 participants. Our instructors will also utilize the materials developed in the future (see Appendix).

Evaluation

Evaluation of the project was ongoing throughout the year. All objectives were met according to plan. Evaluations were completed by staff and students after each training. Summaries of all evaluation responses are in the appendix. Comments were extremely favorable and everyone involved would like to see such training continue in some form in the future.

Dissemination

This project will be available for dissemination through:

Bureau of Adult Basic and Literacy Education Programs
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126-0333

and

AdvancE
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126-0333

Specific questions should be directed to:

Carol Molek
Adult Education and Job Training Center
3 West Monument Square - Suite 103
Lewistown, Pa 17044

In addition, some of the staff development workshops were videotaped and will be available for distribution through the Region 5 Staff Development Project (717-248-4942).

Conclusions/Recommendations

Everyone involved in this project feels it was extremely beneficial. It allowed us to address areas of our students' needs not previously met. It provides us with practical tools to use in adult basic education instruction. And it made us more aware and perceptive of our students' many barriers.

We would highly recommend that this type training be made available throughout the state through the Regional Staff Development projects, PDE fall workshops, and/or the PAACE MidWinter Conference.

In addition we would also recommend that training on other counseling issues that pertain to our students also be offered. As our services develop and assessment of our students' needs become more refined, we will need to address those needs in order to best serve our adult students.

Appendices

Keystone Legal Services Information

PR/Communications - Staff Development Workshops

PR/Communications - Student Workshops

Staff Development Evaluations

Student Workshop Evaluations

Staff Development Workshop Materials

- 1) Family Law
- 2) Housing Law
- 3) Public Benefits
- 4) Health Law
- 5) Consumer Law
- 6) Employment Law

Student Workshop Materials

- 1) Benefits: Public Assistance, UC, SSI
- 2) Family Law
- 3) Housing Law

Keystone Legal Services: Evaluation/Recommendations

Keystone Legal Services
Information

**Tuscarora Intermediate Unit
Adult Education and Job Training Center**

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

11/13/92

COPY

Susan Lucas
Keystone Legal Services, Inc.
2054 East College Avenue
State College, PA 16801-7409

Dear Susan,

As we discussed on the phone, I'm writing to formally request your Board's permission to video tape the presentations the Keystone staff are doing for us as part of our "Student Legal Issues" project this year. We're very excited about this training and consider it to be extremely important for adult educators to be knowledgeable about the issues that affect their clients. Although we're pleased to be reaching about thirty people per training, we could reach many more of the rural personnel within our service area if video taping were allowed. I know that Keystone's resources are limited and this seems to present an excellent opportunity to expand service to our needy clients. Interns from Juniata College could do the video taping as they are doing with other training for us this year. It would certainly be acceptable to us for Keystone to own and distribute the tapes as requested by adult practitioners in the field.

Please present this request to your Board and let me know if there are any questions I can answer. We appreciate your support and assistance on this project.

Sincerely,



Carol Molek
Adult Education Director

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KEYSTONE LEGAL SERVICES, INC.

2054 East College Avenue
State College, Pennsylvania 16801
(814) 238-4958

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Program Administrator:
Susan J. Lucas

Pro Bono Coordinator:
Elizabeth A. Hamilton

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Mifflin
Juniata
Huntingdon
Counties:
(800) 326-9177

Clearfield County:
213 N. Second St.
Clearfield, PA 16830
(814) 765-9646

January 26, 1993

Adult Ed & Job Training Center
ATTN: Carol Molek
Juniata-Mifflin Vo-Tech School
1020 Belle Vernon Avenue
Lewistown, PA 17044

Dear Carol:

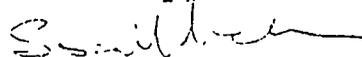
I am preparing to file a federal class-action lawsuit against the United States Department of Health and Human Services and the Pennsylvania Department of Public Welfare. The suit will challenge the validity of a federal and state resource rule applied to cash assistance applicants and recipients (both Aid to Families with Dependant Children and General Assistance).

The rule at issue only exempts \$1500 of equity in one vehicle. Any equity in excess of \$1500 is applied to the total resource limit. The resource limit for an individual on general assistance is \$250; for a general assistance budget group of two or more is \$1000; and for an AFDC budget group, no matter the number of members, is \$1000. Simply looking at the limits may lead you to question the purpose of forcing people on cash assistance to own an undependable and unreliable vehicle, if one at all.

Challenges to the rule have been successful in a few other states. I recently happened upon a client who was adversely affected by the rule. In her particular situation, her minor child received a lump-sum Zebley award and my client, to her credit, purchased a dependable, yet inexpensive, vehicle.

I ask that you alert your staff to this rule. Please feel free to call me should you wish to discuss this matter.

Sincerely,



Susan M. Michalik
Attorney at Law



And Justice
For All..

KEYSTONE LEGAL SERVICES, INC.

2054 East College Avenue
State College, Pennsylvania 16801
(814) 238-4958

STAFF
FYI

April 15, 1993

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Clearfield, PA 16830
(814) 765-9646

Carol Molek, Director
Adult Education Center
Juniata-Mifflin Vo-Tech School
Lewistown, PA 17044

Dear Carol:

In response to your request that we keep you informed of any changes in the Medical Assistance Program. I am writing to you to alert you to new cutbacks in the Medical Assistance program which are being threatened. I am enclosing a news release sent out by the PA Health Law Task Force which explains the proposed cutbacks. As you no doubt realize, these cutbacks could be devastating to the populations we serve. The limitations on hospital stays and on treatment in emergency rooms are especially frightening since they will encourage financially strapped hospitals to deny care in any case where coverage is not assured. Experience in other states where indigents are not covered for hospital stays and the studies tracking the effect of the DRG reimbursement system indicate that many poor people will be "dumped" from emergency rooms or inappropriately discharged if the state enacts these "reforms". While I am sure we all want to see people getting their primary health care somewhere other than the ER, it seems imperative that the state make sure other treatment sites are available before it cuts off access to hospitals.

If you want further information about the status of this bill, please feel free to call me or the Health Law Project. Please also let your clients know about what the legislature is planning for their health care.

Thanks for your attention to this matter.

Sincerely,

Roberta Mueller
Staff Attorney



...And Justice
For All..

Enclosure

PENNSYLVANIA HEALTH LAW PROJECT

801 Arch Street, Suite 610A
Philadelphia, Pennsylvania 19107
tel. 215-625-3663 fax 215-625-3879

ANN TORREGROSSA, Esq. EXEC. DIR.
MICHAEL CAMPBELL, Esq.
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HARRISBURG OFFICE DAVID GATES, Esq. 931 N. Front. St., Suite 97 Harrisburg, Pennsylvania 17102 tel. 717-236-6310 fax 717-236-6311

April 7, 1993

CONSUMER ALERT

Subj: Welfare Reform Again

The PA House of Representatives intends to vote on a package of "welfare reform" proposals during the week of April 26th. These proposals are likely to contain many of the provisions our clients fought against last year. In addition, some additional cut-backs in Medical Assistance benefits, proposed in the Governor's budget, are likely to be attempted. These include:

- limiting coverage of inpatient hospitalizations to 2 per year for all persons 21 and older on Medical Assistance;
- Eliminating payment for non-emergency use of emergency rooms;
- Requiring prior authorization for home health services;
- Eliminating podiatric & chiropractic services for all adults.

For the name and address of your state representative contact your local legal services program

Philip Tannenbaum, M.D., Esq.

Staff:

Please share info w/ clients.

KEYNOTES

Vol. 3 No. 4

A Quarterly Publication by Keystone Legal Services, Inc.

January 1993

dist. 2/11/93

HOSPITAL DISCHARGE RIGHTS

By Roberta Mueller
KLS Staff Attorney

This article will give you information about what to do if you are a patient in a hospital that tells you that you "have" to leave the hospital (be "discharged") before you think you are well enough. You may be told by hospital staff that medicare, insurance or medical assistance "says" that you are only allowed to stay a certain number of days, and since that time is up, you have to leave. You or your family might even be told that you will be sent home if you do not go home right away. If you think you need to stay longer, or if the hospital has not made plans for how you will be taken care of after you leave the hospital, it may be illegal for them to discharge you.

CAUSES OF THE PROBLEM

Hospitals are paid under a system which pays them a set amount depending on your diagnosis. This amount is set by figuring out the average length of stay for patients with that diagnosis on admission. What this means is that hospitals make money if they get you out faster than average

and lose money if they get you out slower than average. This gives them a reason to discharge people early.

This practice is called "quicker and sicker." You need to know that **what they get paid has nothing to do with how long the law says you can stay. You are to be kept in the hospital as long as your medical needs require it.**

YOUR RIGHTS

If Medicare is paying for your stay and the hospital tries to force you to leave, you have to be given a notice called a PRO notice. It gives you the right to an immediate (within 72 hours) hearing to appeal the decision telling you to leave. If you ask for a hearing, the hospital cannot discharge you until after your hearing has been held; it also cannot charge you for the days you are in the hospital between the time you are given the notice and the time you have your hearing.

Even if you are **not** a Medicare recipient, Pennsylvania law

requires that the hospital have an adequate discharge plan for you before it discharges you. This means that, if you need home health care or a visiting nurse, the hospital must make sure those services are in place before they send you home. If your medical needs cannot be taken care of at home, they must keep you until they can find you a suitable placement such as a personal care home or a nursing home.

Do not be scared into leaving the hospital before you can do so safely.

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YOUR PAYCHECK AND YOUR RIGHTS

By Dennis Kenny, KLS Staff Attorney

This article explains your rights under a Pennsylvania law called the Wage Payment and Collection Law and the Federal Fair Labor Standards Act.

You have a right to be paid for the work you do. Under PA law, it is illegal for your employer to withhold or unfairly reduce your pay. Even if you quit or are fired, the employer must pay you wages you have earned for the hours you have worked.

Your employer cannot withhold deductions from your paycheck without your specific written permission. For example, if your employer accuses you of damaging his/her property and you agree in writing that you caused the damage, but do not

agree to any specific wage reduction, your employer is still required to pay you the full amount of your paycheck.

The law requires that you specifically agree in writing to any reduction in your pay. If you agree in writing to a pay reduction, your employer still cannot reduce your paycheck to less than the minimum wage for any job covered by the minimum wage standard. The minimum hourly wage is based on a 40 hour work week.

If you are paid overtime hours, (over 40 hours/week), it is calculated on a weekly basis. For example, if you are paid every two weeks, and you work 45 hours one week and 30 hours the next,

you would be entitled to 5 hours overtime pay. This is important. Employers may argue that because you worked 75 hours for the pay period you have not worked over 40 hours a week. Be sure that your pay accurately reflects your hours.

If you are denied payment, contact:

(1) The District Office of Labor and Industry, 1101 Green Avenue, Altoona, PA. They will contact your employer and may bring a lawsuit at the Commonwealth's expense; or,

(2) The U. S. Department of Labor, Wage and Hour Division, in Altoona, PA, 814-942-4125. They will bring litigation, if necessary.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

Editor: *Roberta Mueller, Esq.*

Publisher: *Linda Lovett*

If you have any suggestions or issues you would like to see in Keynotes, please send us a letter addressed to:

Keynotes
Keystone Legal Services, Inc.
2054 E. College Ave.
State College, PA 16801.

Julie Moore's daughter, Dot, has muscular dystrophy. Julie found it difficult to pay for Dot's medical treatment.

She applied for SSI (disability) on behalf of Dot.

While she awaited the decision, Julie applied for medical assistance at the county assistance office. Julie was issued a blue medical card and given information on what the card covers. Julie told the caseworker about Dot's medical problems and the high costs involved, especially for a wheelchair and ramp. The caseworker said, "There is a special program for children called EPSDT (Early and Periodic

Screening, Diagnosis and Treatment). Under EPSDT, medical assistance will pay for any treatment or service which is medically necessary, including a wheelchair and ramp, as long as Dot's doctor says she needs it."

"There is no co-payment or deductible."

"EPSDT is for children up to the age of 21 as

long as they have a medical card. Under EPSDT, medical assistance will pay for any medical service, treatment or equipment which is medically necessary."

To enroll in EPSDT and get more information call: 800/543-7633.

EPSDT

By Susan Michalik
KLS Staff Attorney

KEY EVENTS

By Beth Hamilton
KLS Office Manager



MILLHEIM OUTREACH:

Keystone recently opened an outreach office in Millheim, Centre County. The outreach office provides service to Millheim area residents. Call 800-326-9177 or (814)238-4958 (M-F, 9:00 a.m. to 5:00 p.m.) to determine your eligibility for a consultation.

PRO SE CUSTODY CLINICS:

Keystone does not have the resources to directly represent all the persons who need our help. We can, however, help some people to conduct their own legal actions. Some clients have cases that can go "pro se." What is pro se? Pro se means "on your own." Pro se means you are representing yourself.

Pro se custody clinics have been scheduled for the end of January. Current clients have been notified of the date, time and place. If you are interested in filing a pro se custody and you think you are financially eligible for Keystone's services, please use the office directory on page 4.

NEED HELP MEETING YOUR HEATING BILLS? CONTACT YOUR COUNTY ASSISTANCE OFFICE AND ASK ABOUT PENNSYLVANIA'S LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).

CENTRE: 814/355-6000
CLEARFIELD: 814/765-7591
HUNTINGDON: 814/643-1170
JUNIATA: 717/436-2158
MIFFLIN: 717/248-6746

INSTALLMENT SALES

By Robin J. Foor
KLS Staff Attorney

Installment sales contracts provide that the buyer can make payments over a period of time. In exchange, the buyer pays interest. This means that the buyer pays more than he/she would pay if he/she paid in cash.

Furniture, cars and appliances are commonly bought by installments. There is a law which says what must be in an installment sales contract. A buyer should carefully read an installment sales contract. There is valuable information in the contract that the buyer should know. A buyer should never sign a contract that does not have all the information completed.

At the top of the agreement, there is a series of blocks. The information in those blocks tells the buyer exactly what he/she is paying for the item. The first block is the annual percentage rate. This is the percentage of interest the buyer pays each year he/she makes payments. Another block has the finance charge. This is the amount the buyer pays in addition to the price of the item. The amount financed is the price of the item less any down payments plus any insurance costs. The total of payments is the total amount in dollars and cents the item is going to cost the buyer. At the top of the contract, it will say how many payments, the amount of the payments and when the payments would start.

Example: A buyer buys a car for \$1000 at 15% annual percentage rate. He/she intends to make payments for 24 months. He/she will

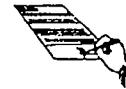
pay a \$198.43 finance charge or a total of \$1198.43 for the car. The payment will be \$49.93 a month. (The interest rate is 15%. The amount of interest you pay is \$198.43).

The contract will specify if there is collateral. Collateral is an item which can be sold if the buyer defaults. A buyer defaults when he/she does not make the regular payments. If the collateral is a vehicle the seller will hold the title until all payments are made.

Charges for life and disability insurance are usually on the contract. Life insurance pays the debt if the buyer dies. Disability insurance pays if the buyer is hurt or becomes disabled. The policy has provisions which govern when the policy is activated, when it will pay and how much it will pay. The buyer has a choice as to whether or not he/she wishes to purchase insurance. The buyer should ask questions about the policy provisions before agreeing to buy insurance.

DOOR TO DOOR SALES

If a seller comes to the buyer's home, the buyer has 3 days after signing the contract to change his/her mind. You must cancel in writing. This is because when a seller is in a buyer's home, the buyer may feel pressure to buy the product. Once the seller has left and the buyer is no longer under pressure, he/she can decide to cancel the contract. Every door to door contract should have a written notice of your right to cancel and how to do it.



**READ BEFORE
YOU SIGN!**

BRIDGING THE GAP

□□□ 1992 Pro Bono Project □□□

*By Beth Hamilton
Pro Bono Coordinator*

Keystone Legal Services, Inc., recognized 92 attorneys who volunteered their services in 1992 to the Keystone Pro Bono Project. Keystone's staff and Board of Directors would like to thank the following attorneys:

CENTRE COUNTY ATTORNEYS

Rodney A. Beard, John Becker, Tracey Benson, Denise Bierly-McDermott, Bill Bispels, Jeffrey Bower, James Bryant, Richard Campbell, Andrea Commaker, Allan Crider, William Donovan, Virginia Eisenstein, Fredrick Farber, Mark Faulkner, Grant Fleming, William T. Fleming, Ronald Freidman, Stephen Furst, Anthony Gerace, James L. Green, H. Amos Goodall, Kimberly Hamilton, Gary Heim, Alfred Jones, Winifred Jones-Wenger, Richard Kalin, Rosadele Kauffman, Karen Keeney, Claire Kimmel, Thomas K. Kistler, Donald Lee, Brad Lunsford, David Mason, H. Denning Mason, Paul Mazza, Ronald McGlaughlin, Delbert McQuaide, Sonja Napier, Lee Nollau, Kent O'Neil, James Rayback, Lillian Raycroft, Robert Rayman, Dennis Reiter, Robert Richards, Jeffrey Rosenfeld, Pamela Ruest, Betsy Sanders, Charles Schneider, Robert Storch, Charles Tauber, Jose Texidor, W.

David Todd, Kenneth Walsh, Jeffrey Warren, David Weixel and Leslie Zuck.

CLEARFIELD COUNTY ATTORNEYS

David Ammerman, Ronald Archer, F. Cortez Bell, Jr., Richard Bell, Benjamin S. Blakely, III, Joseph Colavecchi, Andrew Gates, R. Denning Gearhart, Scott V. Jones, Kim Kesner, Dwight Koerber, Jr., Kimberly Kubista, Thomas Morgan, John Ryan, Barbara Schickling, Laurance Seaman, John Sughrue and Ann Wood.

HUNTINGDON COUNTY ATTORNEYS

Barbara Baxter, Charles Bierbach, Robert Covell, Frederick Gutshall, Thomas McDowell, Peter McManamon, William Myers, Charles Swigart and Helen P. Woolley.

JUNIATA COUNTY ATTORNEYS

Michael Johnston and Donald Zagurskie.

MIFFLIN COUNTY ATTORNEYS

Stuart A. Cilo, Robert Ferguson, David Goldman, Richard Mohler, Timothy Searer and Stephen Snook.

The Pro Bono Project helps to "bridge the gap" by providing legal representation to low income persons in the Centre Region by seeking the support and assistance of members of the private bar and others in the legal community. Each attorney participating in the Pro Bono Project has four options for providing assistance to the poor: accepting cases referred through the legal services office, participating in the Legal Advice Clinic, providing community education or making a financial contribution to Keystone Legal Services, Inc.

This year the Pro Bono Project made 116 direct referrals and 131 other clients were served by attorney participants in the Legal Advice Clinic.

Projects accomplished this year through community education included an attorney who donated time to assist Keystone staff attorneys with legal research projects.

Two other attorneys specializing in environmental law and military/veterans issues provided assistance to Keystone's staff attorneys working on issues in these areas.

KEYSTONE LEGAL SERVICES' OFFICE DIRECTORY

Centre County: 2054 E. College Ave., State College, PA 16801, (814)238-4958

Clearfield County: 213 N. Second St., Clearfield, PA 16830, (814)765-9646

Mifflin, Juniata and Huntingdon Counties: 2054 E. College Ave., State College, PA 16801, (800)326-9177

Phillipsburg-Millheim Areas: 2054 E. College Ave., State College, PA 16801, (800)326-9177

For information on the Disability Advocacy Project, Institutional Law Project, Pro Bono Project call: (814)238-4958.

KEYNOTES

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April, 1993

MEDICAL ASSISTANCE CUTBACKS: What You Should Know

By Susan Michalik, KLS Staff Attorney

On January 1, 1993 Medical Assistance (MA) benefits were reduced for all MA recipients who are 21 or older. All MA recipients should have received a notice of the cutbacks with their MA card. Not everyone will be facing the same cutbacks:

CUTBACKS AFFECTING ALL MA RECIPIENTS AGED 21 OR OVER:

- ❏ MA will no longer cover medications that are prescribed only to treat a cough or cold. However, if the medicine is prescribed to treat a condition and happens to treat a cold or cough, then it is covered by MA;

- ❏ All non-emergency and non-surgical dental services are no longer covered by MA.

CUTBACKS AFFECTING ONLY MA RECIPIENTS ON GENERAL ASSISTANCE: (PARTIAL LIST)

- ❏ MA will no longer pay for non-emergency treatment in emergency rooms;
- ❏ MA will only pay for a maximum of 18 doctor visits per year;
- ❏ MA will only pay for 3 prescriptions (including re-fills) per month;
- ❏ Several prescription drugs will no longer be covered by MA--ask your pharmacist;
- ❏ Co-payments on MA covered services, such as prescription drugs and all medical services, have increased.

you unless you appeal within the first 10 days. If you are: under 21 years old; pregnant; a refugee; or have a severe chronic disease or impairment and have applied for SSI or have been referred to the DAP (Disability Advocate Program) unit, you are exempt from the cutbacks. If your 30 day appeal deadline has expired and you fit into one or more of the exempt categories, contact your caseworker at the county assistance office and/or Keystone Legal Services immediately.

There is a procedure, known as the "exception process," for MA recipients who need more than 18 doctor visits per year or more than 3 prescriptions per month or who need home health care.

As a result of a lawsuit filed on December 31, 1992 (*Felix v. Casey*), not all of the changes listed above went into effect. Among the terms of a temporary settlement of the lawsuit, some prescription drugs on the list of excluded drugs will be covered by MA without the recipient having to go through the "exception" process. MA will cover any dental work which was begun before January 1, 1993.

The terms of the temporary settlement will expire by April 26, 1993. Every MA recipient should have received notice of the settlement terms.

Every MA recipient should have already received notice of the MA cutbacks. The notice informs you of your right to appeal. You must appeal within 10 days from when the cutback notice was mailed to continue receiving benefits at the same rate. You can appeal within 30 days but the cutbacks will affect

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CENTRE COUNTY COMMUNITY FOUNDATION GRANT Family Law Training

Keystone Legal Services, Inc., recently received a grant from the Centre County Community Foundation. The Centre County Community Foundation is a first-time funder of legal services activities. The grant has been provided to assist Keystone in presenting a day-long family law training for the personnel of human services agencies that deal with the low-income community. The training is planned for early June, 1993. The need for and usefulness of such training is well-established. Some problems of family members such as problems with the educational system or lack of access to needed

FROM THE DIRECTOR
Michelle DeBord, Esq.
KLS Executive Director

health care are not readily understood as possible legal problems or problems that use of the law can help to solve. The goal of the training is to alert human services personnel to these issues as well as providing in depth information in the areas traditionally viewed as family law, such as support, custody and divorce. This training is part of a comprehensive educational effort on the part of Keystone aimed at assisting the low income community to more fully understand a citizen's rights, responsibilities and the possible uses of the law and the legal system to assist them to achieve self-sufficiency.

Consumer Corner

Due to the Blizzard of '93, spring and summer will come and with them, will come unscrupulous persons with deals too good to be true. One group will be door-to-door salespeople offering to do various home improvements. They will offer to fix roofs, pave driveways and many more things.

When considering these improvements, you should look at many factors. First, check if this is a local business with an address and telephone number. Second, ask around and see if others have had work done by this business or individual and if they were satisfied with the work. You can also check with the Better Business Bureau to see if it has received complaints concerning this business or individual. Third, you should make sure you know the ENTIRE cost of the project and if you can really afford it.

TIPS:

- NEVER allow a person who comes door-to-door to enter your home unless he/she has clearly identified him/herself preferably with a photo identification. It is appropriate for legitimate salespeople to make an appointment before coming to a consumer's home. You always have the right to refuse to allow a salesperson in to your home.

- You always have the right to tell a salesperson to leave your home immediately. If a salesperson does not

Robin J. Foor, KLS Staff Attorney

leave when asked, you can and should call the police.

- If you sign an agreement with a door-to-door salesperson, you may CANCEL the agreement within 3 working days. This should be done in writing. The agreement should have instructions on how to cancel. If it does not, you should send a letter to the company saying you are canceling the contract. Also, you should contact the local Legal Services office.
- NEVER sign a document that does not have all the information completed.
- ALWAYS read a document completely before signing.
- ASK questions. Make sure you understand what you will be paying. Be careful of prices quoted as so much per day or week.
- NEVER agree to a contract the same day it is presented to you. Take your time, think about it and figure your finances. An offer good only for today is not a good deal.
- BE CAREFUL of home equity loans for improvements. This means that you are giving a mortgage. If you are not able to make the payments, you will lose your home.

BE SMART AND HAVE A GOOD SUMMER!



PHEAA AND GUARANTEED STUDENT LOANS

By Carl Mollica, KLS Staff Attorney

The PA Higher Education Assistance Agency (PHEAA) is a guarantee agency in the Guaranteed Student Loan Program (GSL). A guarantee agency encourages banks to lend money to students by paying the bank the amount due on the loan if the student fails to make the payment.

Repayment

A student who is no longer going to school at least half-time, needs to be aware that it will soon be time to begin to pay the loan back. There is a "grace period" during which no money needs to be sent. The loan document will indicate the length of the grace period. It is usually 6 to 9 months long.

If the loan was to pay for a correspondence school, the borrower usually has no grace period. S/he must start to repay the loan at the time the course is completed.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

Editor: *Roberta Mueller, Esq.*

Publisher: *Linda A. Lovett*

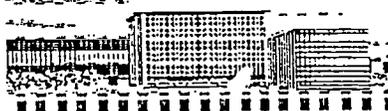
If you have any suggestions or issues you would like to see in Keynotes, please send us a letter addressed to: Keynotes, Keystone Legal Services, Inc., 2054 East College Ave., State College, PA 16801.

The "repayment period" begins after the grace period. The borrower must begin making regular monthly payments according to the repayment schedule. The repayment schedule will be set out in the repayment documents. The lender will send these during the grace period.

Your loan must be repaid even if you did not get a job in the same field for which you went to school.

Delinquency and Default

If the borrower does not make a payment when it is due s/he is "delinquent" on the loan. If



the failure to repay monthly payments, when the payments are due, lasts for 180 days the loan can be placed in "default." The lender can then "accelerate" the loan. That means the whole amount of the loan becomes due and payable immediately.

The lender is not allowed to accelerate the loan during the delinquency stage. They must wait until the correct amount of time has passed and the loan has been found to be in default. During the delinquency period, the lender will contact the borrower. The lender will try to get him/her to make payments on the loan and to warn the borrower of the effects of having the loan declared in default.

Collection Agencies

After the loan is placed in default, PHEAA pays the bank. PHEAA then has the right to sue the borrower.

PHEAA will send letters and make phone calls to the borrower before filing a lawsuit. They will try to make repayment arrangements with the borrower.

Dealings with the agency are likely to be confusing. It is important to get the names of the persons you speak to and keep accurate notes of conversations. Be sure to document any "run around" that you seem to get. It may be helpful in any hearing involving the loans.

Always keep copies of every document that you send to any agency that contacts you. It is a good idea to send documents by certified mail with a return receipt requested to prove that you sent them. PHEAA does have the right to sue a borrower if there is a default in payment. If a suit is started, the borrower should seek legal advice right away. The most important thing to remember is that a written response must be filed by the borrower within the time limits provided or there will be a judgment by default entered against the borrower. It is important to seek the advice of a lawyer right away.

NEXT ISSUE: How to be excused from paying the student loan.

MANUFACTURED (Mobile) HOMES

By Carolyn E. Johnson, KLS Staff Attorney

Mobile homes are the choice of many low to moderate income home buyers because they are cheaper than conventional housing. Many low income home buyers cannot get the financing to buy a traditional home.

Mobile homes are now called manufactured housing. Federal and state laws have changed to deal with the more permanent nature of manufactured housing. Manufactured homes are built to federal standards. They are inspected by federally certified agencies.

The Department of Housing and Urban Development (HUD) is responsible for developing safety and health standards for manufactured housing. In PA, the Department of Community Affairs (DCA) enforces the HUD guidelines (National Manufactured Housing Construction and Safety Standards Act). State law provides additional protection for the manufactured homeowner. A manufactured home buyer can refer questions and complaints to the DCA.

Every manufactured home built in the United States must conform to the federal regulations. The regulations preempt local building construction codes. It prevents towns from using local building codes to bar the placement of a home. A local government may not require that a HUD certified manufactured home be subjected to any additional inspection.

The law forces the manufacturer and the dealer to act responsibly toward the buyer or face federal penalties. The dealer must serve as a reporting agency and maintain records of all corrections authorized by the manufacturer.

every complaint and other information that may indicate the existence of a safety hazard, defect, or noncompliance in a home to the manufacturer. Each time a sale is made of a new or used home manufactured under the federal standards, the dealer must send a homeowner's information card to the manufacturer. The dealer and the manufacturer must keep track of the home.

HELPFUL HINTS

- △ Never buy a manufactured home without first finding a place to put it. Make sure that you have a safe, well-equipped site.
- △ Check the reliability of all site owners from whom you are considering renting. Ask questions!
- △ Read the manufactured home's warranty. Make certain that you understand it.
- △ Make sure you know who is responsible for which defects.
- △ Carefully inspect used mobile homes. Check for a HUD approval seal. All homes sold after 1976 must have a seal. The manufacturer may still have some obligation to repair defects that can be related to an error in design.
- △ Get a lease covering as long a period as possible.
- △ Be certain to find out about all fees including garbage disposal, utility, and set-up fees.
- △ The park owner has the right to make rules related to the health, safety, or upkeep of the park. You should make sure that any used manufactured home conforms to the rules.

expense, any safety hazard or serious defect that can be related to error in design or assembly. The law covers everything from cracked ceilings to faulty wiring. Complaints may be made to the manufacturer by the buyer, the DCA or the dealer. The manufacturer must review each complaint within 20 days and make repairs.

A manufactured home buyer should shop very carefully. Finding a reliable, honest dealer is very important. The dealer is the person you will have to talk to if you have a complaint or need service. Even if you are buying a used mobile home, the law may apply. A good dealer will help you to determine if the manufacturer has a duty to repair.

State law protects a buyer after the manufactured home has been placed on a site. PA has enacted the "Mobile Home Park Rights Act" to prevent arbitrary eviction of manufactured homes from the site. A site owner may only evict a tenant for nonpayment of rent or 2 or more violations of the park rules.

OFFICE DIRECTORY

Centre County:
2054 E. College Ave.
State College, PA 16801
814/238-4958

Clearfield County:
213 N. 2nd St.
Clearfield, PA 16801
814/765-9646

Philipsburg, Millheim and Mifflin,
Juniata and Huntingdon County:
2054 E. College Ave.
State College, PA 16801
800/326-9177

For information on the Pro Bono,
Disability Advocacy, and
Institutional Law Projects contact:
Keystone Legal Services, Inc., 2054
E. College Ave., State College, PA
16801, 814/238-4958

The dealer is required to forward

Manufacturers must correct, at their

KEYNOTES

» » ACTION ALERT ACTION ALERT « «

If you call 800 numbers because they are free, be careful, they are not always free anymore.

Some advertisers are promoting a service and listing an 800 number for consumers to call. Once the company receives your call, you may be told to stay on the phone or to press certain numbers on your phone if you want further information. Sometimes there is a charge from that point on, just as though you had called a 900 number.



Consumer protection agencies have already started to take action against these companies so that the customers are told up front that there is a charge for those calls.

Consumers call 900 numbers to

receive a service or get information on a variety of things such as the weather, the stock market, or car values. A call to a 900 number always costs money. The charges ranging from \$.75 to \$50.00 or more will appear on your phone bill.

For your protection, the Federal Communications Commission has passed some rules regarding 900 numbers.

☒ Any call which will cost more than \$2.00 must have a short introductory message, called a Preamble, to explain how much the call could cost.

☒ Just after the Preamble, callers are given a chance to hang up without being charged for the call.

☒ If you don't want 900 numbers called from your phone, call your local telephone company. They may

offer to prevent those calls from being made by using a service called "Blocking." You will still be able to make all other calls as usual. There is no charge for blocking the first time you request it. There may be a fee if you have the blocking removed, then have it put on again.

☒ Your local or toll service cannot be shut off if you do not pay the charges from 900 number calls.

☒ If you want further information about the 900 number charges on your bill, you can get the name, address and telephone number of the 900 number company from your long distance telephone company.

Please contact Maureen Mulligan, Consumer Education - Bureau of Consumer Services at the Pennsylvania Public Utility Commission at (717)787-4970 for additional information on this topic.
(Reprinted with permission from the PA PUC.)

HOW TO STOP CREDITOR HARASSMENT

It is common for someone you owe money to, called a "creditor," or someone working for the creditor, called a "debt collector" to use abusive and illegal tactics to get you to pay. What can you do about this harassment?

Some of the most common illegal methods creditors and debt collectors use are:

▶ Telling you things that are false or things they cannot actually do, such as having you put in jail;

▶ Using bad language or calling a relative of yours outside the home;

▶ Not telling you clearly who they are and why they are calling;

▶ Sending you papers that look like, but are not, papers from court;

▶ Calling you day after day even though you tell them to stop.

If you do not have the money to pay and you want to stop the harassment, here is a form-letter you can use:

--continued on page 2--

CREDITOR HARASSMENT

--continued from page 1--

(CURRENT DATE)

Dear (NAME OF CREDITOR OR DEBT COLLECTOR):

I am writing about the recent contact you have had with me about the money you say I owe on account number (XYZ). (HERE, YOU CAN BE SPECIFIC ABOUT THE PHONE CALL, LETTER OR PERSONAL CONTACT YOU HAD.) I do not have the money to pay back this alleged debt and, as a result, will not be making any payments to you. Please do not contact me again, either directly or through my family, friends or place of work.

Once you receive this letter, you are required by law to stop contacting me. 37 Pa. Code 303.4; 15 U.S.C.A. 1692c. If you continue to contact me, I will be forced to take you to court to sue for money damages, and to notify the Attorney General's Office of Consumer Protection.

This instruction applies to you and any other debt collector on this account. Thank you for your cooperation.

Sincerely,
(YOUR NAME)

Sign, date and make a copy of any letter you send as proof. Keep a record of contacts from the collector. If the problem continues, see a lawyer. You sometimes have only one year to sue the collector. The creditor can still sue you for the money it says you owe, but you have the right to defend yourself.

YOU MAY BE ELIGIBLE FOR SOCIAL SECURITY BENEFITS

The Social Security Administration (SSA) is re-evaluating the claims for Social Security Disability (SSD) and Supplemental Security Income (SSI) of more than 15,000 people. Bailey et al v. Sullivan, a class action lawsuit, challenged SSD and SSI denials made in 1983 and 1984. If the denial was made because the individual's impairments were non-severe, the Social Security Administration (SSA) will reconsider its decision. The SSA has a specific definition of non-severe. For certain types of impairments the SSA has a list of symptoms. If the applicant has these symptoms or the equivalent to them, the impairment is severe. If the applicant does not have these symptoms, the impairment is non-severe. The SSA sent letters on February 3, 1992 telling 15,505 persons, identified as potential class members, about the case.

In a major victory for disabled people the Third Circuit Court of Appeals in Philadelphia upheld a lower court's ruling. That court found that the SSA violated the Social Security Act by not considering the combined impact of two or more non-severe impairments. Class members include Pennsylvania or Delaware residents who received denials between August 7, 1983 and November 30, 1984. These persons are class members, if the SSA made the decision

because the person had non-severe impairments.

There is no automatic review of eligibility for class membership or re-evaluation of these disability claims. Class members must have responded within 30 days of receipt of the letter. The SSA will screen for class membership only to those who responded. The SSA will then mail written notices informing claimants whether it will review their cases. If you think you are a member of the class but did not receive a notice, you should contact the hotline listed below.

Those who the SSA tell are not Bailey class members have a right to appeal the decision.

Those who are Bailey class members can submit additional medical evidence. SSA will then re-examine their cases to determine if they were entitled to benefits. Spouses, dependents, and surviving relatives also may be entitled to benefits.

Susquehanna Legal Services began operating a Bailey Hotline at 1-800-326-9264 at its Sunbury office on February 3rd. You can call from 10:00 a.m. to 3:00 p.m. Monday through Friday.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

Editor: Robin Jean Foor
Publisher: Beth Hamilton
Writers: KLS Staff

If you have any suggestions or issues you would like to see in Keynotes, please send us a letter addressed to Keynotes, Keystone Legal Services, Inc., 2054 E. College Avenue, State College, PA 16801

HOW TO MAKE A GOOD FIRST IMPRESSION IN COURT

Going to court can be a frightening experience. It is important to remember that the purpose of a hearing is to give the judge or the jury enough information to make a fair decision. There are a few things you can do to help make a good first impression on the judge or the jury, possibly making you more believable.

▶ **YOUR PERSONAL APPEARANCE IS IMPORTANT.** You should be clean and neat. Dress conservatively. Men should wear dress pants and shirts if possible. Jeans are acceptable, if they are clean and fairly new. Shirts should be clean and fit properly. A tie is not necessary, but definitely helps. Women should wear a nice dress or skirt and blouse if possible. Do not wear extremely short skirts even if they are in style. It is best to wear neutral colored pantyhose. Avoid heavy makeup. Pants and a blouse are also acceptable if they are clean, neat and fit properly. Again, jeans are okay if they are clean and fairly new. Ripped jeans are not acceptable even if stylish.

▶ **MAKE SURE YOU KNOW WHERE TO GO AND WHEN TO BE THERE.** It is a good idea to get there a few minutes early. Be sure to allow time to find parking.

▶ **BE PREPARED.** Your attorney should review your testimony with you before the hearing. Make sure you tell your attorney everything. Even if you think it is not important, it is better for your attorney to know ahead of time.

▶ **NEVER CHEW GUM OR SMOKE IN THE COURTROOM.** Avoid annoying behaviors.

▶ **A HEARING IS A SERIOUS MATTER.** You should act serious, but calm. Do not laugh and talk in the courtroom or outside before the hearing. Also, although you may be upset and angry, do not raise your voice in the courtroom or anywhere in the courthouse. Always address the judge as "your honor" or "sir" or "ma'am."

Remember: Tell your attorney the good, the bad and the ugly, before going to court.

▶ **LISTEN TO ALL THE QUESTIONS CAREFULLY.** If you do not understand the question, say so. Answer only the question that was asked, do not volunteer information. However, you can explain an answer, if the question cannot be answered truthfully with a yes or no answer.

▶ **IF THERE IS AN "OBJECTION" STOP TALKING.** Wait for the judge to rule on the objection. If the objection is "sustained", you may not answer the question. If it is "overruled", you should answer the

question. You can ask for the question to be repeated.

▶ **SPEAK CLEARLY AND LOUDLY.** It is extremely important that the judge or jury be able to hear you. Speak slowly. Do not nod or shake your head, but answer with a yes or no. Avoid slang or street language.

▶ **DO NOT GUESS.** If you do not know the answer to a question, say so. If you cannot remember, say so.

▶ **DO NOT GIVE YOUR OPINION.** You need only tell what you saw. You usually should not volunteer your opinion of the facts. The judge wants the facts.

▶ **STAY CALM AND POLITE.** Do not become angry even if the attorney is deliberately insulting you. Never argue with the attorney or the judge. Sometimes, the story you are telling is very upsetting. Try to remain calm and controlled. It is important for the story to be told. Do not refuse to answer questions. Your attorney will object if there is an improper question.

▶ **TRY NOT TO BE NERVOUS.** You can only tell your story. After that it is up to the judge or jury to make the decision.

Finally and most importantly, tell the truth. Even a little lie can make you look totally unbelievable. Again, make sure you have told your attorney the good, the bad, and the ugly before the hearing.

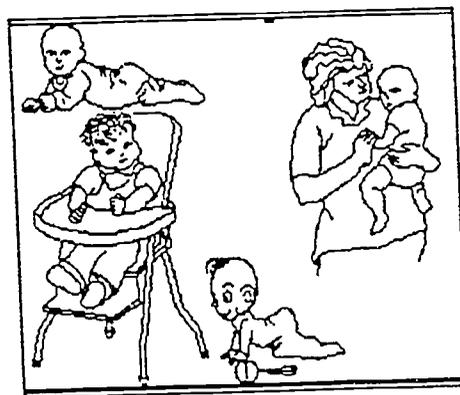
CUSTODY TERMS

Custody of children is a legal problem that many people wrestle with in their lifetime. Whether as part of a divorce or a separate proceeding, the term custody can have a variety of meanings. These different definitions of custody can be confusing.

physical custody or visitation. There is confusion between the two terms. Often the parent without primary

Partial physical custody is the right to take a child for a certain period. When the parent wants to take the child on alternate weekends for example, that parent wants partial custody.

The term custody is misleading. When someone says he or she wants custody of his or her child, the parent wants to raise the child. Said a little differently, the parent wants the child to live, sleep, eat, and grow up with him or her. Under the law, a parent is seeking primary physical custody of the child. The parent who has primary physical custody has actual physical possession and control of the child.



Visitation is "the right to visit a child" without the right to remove a child from the custodial parent's home. A parent who has visitation rights may come to the primary custodian's home or other pre-arranged place to visit. However, they may not remove the child without the primary custodial parent's permission.

Depending on the circumstances, the other parent will get either partial

physical custody will demand a right to visitation with the child. What they are usually seeking is not visitation but partial custody.

Generally, the terms, primary physical custody, partial custody, and visitation are confusing. Understanding the meaning of these terms will help you to protect your rights.

KEYSTONE LEGAL SERVICES, INC., OFFICE DIRECTORY

Keystone has relocated its Lewistown and Huntingdon offices.

Centre County Office
2054 E. College Avenue
State College, PA 16801
(814)238-4958

For information on the following Keystone Projects:

Residents of Mifflin, Juniata and Huntingdon counties should call (814)238-4958 for additional information.

Clearfield County Office
213 N. Second Street
Clearfield, PA 16830
(814)765-9646

Disability Advocacy Project
Institutional Law Project
Pro Bono Project

contact:
2054 E. College Avenue
State College, PA 16801
(814)238-4958

PR/Communications
Staff Development Workshops

Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

September 28, 1992

Dear Adult Education Providers,

We are pleased to offer you an exciting staff development series of workshops over the next six months. Our project, "Student Legal Issues," is funded by a 353 Federal Adult Education Pennsylvania Department of Education grant.

Keystone Legal Services will deliver the training and materials in six important areas of legal concern to your students. Because our students often come to us with tremendous barriers we feel the need to be as knowledgeable as possible in order to assist them. The purpose of the project is not to train adult educators to be lawyers but to provide them with the knowledge needed to know when to make referrals and when to suggest to students that they may be able to act independently to help themselves. Our goal for our students is empowerment and we feel the training this project will offer will greatly enhance our roles as educators and advocates for our students.

Please join us for as many of the workshops as you can. They will all be held Wednesday mornings from 9:00 am until noon in the Mifflin County Courthouse. A complete schedule is enclosed along with a detailed description of each workshop content and a registration form.

Do call me with any questions you may have.

Sincerely,



Carol Molek
Adult Education Director

Juniata-Mifflin Vo-Tech School
(717) 248-4942

1020 Believeron Avenue
(717) 242-1423

Lewistown, PA 17044
(717) 248-8610 FAX

TIU 11 is an equal rights and opportunities educational service agency.

Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

"Student Legal Issues"
Workshop Descriptions

10/28/92 - Family Law - Custody, PFAs, Divorce and CYS Issues: Pro se custody system, how clients can access it, how a custody case proceeds and what the basic principles of custody law are (e.g. the presumption that shared custody is in the best interests of the child). Custody emergencies and how situations such as child snatches are dealt with. With regard to divorce: entitlement to support, requirements for obtaining a divorce, pro se divorce forms, basic legal principles governing distribution of property, protection from abuse act. Clients' rights when dealing with CYS (Children & Youth Services).

11/18/92 - Housing Law: Tenants rights vis-a-vis private landlords, how they can exercise their right to repair and deduct, when and how to withhold rent, how the eviction process works, how to recover security deposits. Tenants' rights in the public housing system and in the Section 8 program, emphasizing tenants' procedural rights in the informal grievance process and the legal limits on the Housing Authority's ability to control tenants' day to day lives. Tenants' rights under the Mobile Home Park Act.

12/16/92 - Public Benefits: Basic programs available (AFDC, GA, SSI, and Social Security, Food Stamps and Medical Assistance) with the goal of giving staff an understanding of the different eligibility rules for each program and of problem areas. Also underutilized programs as medical transportation, the AFDC and SSI/Social Security work incentives, and EPSDT.

1/20/93 - Health Law: Various types of medical assistance available, what services can be covered under medical assistance, and common problems clients experience. Patient rights under Hill-Burton (which provides for both uncompensated care and equal access to hospital facilities), the Anti-Dumping statute (which guarantees access to emergency medical treatment), the various statutes governing discharge rights, the MOM bill, and the Medicare Medicaid payment in full statute which can provide a defense to various health care providers' suits to collect fees. Also clients' rights in the special education and Vocational Rehabilitation systems.

2/24/93 - Consumer Law: Information to help clients avoid and deal with problems involving rent to own companies, the Fair Debt Collection Practices Act, repossessions, sheriff sales, utility terminations and installment sales contracts. Also a brief explanation of bankruptcy (what it is, what it can do), and when we consider it appropriate to file a bankruptcy.

3/24/93 - Employment Law and some Miscellaneous Issues: Unemployment compensation law, how to get unpaid back wages, and employment discrimination. Also the law regarding wills, powers of attorney, guardianship and name change.

Tuscarora Intermediate Unit Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

"Student Legal Issues"

Six Workshops for Adult Educators

Place: Mifflin County Courthouse - Meeting Room B
Lewistown

Day: Wednesdays
Time: 9 a.m. - Noon

<u>Date</u>	<u>Titles</u>	<u>Register By</u>
October 28 - Wednesday	Family Law	10/19/92
November 18 - Wednesday	Housing Law	11/9/92
December 16 - Wednesday	Public Benefits	12/7/92
January 20 - Wednesday	Health Law	1/11/93
February 24 - Wednesday	Consumer Law	2/15/93
March 24 - Wednesday	Employment Law and Misc Issues	3/15/93

REGISTRATION FORM

Name: _____

Title: _____

Agency: _____

Address: _____

Phone: _____

I will attend "Student Legal Issues" Workshop:

- ____ 10/28 Family Law
- ____ 11/18 Housing Law
- ____ 12/16 Public Benefits
- ____ 1/20 Health Law
- ____ 2/24 Consumer Law
- ____ 3/24 Employment Law and Misc Issues

Juniata-Mifflin Vo-Tech School
(717) 248-4942

1020 Bellevemon Avenue
(717) 242-1423

Lewistown, PA 17044
(717) 248-8610 FAX

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Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

September 29, 1992

Martha Frank
PA Department of Education
333 Market Street
Harrisburg, PA 17126-0333

Dear Martha,

Enclosed please find information concerning our 353 project, "Student Legal Issues." The training is being offered to counties served by Keystone Legal Services (Mifflin, Huntingdon, Juniata, Clearfield, and Centre) as well as the others within Region 5 (Cambria, Blair, Somerset, Bedford and Fulton). A mailing has been sent to all programs in these counties. If there are any specific individuals you would like me to contact let me know.

Please call me with any questions you may have.

Sincerely,



Carol Molek
Adult Education Director

CM:gs

Juniata-Mifflin Vo-Tech School
(717) 248-4942

1020 Bellevernon Avenue
(717) 242-1423

Lewistown, PA 17044
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Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

September 29, 1992

Helen Hall
PA Department of Education
333 Market Street
Harrisburg, PA 17126-0333

Dear Helen,

Enclosed please find information concerning our 353 project, "Student Legal Issues." The training is being offered to counties served by Keystone Legal Services (Mifflin, Huntingdon, Juniata, Clearfield, and Centre) as well as the others within Region 5 (Cambria, Blair, Somerset, Bedford and Fulton). A mailing has been sent to all programs in these counties. If there are any specific individuals you would like me to contact let me know.

Please call me with any questions you may have.

Sincerely,



Carol Molek
Adult Education Director

CM:gs

Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

September 29, 1992

COPY

John Zhong
PA Department of Education
333 Market Street
Harrisburg, PA 17126-0333

Dear John,

Enclosed please find information concerning our 353 project, "Student Legal Issues." The training is being offered to counties served by Keystone Legal Services (Mifflin, Huntingdon, Juniata, Clearfield, and Centre) as well as the others within Region 5 (Cambria, Blair, Somerset, Bedford and Fulton). A mailing has been sent to all programs in these counties. If there are any specific individuals you would like me to contact let me know.

Please call me with any questions you may have.

Sincerely,



Carol Molek
Adult Education Director

CM:gs

Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

September 29, 1992

Roberta Mueller
Keystone Legal Services, Inc.
2054 East College Avenue
State College, PA 16801-7409

Dear Roberta,

Enclosed please find the information I've sent to adult educators in Mifflin, Juniata, Huntingdon, Centre, Clearfield, Somerset, Blair, Cambria, Bedford and Fulton counties concerning our project. I'll be in touch after we have some idea of the number of registrants.

Sincerely,



Carol Molek
Adult Education Director

CM:gs

Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

September 28, 1992

Eunice Askov
Institute for the Study of Adult Literacy
248 Calder Way, Suite 307
University Park, PA 16801

COPY

Dear Nickie,

Please find enclosed information being sent to adult education providers in Centre and Clearfield Counties. This is training on student legal issues that we're offering cooperatively with Keystone Legal Services under a 353 grant. This program is entirely separate from our Regional Staff Development project. The project was written specifically for the counties that Keystone serves: Mifflin, Juniata, Huntingdon, Centre, Clearfield. However, if you are interested in notifying the rest of your region about this training, and if there is room, others could certainly attend.

Please call me with any questions you may have.

Sincerely,



Carol Molek
Adult Education Director

CM:gs

cc: Barbara Van Horn

Juniata-Mifflin Vo-Tech School
(717) 248-4942

1020 Bellevernon Avenue
(717) 242-1423

Lewistown, PA 17044
(717) 248-8610 FAX

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Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

September 29, 1992

Dawn Lowe
Perry County SETCO Office
Mulhollem Office Center
Box 726
New Bloomfield, PA 17068

Dear Dawn,

Enclosed please find information on a 92-93 federal adult education 353 project, "Student Legal Issues." Although the training is geared towards adult educators I'm sure the information that will be provided will be very useful and extremely applicable to anyone on your staff. If you would like to attend or send anyone please fill out the registration form as indicated. Call me if you have any questions.

Sincerely,



Carol Molek
Adult Education Director

CM:gs

Enclosure

Juniata-Mifflin Vo-Tech School
(717) 248-4942

1020 Bellevernon Avenue
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Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

September 29, 1992

Curt Kauffman
Juniata County SETCO Office
Tuscarora Motor Inn - Lower Level
RD 4, Box 140
Mifflintown, PA 17059

Dear Curt,

Enclosed please find information on a 92-93 federal adult education 353 project, "Student Legal Issues." Although the training is geared towards adult educators I'm sure the information that will be provided will be very useful and extremely applicable to anyone on your staff. If you would like to attend or send anyone please fill out the registration form as indicated. Call me if you have any questions.

Sincerely,



Carol Molek
Adult Education Director

CM:gs

Enclosure

PR/Communications
Student Workshops

FLYERS TO:

5 0 HEADSTART
5 BARB ALLISON (MCSD)
2 4 KELLY (FOR HUMAN RESOURCE COUNCIL)
2 4 MCCD
5 0 JOB CENTER
1 0 0 ASSISTANCE
2 4 CINDY MATTERN (HOUSING AUTHORITY)
ALL STAFF
2 4 ABUSE NETWORK
2 4 SOC SEC
24 MH/MR
2 4 NP HEALTH SERVICES
2 4 COUNSELING CENTER
6 ea ATTORNEYS
50 MC LIBRARY
1 2 BILL FOX (OVR)
2 4 WOMEN'S HEALTH/WIC
24 DOMESTIC RELATIONS
1 2 SKILLS
1 2 PROBATION OFFICE
12 DISTRICT MAGISTRATES

Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Director

ADELE T. CRAIG
Employment/Training Director

4/14/93

Please find enclosed fliers concerning three FREE workshops that may be important to your clients. The LEGAL ISSUES WORKSHOPS are sponsored by the Adult Education and Job Training Center, Keystone Legal Services, and the Pennsylvania Department of Education.

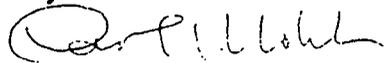
Each workshop focuses on a legal issue of major concern to many members of our community: PUBLIC BENEFITS, FAMILY LAW, and HOUSING LAW.

The first and third workshops will take place in the Adult Center's new instructional site at 3 Monument Square and the second session will be held in the basement classroom of the Coleman House.

We appreciate your posting this information and informing as many of your clients as you feel would benefit.

Registration is required although the workshops and materials are FREE. Please have your clients call to register: 248-4942.

Thank you for your assistance. Please call me with any questions you may have.



Carol Molek
Adult Education Director

Tuscarora Intermediate Unit
Adult Education and Job Training Center

CAROL MOLEK
Adult Education Director

ADELE T. CRAIG
Employment/Training Director

4/14/93

Please find enclosed fliers concerning three workshops that are FREE to the community. The LEGAL ISSUES WORKSHOPS are sponsored by the Adult Education and Job Training Center, Keystone Legal Services, and the Pennsylvania Department of Education.

Each workshop focuses on a legal issue of major concern to many members of our community: PUBLIC BENEFITS, FAMILY LAW, and HOUSING LAW.

There is one flier enclosed with all workshops listed; and one flier for each individual workshop.

The first and third workshops will take place in the Adult Center's new instructional site at 3 Monument Square and the second session will be held in the basement classroom of the Coleman House.

We appreciate as much publicity for these events as possible.

Registration is required although the workshops and materials are FREE. Please have people call to register: 248-4942.

Thank you for your assistance. Please call me with any questions you may have.



Carol Molek
Adult Education Director

FREE
LEGAL ISSUES
WORKSHOPS

BENEFITS: PUBLIC ASSISTANCE, UC, SSI
TUE, MAY 18, 7-9 PM
ADULT CENTER, 3 MONUMENT SQUARE
(former Montgomery Ward Building)

FAMILY LAW
WED, MAY 26, 9-11 AM
BASEMENT LEVEL CLASSROOM
COLEMAN HOUSE

HOUSING LAW
WED, JUNE 2, 12:30-2:30 PM
ADULT CENTER, 3 MONUMENT SQUARE
(former Montgomery Ward Building)

To Register Call: 248-4942

**Sponsored by the Adult Education and Job Training Center,
Keystone Legal Services, and the Pennsylvania Department of
Education**

FREE

LEGAL ISSUES

WORKSHOP

BENEFITS: PUBLIC ASSISTANCE, UC, SSI

TUE, MAY 18, 7-9 PM

ADULT CENTER, 3 MONUMENT SQUARE

(former Montgomery Ward Building)

To Register Call: 248-4942

**Sponsored by the Adult Education and Job Training Center,
Keystone Legal Services, and the Pennsylvania Department of
Education**

FREE

LEGAL ISSUES

WORKSHOP

FAMILY LAW

**WED, MAY 26, 9-11 AM
BASEMENT LEVEL CLASSROOM
COLEMAN HOUSE**

To Register Call: 248-4942

**Sponsored by the Adult Education and Job Training Center,
Keystone Legal Services, and the Pennsylvania Department of
Education**

FREE

LEGAL ISSUES

WORKSHOP

HOUSING LAW

WED, JUNE 2, 12:30-2:30 PM
ADULT CENTER, 3 MONUMENT SQUARE
(former Montgomery Ward Building)

To Register Call: 248-4942

**Sponsored by the Adult Education and Job Training Center,
Keystone Legal Services, and the Pennsylvania Department of
Education**

Staff Development Evaluations

STUDENT LEGAL ISSUES WORKSHOP EVALUATION
WORKSHOP #1 - OCTOBER 28, 1992

Was the content useful to you? Why or why not?

1. Yes. I am more aware of the difficulties our clients deal with and will serve them better.
2. Yes. Services are available in Juniata County; these services are not available in Perry County and the number they gave us is also pulling out of Perry County.
3. Yes. Learned general basics and when to refer, how to refer.
4. Yes. I understand that many legal issues can be solved without lawyer fees and I can now refer my clients to the appropriate agency.
5. Yes. I found that I had been misinformed about many things.
6. Yes. All was applicable to our daily work with clients/issues they face.
7. Yes. It relates to a project I am working on for legal issues.
8. Yes. It can be used in case management and life skills.
9. Yes.
10. Yes. Many clients may have questions when they are faced with family/marital difficulties; useful for referral.
11. Yes. The information presented helped me to understand some of the problems my students often face.
12. Yes. Important to be aware of legal concerns of clients.
13. Yes. It will help me to refer people to the right place. It went over things I didn't know. Example: custody, divorce.
14. Yes. Presents proper procedure for situations many of our clients face.
15. Yes.
16. Yes. Helps give insight as to suggestions to make to clients.
17. Yes. Very useful information; Lifeskills includes custody questions.
18. Yes. I was unfamiliar with the topics.
19. Yes. Very relevant to our client population. Also good personal information.
20. Yes.
21. Yes. This information will help me to better serve our clients.

What was the most important thing you learned?

1. If one is capable, one can do things without a lawyer.
2. Do not need full custody to get child support. Should not encourage people to get divorced right away because of spousal support.
3. It may be better for mothers not to get custody orders.
4. There are many things you can do yourself.
5. Information regarding ProSe opportunities.
6. Seeking legal custody may not be in your best interest.
7. When to apply for custody.
8. Divorce and custody issues.
9. Duration of PFA and importance of providing additional information before expiring.
10. All was very helpful.
11. A lot of legal actions can be done without an attorney.
12. When and when not to send people to legal aid.
13. When court action is necessary and when it may do more harm than good.
14. That many legal matters can be handled ProSe.
15. Phone numbers and contact information about places and people qualified to answer questions.
16. That legal custody is not always a good solution.
17. Reasons to file for custody.
18. That many issues can be handled by the individual and how to begin that process.
19. About custody and who really needs it.
20. The facts on custody - I knew very little about this.

Did any of the content seem inappropriate to you? If so, what?

1. Yes. My husband is an attorney and I felt some of the comments made by one of the lawyers denegated the profession.
2. Yes. The presenters kept saying to refer our students to their agency. I can't do this because I work out of Perry County. Also the agency they said I could refer my students to will be leaving soon.
3. The balance of the 19 people replied no to this question.

Did the program fulfill your expectations?

1. All 21 people replied yes to this question.

How would you rate the presenters?

Presenter- Susan Michalik, "Custody":

- 1. Excellent: 18 People
- 2. Average: 3 People
- 3. Poor: 0 People

Presenter- Carolyn Johnson, "Custody":

- 1. Excellent: 19 People
- 2. Average: 2 People
- 3. Poor: 0 People

Presenter- Robin Foor, "Divorce":

- 1. Excellent: 15 People
- 2. Average: 6 People
- 3. Poor: 0 People

Presenter- Roberta Mueller, "P.F.A.":

- 1. Excellent: 17 People
- 2. Average: 4 People
- 3. Poor: 0 People

How would you rate the facilities?

- 1. Excellent: 9 People
- 2. Average: 12 People
- 3. Poor: 0 People

Do you plan to attend any future Adult Education/Job Training Center workshops based on this experience?

- 1. Yes: 21 People. (Many commented that they are looking forward to the future Legal Issues Workshops)
- 2. No: 0 People

STUDENT LEGAL ISSUES WORKSHOP EVALUATION
WORKSHOP #2 - NOVEMBER 18, 1992
"HOUSING ISSUES"

Was the content useful to you? Why or Why not?

1. Yes. Any legal matter that affects our clients is important to me.
2. Yes. Explained in good detail the housing law. The manual is excellent.
3. Yes. Anytime we learn something that will benefit our clients it most definately is useful.
4. Very useful. Extremely relevant to our students.
5. Yes. Concerns many of our students.
6. Yes. Clients are in tenant/landlord situations which are questionable. The information given can be used personally as well.
7. No. Do not deal with these issues on a regular basis.
8. Yes. Practical knowledge everyone should know.
9. Yes. Very relevant to our agency's clients.
10. Yes. I am currently looking for an apartment. It helped me know what to look for.
11. Yes. Housing issues are a topic I was previously uninformed on.
12. Yes.
13. Yes. Because a lot of our students have problems with housing.
14. Yes. The content of the seminar was extremely useful to me. Not only can I give advice to my students on housing issues, but also use what I learned for my own use.
15. Yes. The workshop gave me very valuable information for which to explore ideas for housing in Juniata County.
16. Yes. I better understand the rights of the tenant and landlord.
17. Yes. Almost all of our participants are renters and have problems with their housing situation. I feel now I can better advise them before I knew next to nothing.
18. Yes. Because I work with people who frequently have problems with housing.
19. Yes. Very helpful in teaching Lifeskills and rights to students.
20. Yes. From a personal standpoint and for any future or potential situations with clients, etc.

What was the most important thing you learned?

1. The student booklet explaining the legal way to deal with a landlord.
2. Landlords rights seem less in number than those of tenants.
3. It is not always necessary to move when receiving an eviction notice.
4. Information about Section 8 and Public Housing.
5. Helpful to me in program planning...keeping in mind that our students' very basic needs are not being met.
6. An understanding of the eviction process.
7. Information on withholding rent and security deposits.
8. That public housing is a very good option.
9. Information on security deposits.
10. Information about eviction.
11. About rights that tenants have.
12. The rights of the tenants.
13. The eviction process.
14. Information concerning security deposits.
15. The section on eviction - how long the renter had to move and grounds for eviction.
16. Options for housing other than developing a Housing Authority; also the packet of information for the clients to use.
17. That you can get security deposits back and the landlord has to provide the tenant with a list of deductions for repairs. Also that this has to be done within 30 days.
18. Information about security deposits.
19. Almost no matter what the landlord will evict the tenant sooner or later so it's important to prepare the participant for that reality and help them realize their options.
20. The information about repairs and deducting from the rent.

Did any of the content seem inappropriate to you? If so, what?

1. All 20 people responded "no" to this question. The following comments were also made:
 - a. Everything was very appropriate to the subject. Carolyn was right on target at all times.
 - b. It is very frustrating to not be able to use their legal services for my students in Perry County.

Did the program fulfill your expectations?

1. All 20 people responded "yes" to this question. The following comments were also made:
 - a. We'll make much use of the handout that we can reproduce and use with our students.
 - b. Everything was fine.

How would you rate the presenter, Carolyn Johnson?

1. Excellent: 16 people
2. Average: 4 people
3. Poor: 0 people

How would you rate the facilities?

1. Excellent: 6 people
2. Average: 14 people
3. Poor: 0 people

The following comments were also made:

1. There always seems to be a problem with the temperature.
2. The donuts and coffee are greatly appreciated.

Do you plan to attend any future Adult Education and Job Training Center workshops based on this experience?

1. Yes: 20 people
2. No: 0 people

Any additional comments or recommendations are greatly appreciated.

1. I feel that the information presented during this seminar will be very helpful in helping our clients become familiar with their rights as well as the property owner's rights.
2. Carolyn Johnson was well informed and presented the information in a way that an individual not familiar with the law could understand.
3. Carolyn was excellent. She was interesting from the first word she spoke until the last. What an intelligent, well informed person.. She would be very comfortable to work with. She was definately worth hearing.
4. All of the information presented was valuable and certainly can be used by all who work with our clients on a regular basis since they have the most need for public housing and knowledge of what laws they should be aware of and what laws that protect them.

Tuscarora Intermediate Unit Adult Education and Job Training Center

CAROL MOLEK
Adult Education Co-ordinator

ADELE T. CRAIG
JTPA Director

STUDENT LEGAL ISSUES WORKSHOP EVALUATION WORKSHOP #3 - DECEMBER 16, 1992 "PUBLIC BENEFITS"

Was the content useful to you? Why or Why not?

1. Yes. The majority of my clients receive some sort of public benefits.
2. Yes. Extremely useful and pertinent to our work.
3. Somewhat. May come in useful for assessments.
4. Yes. Client issues.
5. Yes. Prior to this I had little understanding of public benefits.
6. Yes.
7. Yes. A lot of changes have occurred.
8. Yes. Many of the families I deal with receive some sort of public benefits.
9. Yes. It will be helpful for grant writing for money for services for a particular population.
10. Yes. It was helpful to know the distinction between the types of assistance that are available for two reasons:
 - a. Often clients are unsure of which form of assistance they receive.
 - b. I am better able to refer clients to our local DPA office.
11. Yes. Most of our clients receive public benefits.
12. Yes. I work with individuals on cash assistance, etc. and this information is helpful for me in terms of basic information and referrals.
13. Yes. Most of my students receive public benefits and it was helpful to learn more about them.
14. Yes. Confirmation of information and clarification of difference between SSI and SS benefits.
15. Yes.
16. Yes. I'm not really acquainted with public benefits.
17. Yes. Information about SSI was useful.
18. Yes. Most of our students use these public benefits and we can help them with better information.

What was the most important thing you learned?

1. It is important to get complete information from clients and to refer or advocate on behalf of the client to pursue public benefits. Also the difference between State and Federal benefit funding.
2. That step parents become responsible for expenses in assistance households.
3. N/A
4. "High on the Hog" example.
5. The law and how it is constantly changed usually to hurt the recipients even more.
6. Call Legal Services if ever a doubt about eligibility for public services.
7. N/A
8. Legal aspects of public benefits.
9. The differences in State and Federal programs was interesting.
10. The information about SSI was what I knew the least about before the workshop.
11. That there would be changes occurring in medical coverage for certain treatments.
12. That clients should never give up and just accept what was told them - they should know in most cases help is available and another avenue can be pursued.

13. To advocate for students whose medical benefits are being reduced and learn more about SSI.
14. Maximizing of benefits.
15. Concept of maximizing income for public benefits recipients in the same way it's done for other segments of society.
16. The appeal process.
17. SSI qualifiers.
18. The receipt of lump sum money.

Did any of the content seem inappropriate to you? If so, what?

1. All 18 people responded "no" to this question. The following comment was also made:
 - a. It is very frustrating that Keystone Legal Services are not available to my students in Perry County.

Did the program fulfill your expectations?

1. 17 people responded "yes" to this question. One person responded "no". The following comments were also made:
 - a. I feel that besides the nitty gritty facts offered to us the Keystone staff offered much to think about concerning the social and political aspects of our work.
 - b. Would have liked more time talking about CAO.
 - c. It was more than I expected.
 - d. These workshops have been a real perk for me. Thank you!!

Because of your attendance at the "Legal Issues" workshops have you used any of the information with clients? Please describe.

1. Referral for benefits and follow-up.
2. During the session I learned information that will directly relate to two current client situations.
3. Yes. Working with two clients now.
4. Yes. One of my families was overpaid (foodstamps) and the caseworker indicated that this individual's foodstamps would cease until the payment was caught up. The caseworker didn't give this client a choice. I read in your booklet that this individual does have 1 of 3 choices of payment. She is going to file a grievance.
5. We need to help our clients access this information.
6. I've informed some clients of their rights in divorce cases and the fact that both parents do have a right to the children.
7. Training was used in Lifeskills classes regarding renter's rights vs landlord problems.
8. Yes. The information regarding eviction.
9. The remaining ten people responded that they haven't used the information yet.

Because of your attendance at the "Legal Issues" workshops have you made any referrals to Keystone? Please describe.

1. 14 People responded "no" or "not yet".
2. 4 People gave the following comments:
 - a. Yes. Not from Mifflin County.
 - b. Yes. Teen parent appealing denial of cash assistance.
 - c. Will be referring any students who are a "D" category to appeal the loss in medical benefits.
 - d. Will make referrals if benefits are denied my clients.

How would you rate the presenter, Susan Michalik?

1. Excellent: 7 People
2. Average: 10 People
3. Poor: 1 Person

How would you rate the presenter, Roberta Mueller?

1. Excellent: 12 People
2. Average: 6 People
3. Poor: 0 People

How would you rate the facilities?

1. Excellent: 5 People
2. Average: 13 People
3. Poor: 0 People

Do you plan to attend any future Adult Education and Job Training Center Workshops based on this experience?

1. 17 People responded "Yes".
2. 1 Person responded that they were unsure.

Additional Comments:

1. Good examples.
2. Looking forward to next session.
3. These workshops are very informative to those of us that are just starting out in adult education.
4. Even though I have not made any referrals or used the information directly - this series of workshops has been so helpful in broadening my knowledge and information base.

STUDENT LEGAL ISSUES WORKSHOP EVALUATION
WORKSHOP #4 - JANUARY 20, 1993
"HEALTH BENEFITS"

Was the content useful to you? Why or Why not?

1. Any information concerning our adult students is always useful.
2. Yes. It made me more aware of benefits eligible to our participants and what's going to change in those budgets.
3. Yes. Our SPOC clients and some GED students do receive so it's important to know. We can then make appropriate referrals and be able to understand their rights.
4. Yes. Concrete information every session has been enlightening and helpful.
5. Yes. It gave me a better idea of what services our clients are entitled to.
6. Yes. I knew very little about MA.
7. Yes. Dealing with clients.
8. Yes. It helped me gain a better understanding of the health care laws.
9. Yes. Always useful.
10. Yes. Learned many things I didn't know.
11. Yes.
12. Many of our clients deal with the health care issues discussed.
13. Yes. Health care concerns and rights to benefits are issues that affect our clients' lives as well as our own.
14. Yes. It affects all of my students.
15. Yes. It helps with all my clients.

What was the most important thing you learned?

1. Social Security/Medicare Information.
2. I learned that treatment cannot be denied at hospitals dependent on insurance or laws of insurance.
3. Was not aware of EPSDT in that all children 21 and under can receive medical help regardless of income level. Some clients may just be over the income guidelines and have no

- handicapped child -- that child can receive medical help!
4. Explanation of MA program.
 5. That everyone is entitled to emergency medical treatment.
 6. The rights of an individual receiving M.A. or someone who has No medical insurance especially concerning emergency care.
 7. Health need problems -- are not necessarily "legal issue".
 8. No hospital can turn anyone down for any reason.
 9. What medical cards actually cover.
 10. Hospital care must be given to emergency patients -- regardless of medical coverage.
 11. Information regarding denial of care; Hill Burton obligations. Information regarding medicare payments.
 12. More on access to health care.
 13. The right to adequate treatment/care at hospitals or clinics.
 14. How to have students advocate for themselves.

Did any of the content seem inappropriate to you? If so, what?

1. No: 14 people
2. Yes: 0 people

Other Comments

It was all very relevant to our dealings with our students.

Did the program fulfill your expectations?

1. Yes: 14 people
2. No: 0 people

Because of your attendance at the Legal Issues Workshops have you:

1. Used any of this information with clients? Please describe.
 1. Not at this point
 2. Landlord issues and Rights with Public Assistance.
 3. Suggested further thought, collection of records, and

- then contact Keystone Legal Services.
4. N/A as of yet.
 5. N/A.
 6. We have used tenant information and SSI information also dispelling assistance office myths about liens on houses.
 7. We will be reviewing rights in Life Skills class on health. We have already done workshops on custody and housing.

2. Made any referrals to Keystone? Please describe.

1. I have asked participants if they knew about or had been in contact with Keystone Legal. Thus far, they either were already in touch with them and working with them or had been refused because the opposing part was using their services.
2. No.
3. Not directly -- suggested client consider this step.
4. N/A as of yet.
5. N/A

Presenters:

How would you rate the presenters?

Presenter - Suan Michalik

1. Excellent: 9 people
2. Average: 6 people
3. Poor: 0 people

Presenter - Roberta Mueller

1. Excellent: 9 people
2. Average: 6 people
3. Poor: 0 people

Other Comments:

Appreciate her commitment.

Facility:

How would you rate the facilities:

1. Excellent: 2 people
2. Average: 13 people
3. Poor: 0 people

Do you plan to attend any future Adult Education and Job Training Center workshops based on this experience?

1. Yes: 15 people
2. No: 0 people

Any additional comments or recommendations are greatly appreciated.

The Workshops are Great.

**STUDENT LEGAL ISSUES WORKSHOP EVALUATION
WORKSHOP #5, CONSUMER LAW**

Was the content useful to you? Why or why not?

1. Yes. I have not been very knowledgeable on consumer law.
2. Yes. Because the information can be useful to our students.
3. Yes. Law issues are of paramount importance to our clients.
4. Yes.
5. Yes.
6. Yes. Many of our clients are or have had financial difficulties.
7. Yes. I will use this material in teaching Life Skills.
8. Yes. Much of the information on bankruptcy and consumer fraud.
9. Yes.
10. Yes. Applicable to population I work with.
11. Yes.. Consumer issues are very important to everyone - especially the clients we deal with since they are more susceptible to fraud, etc.
12. Yes. Consumer issues are extremely important, especially for our clients.
13. Yes.
14. Yes. I will add more discussion about lease to own in our Life Skills budgeting class.
15. Yes. Very interesting and relevant.

What was the most important thing you learned?

1. The rights utilities have or don't have to turn off someone's electricity and the rent-to-own information.
2. Rent-to-own information.
3. The right to dispute credit information.
4. Information on fraud.
5. Information on rent-to-own type businesses.
6. Unfair Trade Practices Act.
7. General information was very helpful.
8. All consumer information.
9. The whole issue of consumer fraud was very interesting. Also repossession and the issue of debt "Never sign installment forms before they are filled out".
10. Bankruptcy and repossession procedures were the two most important topics for me to learn about.
11. Rent-to-own and bankruptcy information.
12. Rent-to-own information.
13. The workshop gave me a heightened awareness of consumer issues. I am now more aware of issues that may be affecting our clients but that may not be revealed to us without some exploration on our part.

Did any of the content seem inappropriate to you? If so, what?

1. My participants aren't usually involved in bankruptcy because they can't own much living on assistance.
2. Everyone else responded "no" to this question.

Did the program fulfill your expectations?

1. Everyone responded "yes" to this question.

Because of your attendance at the "Legal Issues" workshops have you used any of this information with clients?

1. Yes. Securing public housing.
2. I have used some Legal Issues information with a student concerning housing law.
3. Information given - next step issues.
4. Yes.
5. I talked over the content of various workshops as appropriate with my clients.
6. I talked to a client about an eviction notice, her rights, and late bills.
7. Yes. Many times.
8. Yes. Health care.
9. Yes. Housing information.

Because of your attendance at the "Legal Issues" workshops have you made any referrals to Keystone? Please describe.

1. I am in the process of helping an individual secure public housing. She has been denied because her husband is in jail. She lives in Perry County and Legal Aid has left there so I can't refer her but I will call them and see if they can help at all.
2. No because I am unable to do so because of our location.
3. No.
4. Yes.
5. Yes. I discussed the handicapped rights information with an individual who needed to contact Keystone.
6. No.
7. Yes. Regarding a housing situation.
8. Not yet.

How would you rate the presenter and facilities?

Presenter - Robin Foor:

1. Excellent: 7 People
2. Average: 8 People
3. Poor: 0 People

Comments:

1. Robin was very knowledgeable.
2. Difficult material. Robin did a nice job of explaining.

Facilities:

1. Excellent: 6 People
2. Average: 8 People
3. Poor: 1 Person

Do you plan to attend any future Adult Education and Job Training Center workshops based on this experience?

1. All 15 people responded "yes" to this question.

Any additional comments or recommendations are greatly appreciated.

1. I appreciate the willingness of these trainers to help out with the legal problems our participants have and to give us sound advice.
2. These workshops have been very motivational and have reminded me of the many needs our clients have and the barriers they must overcome to succeed in our programs.

**STUDENT LEGAL ISSUES WORKSHOP EVALUATION
WORKSHOP #6, MARCH 24, 1993
EMPLOYMENT LAW - MISC. ISSUES**

Was the content useful to you? Why or why not?

1. Yes. Unemployment compensation.
2. Yes. I learned some valuable information on many different employment issues.
3. Yes. I have limited knowledge on employment law - very helpful.
4. Yes. Employment law is an area that everyone on our staff deals with daily.
5. Yes.
6. Yes. We deal with clients every day that deal with these issues.
7. Yes. Pertinent because of the employment situation in this area.
8. Yes. Information applies to many families/individuals that we work with.
9. Yes. My students deal with these issues.
10. Yes.
11. Yes. These are issues our participants deal with.
12. Yes. It will be very helpful to pass along to our clients.
13. Yes. All the issues covered were very interesting and I hope I now have a better understanding to help others with some legal issues.
14. Yes. We have several students who are trying to get unemployment benefits right now.
15. Yes. Employment law and student loans - extremely useful information.
16. Yes. Very applicable to our employment end of our programs. We are required to have this knowledge under JTPA. Good review and additional information.
17. Yes. Dealing with students that bring these issues up. Now have more knowledge.

What was the most important thing you learned?

1. Unemployment information.
2. If you are a full time student you are still eligible for unemployment compensation.
3. Unemployment compensation eligibility and individual's rights.
4. The ins and outs of unemployment compensation. The spousal following rule.
5. Information on UC, ADA, and PHEAA.
6. Everything was very interesting.
7. Information on unemployment compensation.
8. Information regarding the Disability Act.
9. That eligibility for Legal Aid services is based on what you are presently earning not on past recent earnings.
10. The most important thing that I learned was about ADA policies.
11. Employment/compensation issues gave me a great insight on issues that are very important.
12. Employment law.
13. Unemployment compensation information can assist our laid-off clients since they generally seem frustrated.
14. The whole issue of unemployment was very interesting. Always recommend that a client seek unemployment because everything is fact based and each case is individual.

Did any of the content seem inappropriate to you? If so, what?

1. No: 16 People
2. Yes: 1 Person - PHEAA information.

Did the program fulfill your expectations?

1. No: 0 People
2. Yes: 17 People

Comments:

1. Always a good program. Roberta, Carolyn, and Robin are excellent presenters, speak easily and in a language we can understand.
2. Legal issues always fulfill expectations.
3. This was the first legal issues presentation attended - very good.
4. The ladies were very well prepared and talked at our level.
5. I've really looked forward to each of these workshops and have found each one to be excellent and relevant. We've needed this information for years.

Because of your attendance at the "Legal Issues" workshops have you used any of this information with clients? Please describe.

1. Personal use.
2. Yes. In curriculum development PREP.
3. Yes.
4. Yes. Gave out family law, housing law, and health law information to clients.
5. No.
6. Yes. Rental information, SSI information, and assistance information.
7. No.
8. No.
9. I've used SSI information, credit and debt information, and will use unemployment and Disabilities Discrimination Act information.
10. Workshop information is being used in Life Skills classes.
11. Mostly the information on housing law thus far.
12. Yes but I have written about this in previous evaluations.
13. Yes. Talked with client about divorce and her rights.

Because of your attendance at the "Legal Issues" workshops have you made any referrals to Keystone? Please describe.

1. No but I will eventually.
2. Yes. Learning disability eligibility.
3. Yes. I have described on previous evaluation sheets.
4. Not yet. But I feel much more comfortable and knowledgeable about Keystone right now. Future referrals will be made enthusiastically.
5. No.
6. No not yet.
7. No.
8. Referred a student because her estranged husband pulled all funds from their joint checking account after she had paid monthly bills.
9. No.
10. Made referrals for housing and SSI issues.
11. Yes. Referral on a housing authority refusal.
12. Yes. When there was an unfair housing practice apparently happening.
13. No. I'm unable to due to the location of Keystone. I have, however, referred people to the few services that are available in our area.
14. Yes. Referred a client regarding her rights in a divorce.

How would you rate the presenters?

Presenter - Roberta Mueller:

1. Excellent: 14 People
2. Average: 3 People
3. Poor: 0 People

Presenter - Carolyn Johnson:

1. Excellent: 11 People
2. Average: 6 People
3. Poor: 0 People

Presenter - Robin Foor:

1. Excellent: 7 People
2. Average: 10 People
3. Poor: 0 People

Comments:

1. Engaging presenters. Able to present dry, difficult information in an interesting way. Robin needed to stand - hard to see from the back.
2. Always excellent presenters well prepared and capable of teaching effectively.

How would you rate the facilities?

1. Excellent: 7 People
2. Average: 10 People
3. Poor: 0 People

Comments:

1. Temperature is always unpredictable. Hot - cold - hot - cold.
2. Too cold.

Do you plan to attend any future Adult Education and Job Training Center workshops based on this experience?

1. Yes: 17 People
2. No: 0 People

Any additional comments or recommendations?

1. There were staff who should have attended and didn't. Exceptions may have been abused. I guess in the future we will have to make training mandatory regardless of schedule, especially ones such as this.
2. The Legal Issues Workshops have been extremely well done and informative. Many thanks!
3. This was by far one of the best workshops I've attended.
4. This workshop seemed the most interesting to me. Very good information provided.
5. This was the best one yet!
6. General knowledge learned will be beneficial working with clients. Would appreciate being informed about future workshops.
7. Excellent information!

8. This was an excellent series of workshops. Extremely relevant to adult educators who work with poor population. Understanding the basic legal issues that impact on our students should be a requirement for all adult educators.
9. I appreciated the sincerity of the presenters and their interest in helping the less fortunate people in our society obtain services.
10. I took a lot of notes in my own handwriting and that was helpful for me - to get away from lawyer jargon. I very much appreciated these workshops. They were very helpful.

Student Workshop Evaluations

**STUDENT LEGAL ISSUES WORKSHOP EVALUATION
BENEFITS WORKSHOP**

Was the content useful to you? Why or why not?

1. Yes. It mostly helped to know about the medical benefits for the children that are disabled.
2. Yes.
3. Yes.
4. Yes. I can make the information available to my part-time employees. Hopefully, it will help.
5. Yes. I may be eligible for benefits that I was not aware of.
6. Yes. Because I got information for myself and for my mother.

What was the most important thing you learned?

1. SSI benefits.
2. All phases were important.
3. Information on SSI and SS.
4. SSI.
5. I've learned about the SPOC, ETP, and AFDC that will help.

Did any of the content seem unimportant to you?

1. No: 5 people
2. Yes: 1 person

Did the program fulfill your expectations?

1. Yes: 6 people

How would you rate the presenter(s)?

1. Excellent: 7 people

Comments on the presenter:

1. Knew what they were talking about.
2. Very good.
3. They make sure that you get the information on the things you need.

How would you rate the facilities?

1. Excellent: 6 people
2. Average: 6 people

Comments on the facilities:

1. The facilities were great.

Do you plan to attend future Adult Education and Job Training Center workshops based on this experience?

1. Yes: 6 people
2. No: 1 person

Have you been enrolled in any Adult Education and Job Training Center training?

1. Currently enrolled: 2 people
2. Previously enrolled: 1 person
3. Never enrolled: 4 people

**STUDENT LEGAL ISSUES WORKSHOP EVALUATION
FAMILY LAW WORKSHOP**

Was the content useful to you? Why or why not?

1. Yes. I learned alot that I didn't know about.
2. Yes. I'm a single mother seeking custody and support from the baby's father.
3. Yes. Spousal support.
4. Yes. Now I know more about custody.
5. Yes. Devices and child custodies.
6. Yes. Because of the custody and support issues.
7. Yes. It helped me understand something I need to know.
8. Yes. It helped me understand the issues more clearly.
9. Yes. I'm going through now.
10. Yes. I work with people who ask questions on these subjects.
11. Yes. I learned facts of law I never knew before.
12. Yes. Because I am having trouble with my children's father and it helped me understand what I might be up against.
13. Yes. Because he answered some questions I could never seem to get answered.
14. No. I was not divorced or have child support.
15. Yes. I'm facing custody and support issues now.
16. Yes. Because it dealt with my current situation.
17. Yes. Because I'm dealing with support and custody situations.
18. Yes. Because I am experiencing most of these issues.
19. Yes. I am currently going through a divorce and he answered some questions that I had.
20. Yes. I learned things I didn't know - like about divorce.
21. No. I don't think he explained the divorce issue very well.
22. Yes and no. I'm married so I'm hoping I won't need the information but it's good to know in case I need it.
23. Yes.
24. Yes. I understand my rights more fully.
25. Yes. Possibly for future use.
26. Yes.

27. Not very useful. I attended to get information for parents/ children I work with. Not a long presentation with alot of information presented.
28. Yes. I work with families on my job.
29. Yes.
30. Yes. I needed this information.
31. Yes. I needed to know several things.
32. Yes. I can use it for certain situations I'm in.

What was the most important thing you learned?

1. Contact D.A. if Domestic Relations isn't meeting your needs.
2. That there are laws that protect everyone.
3. That I may be able to get a divorce through an attorney without having to pay for it.
4. To keep a journal of daily events.
5. To work out our marriage so we won't have legal problems.
6. That I can stand up for myself and I will be listened to.
7. About certain terms of custody.
8. All was important to me.
9. That legal separation is not legal, but is held in high regard before a judge.
10. About custody and rights of both parents.
11. Recommendations/Judgement.
12. Common marriage and custody.
13. Make sure you go to court for custody.
14. Custody.
15. About the children.
16. Unsure.
17. Custody and proper items.
18. Custody information.
19. Support.
20. Custody and support laws.
21. Child custody.
22. That if I die, my children's dad will legally be able to get them instead of my mom.

23. Divorce.
24. Custody.
25. About custody.
26. About child custody and how it works.
27. Custody.
28. What I can do about getting custody.
29. What happens in divorce.
30. Alimony for education.
31. Information for alimony.

Did any of the content seen unimportant to you?

1. No. I don't know when I can use this.
2. Content - No. Some of the questions asked - Yes.
3. Yes. Too many individualized questions.
4. No. It was all very enlightening.
5. The divorce issue.
6. It was all important to me.
7. No. It was all interesting even though I was through most of it already.
8. 20 people responded with only "No."
9. 2 people responded with only "Yes."
10. 2 people responded with only "Some."

Did the program fulfill your expectations?

1. Yes: 29 people
2. No: 1 person
3. Uncertain: 2 people

How would you rate the presenter(s)?

1. Excellent: 25 people
2. Average: 8 people
3. Poor: 0 people

Comments on the presenter:

1. I think he really tried hard to answer all of the questions asked. He also tried hard not to miss a question.
2. He was down to earth. I liked that.
3. He wasted alot of time on personal issues.
4. Took time to answer too many questions throughout. Did not present much information.
5. Was very helpful and answered the questions fully.
6. He explained everything very well.
7. He answered alot of questions that I was concerned about.
8. Good presentation and well organized.
9. He spoke so that we could understand him.
10. He did a real nice job answering the questions.
11. The person was excellent and helpful.
12. Clear voice.
13. Answered all questions well and fully.
14. He was very patient with all the questions.
15. Very good.
16. He answered the questions to the full amount. He answered everyone's questions.
17. Related very well - answered questions thoroughly.
18. Nice and answered everyone's questions well.
19. Very, very good.
20. Satisfying.
21. I appreciate him answering my questions the best he could.
22. Nice speaking voice, eager to answer questions, well-informed.
23. Nice. Easy to understand.

How would you rate the facilities?

1. Excellent: 21 people
2. Average: 6 people
3. Poor: 3 people

Comments on the facilities:

1. First place was poor and the second was "ok."
2. The carpet smelled.
3. The carpet smell gave me an extreme headache.
4. I was glad we moved to the Monument Square building. The Coleman was cramped and not well ventilated.
5. Excellent after we came from the Coleman House.
6. The Coleman House was okay but the New Choices room is better lighted and airier.
7. Great, once we moved to the TIU building.
8. Very good.
9. Great.
10. Much more comfortable at Monument Square.
11. It was good.
12. First room was too hot. The second room was a little harder to hear in.
13. The first one we were in was too hot and stuffy. The second one was excellent.
14. Everything was fine.
15. Hot.
16. Excellent after we moved to Monument Square.
17. It was comfortable.

Do you plan to attend future Adult Education and Job Training Center workshops based on this experience?

1. Yes: 29 people
2. No: 0 people
3. Unsure: 3 people

Have you been enrolled in any Adult Education and Job Training Center training?

1. Currently Enrolled: 20 people
2. Previously Enrolled: 6 people
3. Never Enrolled: 8 people

**LEGAL ISSUES WORKSHOP EVALUATION
HOUSING LAW WORKSHOP**

Was the content useful to you? Why or why not?

1. Not at the moment, but someday it may be.
2. Yes - eviction.
3. Yes.
4. Yes.
5. Yes.
6. Yes. I rent.
7. Yes.
8. Yes.
9. Yes. If I ever get evicted, I'll know what to do.
10. Yes. I didn't know what tenants' rights were.
11. Yes. A lot of my questions were answered.
12. Yes. I feel if I have to rent I may know what to expect.
13. Yes. I rent.
14. Yes. I understand my rights better.
15. No. I don't rent.
16. Yes. It will be useful when I start to look for an apartment.
17. Possibly for future reference.
18. Yes. She told me things I wasn't aware of before.
19. Yes. Explained things I wasn't aware of.
20. Yes. It was very useful because she answered a question I've been wondering about for a long time.
21. Yes.

What was the most important thing you learned?

1. Everyone has rights.
2. Get everything in writing.
3. It is illegal to not rent because you have children.
4. Information on mobile homes.
5. Repair and deduct.
6. You have rights, too.

7. Repair and deduct.
8. Every subject was important.
9. Security deposits and housing law notice to vacate.
10. The eviction process.
11. The length of eviction.
12. To write everything.
13. Repair and deduct.
14. My rights as a tenant.
15. You should put air vents in all rooms.
16. About eviction.
17. Child deduction increase.
18. About my lease and rights I have.
19. Mobile Home Park Rights Act.
20. The part about public housing.
21. My rights as a tenant and public housing rights.

Did any of the content seem unimportant to you?

1. No: 17 people
2. Yes: 4 people

Did the program fulfill your expectations?

1. Yes: 22 people
2. No: 0 people

How would you rate the presenter(s)?

1. Excellent: 18 people
2. Average: 4 people
3. Poor: 1 person

Comments on the presenter:

1. Spoke clearly and was well prepared and informative.
2. She spoke clearly and answered all questions as best she could.
3. Easy to understand. She made things clear and to the point. She was very nice.
4. Her outfit did not give you faith in her.

5. Very good speaker.
6. She answered alot of questions for me.
7. She was very thorough.
8. Was very knowledgeable and answered in "English."
9. She was very good and really answered questions good.
10. She was very good and explained everything very well.
11. Very good.

How would you rate the facilities?

1. Excellent: 9 people
2. Average: 9 people
3. Poor: 5 people

Comments on the facilities:

1. A little crowded and warm.
2. It was a bit stuffy but alright.
3. Too hot.
4. Needs more air circulation.
5. Hot.
6. Needs more ventilation and a larger area.
7. No air, too small, too many people again.
8. No air in the room.
9. No air. It was very hot and stuffy. Needs windows and air flow.
10. No moving air - hot and stuffy.
11. A little warm.
12. It was just a little warm.
13. It was very comfortable.
14. Very good.

Do you plan to attend future Adult Education and Job Training Center workshops based on this experience?

1. Yes: 21 people
2. No: 2 people

Have you been enrolled in any Adult Education and Job Training Center training?

1. Currently enrolled: 13 people
2. Previously enrolled: 7 people
3. Never enrolled: 2 people

Staff Development
Workshop Materials

Keystone Legal Services:
Evaluation/Recommendations

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Second St.
Clearfield, PA 16830
(814) 765-9646

June 11, 1993

Ms. Carol Molek
Adult Education and Job Training Center
3 West Monument Square, Suite 105
Lewistown, PA 17044

Dear Carol:

You have asked me to comment on the series of trainings we have done for your Adult Educators and students from Keystone's perspective. In particular, you asked me to discuss how responsive we felt the audiences to be, how well the trainings fit with our priorities, and what we would suggest for the future.

As to audience response, we felt that your staff was extremely responsive to the presentations and benefited a great deal from the information. The questions they asked showed that they understood the material and were applying it to the situations experienced by the students they work with. We feel particularly encouraged by this as it greatly increases our ability to get helpful information out to the client community. We are also encouraged by the fact that we have had several referrals as a result of your staff spotting issues discussed in the trainings.

We have also been encouraged by the response to the three trainings we did for the student population. The family law and housing trainings, in particular, seem to have given students information which allowed them to deal more effectively with their situations and to avoid problems in the future.

Both training for staff and training for students fits in very well with Keystone's emphasis on preventative law and client empowerment. We view these trainings as ways of making available to the client community information which will allow them to avoid legal problems and assert their rights. It seems that the staff trainings have also helped to encourage appropriate referrals by giving your staff an idea of the range of issues where Keystone can be of assistance.

Our recommendations for the future would be that we continue to offer these trainings and, if possible, integrate them into the curriculum. Given the amount of material to be covered, it would be helpful to have more sessions in a series. For example, Carolyn's training on landlord tenant issues would ideally cover two sessions, one for private landlord tenant law and one for public housing issues. Other than that, we were really satisfied with the format and the audiences.

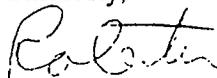


...And Justice
For All...

Carol Molek
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June 11, 1993

I hope this helps you in evaluating the programs. If there is anything else you need, please let me know. It's been a pleasure working with you and your staff and we look forward to continuing to do so.

Sincerely,



Roberta Mueller
Staff Attorney

The Tuscarora Intermediate Unit 11 is an equal rights and opportunity educational service agency and will not discriminate on the basis of race, color national origin, ancestry, sex, handicap, age or religion in its activities, educational and vocational programs or employment practices as required by Title VI of the Civil Rights act of 1964, Title IX of the 1972 Educational Amendments, Section 504 of the Rehabilitation Act of 1973 and the Pennsylvania Human Relations Act of 1955 as amended. For information regarding civil rights or grievance procedures, contact Jacqueline Vocke, Equal Rights and Opportunity Coordinator, at Tuscarora Intermediate Unit 11, RR 1, Box 70A, McVeytown, Pennsylvania 17051-9717. Phones: 814-542-2501 or 717-899-7143.

Family Law

CUSTODY: GENERAL INFORMATION ON PROCEDURAL ISSUES

I. INTRODUCTION

- A. Generally, the parents of a child have a right to have a relationship with their child and the child has a right to have a relationship with his/her parents.
- B. Some parents are unable or unwilling to work out a custody agreement and therefore ask the court to decide the specific rights of parents such as who gets the child and when. Most parents and children are better off if they can work out an agreement on their own.
- C. Once the parents turn to litigation, the procedural rules must be followed because the law specifies where the complaint must be filed, what the name of the complaint is, and who may ask the court for what.

II. TERMS

- A. Plaintiff: the person who initiates (files) a lawsuit
- B. Defendant: the person being sued
- C. Party: a plaintiff or defendant
- D. Jurisdiction: the state which is able to hear a case because, generally, it is the home state of the child
- E. Venue: the proper county to hear the case
- F. Third Party: a non-parent
- G. Standing: the ability to file a lawsuit and assert a right
- H. Custodial parent: the parent with whom the child lives
- I. In loco parentis: the relationship between a third party and a child wherein the non-parent assumes the duties, responsibilities, and rights of a parent

- J. Joint custody: shared legal rights and duties to the child, including shared physical presence of the child
- K. Legal custody: the legal right to make major decisions affecting the child (e.g., medical treatment, educational placement, religious affiliation)
- L. Physical custody: the right to have possession of the child
- M. Partial or temporary custody: the right of a person to take possession of the child for an agreed upon or court ordered amount of time
- N. Visitation: the right of a person to visit with the child but not to take actual possession of the child
- O. Supervised visitation: the right of a person to have visitation only when the visit is supervised (e.g., supervised visitation at CYS)

III. VENUE (where an action should be filed)

- A. Generally, a complaint for custody must be filed in the county where the child resides or where the child resided in the past six (6) months if the child is no longer there but a parent/parent-figure still lives in that county.
- B. If there is a previous custody order regarding the child issued from another jurisdiction, the court which issued that previous order (court #1) retains jurisdiction. Court #1 may relinquish jurisdiction. Court #2 may assume jurisdiction if the child has resided in court #2's jurisdiction for some time or if it is more convenient for the parties.

IV. PARTIES

- A. Required parties: any parent whose parental rights have not been terminated and any person who has physical custody (de facto or court ordered) of the child must be named as a party.
- B. Standing: the legal concept of having the right to file a lawsuit to assert a right. If the

plaintiff does not have standing, the complaint must be dismissed or amended to conform with law.

Who has standing to bring a custody action?

- a. a parent whose parental rights to the child have not been terminated;
- b. a person who has physical custody of the child;
- c. a third party who has stood in loco parentis to the child (a non-parent who has cared for the child for an extended period of time and has psychologically become a parent).
Factors to consider: has the third party assumed the rights, duties and responsibilities of the parent or has the child lived with the third party for an extended period of time. Grandparents are third parties.
- d. grandparents can seek temporary custody in only limited situations (see attached, 23 Pa.C.S.A. 5311-5314).

V. THE PROCESS

- A. What is filed:
 1. Complaint for Custody/Partial Custody or Visitation (when there is no previous Order);
 2. Petition for Modification of Custody Order;
 3. Petition for Contempt;
 4. A Divorce Complaint with a Custody Count.
- B. Complaint/Petition is filed and served on all defendants/parties. Attached to the complaint will be an order advising the defendant(s) that the action has been filed, when and where the conference/hearing will take place, and advising the defendant(s) to seek legal advice. Unless the order specifically states that the defendant(s) must bring the child to the conference/hearing, there is no need to bring the child to court.
- C. Special Relief: the custody law allows a party to seek an "emergency" order. Regaining physical

custody after a "child snatch" is a common use of this provision in the law. With the Petition for Special Relief, a judge may hear the case ex parte (with only one side present even if the other side has no notice of the hearing) and issue an order requiring the "snatcher" to return the child and not to have contact with the petitioner or the child until further court order.

The court may invoke this provision on its own and order just about anything.

- D. KLS has developed and distributed pro se custody forms and information to our clients. If a person is eligible for our services, s/he becomes a client for advice and is informed of the pro se option if the situation does not fall within KLS emergency custody guidelines. The pro se packet is specifically designed to comply with the local rules of each county in our service area. KLS holds pro se custody clinics every three (3) months in four (4) of our five (5) counties, and clients who are given the pro se materials are strongly urged to attend before filing a custody complaint.

§ 5311. **When parent deceased**

If a parent of an unmarried child is deceased, the parents or grandparents of the deceased parent may be granted reasonable partial custody or visitation rights, or both, to the unmarried child by the court upon a finding that partial custody or visitation rights, or both, would be in the best interest of the child and would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the deceased parent and the child prior to the application.

§ 5312. **When parents' marriage is dissolved or parents are separated**

In all proceedings for dissolution, subsequent to the commencement of the proceeding and continuing thereafter or when parents have been separated for six months or more, the court may, upon application of the parent or grandparent of a party, grant reasonable partial custody or visitation rights, or both, to the unmarried child if it finds that visitation rights or partial custody, or both, would be in the best interest of the child and would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the party and the child prior to the application.

§ 5313. **When child has resided with grandparents**

If an unmarried child has resided with his grandparents or great-grandparents for a period of 12 months or more and is subsequently removed from the home by his parents, the grandparents or great-grandparents may petition the court for an order granting them reasonable partial custody or visitation rights, or both, to the child. The court shall grant the petition if it finds that visitation rights would be in the best interest of the child and would not interfere with the parent-child relationship.

IN THE COURT OF COMMON PLEAS OF HUNTINGDON COUNTY, PENNSYLVANIA
CIVIL DIVISION-LAW

ANNIE R. HOME, : NO: 92-666
Plaintiff :
v. :
BRENDA B. SMART, :
Defendant : CUSTODY

ORDER

You, BRENDA B. SMART, Defendant, have been sued in Court to obtain custody of the child, ALEC B. SMART.

You are ordered to appear in person at the Huntingdon County Courthouse, Courtroom No. 2 on November 1, 1992 at 9:00 a.m. for a hearing.

If you fail to appear as provided by this Order, an Order for custody partial custody or visitation may be entered against you or the court may issue a warrant for your arrest.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Huntingdon County Courthouse
Huntingdon, PA 16652
814/643-5078

BY THE COURT:

P.J.

IN THE COURT OF COMMON PLEAS OF HUNTINGDON COUNTY, PENNSYLVANIA
CIVIL DIVISION-LAW

ANNIE R. HOME, : NO: 92-666
Plaintiff :
v. :
BRENDA B. SMART, :
Defendant : CUSTODY

COMPLAINT FOR CUSTODY

1. The Plaintiff is ANNIE R. HOME, residing at 12 Shady Lane, Huntingdon, Huntingdon County, PA 16652.
2. The Defendant is BRENDA B. SMART, residing at 00 Wright St., Lewistown, Mifflin County, PA 17044.
3. Plaintiff seeks custody of the following child:

<u>Name</u>	<u>Present Residence</u>	<u>Age</u>
Alec B. Smart	00 Fifth St. Lewistown, PA 17044	4

The child was born out of wedlock.

The child is presently in the custody of BRENDA B. SMART, who resides at 00 Wright St., Lewistown, Mifflin County, PA 17044.

During the last five years, the child has resided with the following persons and at the following addresses:

<u>List all Persons</u>	<u>List all Addresses</u>	<u>Dates</u>
BRENDA B. SMART	00 Wright St. Lewistown, PA 17044	birth-present

The mother of the child is BRENDA B. SMART residing at 00 Wright St., Lewistown, Mifflin County, PA 17044.

She is single.

The father of the child is GOTTUP N. LEFT residing at the State Correctional Institute in Huntingdon.

He is single.

4. The relationship of the Plaintiff to the child is that of paternal grandmother. The Plaintiff currently resides with the following persons:

<u>Name</u>	<u>Relationship</u>
N/A	

5. The relationship of the Defendant to the child is that of natural mother. The Defendant is currently residing with the following persons:

<u>Name</u>	<u>Relationship</u>
Alec B. Smart	son

6. Plaintiff has not participated as a party or witness, or in another capacity, in other litigation concerning the custody of the child in this or another court.

Plaintiff does not know of a person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

7. The best interest and permanent welfare of the child will be served by granting the relief requested because:

a) Alec B. Smart has never had the opportunity to live with me and I think he may enjoy my boa constrictor;

b) even though my son ended up in prison, I think I deserve a second chance at raising a boy.

8. Each parent whose parental rights to the child have not been terminated and the person who has physical custody of the child have been named as parties to this action. All other persons, named below, who are known to have or claim a right to custody or visitation of the child have been given notice of the pendency of this action and the right to intervene. NONE

WHEREFORE, the Plaintiff requests the Court to grant custody of the child.

Respectfully submitted:

CHEATEM & BLEEDEM, P.C.
241 Blue Avenue
Huntingdon, PA 16652
814/555-6666

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 19 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Annie R. Home

BASIC PRINCIPLES OF CUSTODY LAW

The most common type of custody action is parent versus parent. However, grandparents, non-relatives and the state may bring a custody action. The court will require that a non-parent seeking custody of a minor child meet a different burden of proof.

I. Parents vs. Parents

Parents begin custody actions on even footing. Their burden is to establish that the best interest of the child will be better served by placing the child with them.

The paramount consideration in a child custody proceeding is the best interest and welfare of the child, which includes the child's physical, intellectual, moral and spiritual well-being.

Other factors to be considered are:

- a. relationship of child to the parents
- b. the family background of the parents
- c. the educational and occupational backgrounds of the parents
- d. the marriage history and the reason for separation or divorce of the parents
- e. the emotional and mental health of the parents and treatment rendered to them by therapists
- f. the past and present treatment of the child by the parents
- g. recurring immoral, unethical, or illegal conduct of the parents
- h. the environment of the parent's proposed custodial homes
- i. the school or proposed school and extracurricular activities of the child.

- j. the child's preference
- k. the primary care-giver in the past
- l. stability
- m. the parties work schedule, age and finances
- n. whether one parent has abused the other parent
- o. the willingness of each parent to cooperate with the other parent regarding custody of the child

II. Parents vs. Third-Party

- A. A parent should always prevail over a non-parent unless there are highly compelling factors affecting the child's welfare which dictate a different result.
- B. A natural parent is considered to have a prima facie right to custody versus a non-parent. That right may only be forfeited upon proof of **convincing reasons** that the best interest of the child will be served by awarding custody to the third party.
- C. If only visitation is sought, the grandparents burden of proof is much lower. Reasonable visitation will be granted if:
 - 1. visitation is in the best interest of the child, and
 - 2. visitation will not interfere with the parent-child relationship

III. Dependency Actions

- A. Dependency actions are governed by the Juvenile Act, 42 Pa. C.S.A. Section 6301, et seq. A child may not be separated from his or her parent under this Act unless there is a clear necessity. In these actions, the standard is not the best interest of the child. Before a parent can lose custody, it must be shown that the child is currently without proper parental care or control and that the care and control needed is not

immediately available. In addition, it must be shown that no additional means by which the deficiency can be corrected are available.

IV. Emergency Custody Matters

A. Pursuant to Pennsylvania Rules of Civil Procedure, Rule 1915.13 Special Relief, "At any time after commencement of the action, the court may on application or its own motion grant appropriate interim or special relief. The relief may include but is not limited to the award of temporary custody, partial custody or visitation; the issuance of appropriate process directing that a child or a party or person having physical custody of a child be brought before the court; and a direction that a person post security to appear with the child when directed by the court or to comply with any order of the court.

1. Most courts grant petitions for special relief only in limited circumstances. If the child is under the threat of immediate harm or imminent removal from the jurisdiction, an emergency action may be deemed appropriate. The following are examples of when it would be appropriate to petition the court for special relief.

- a. Child snatch
- b. The child has been physically or sexually abused by one of the parties.
- c. A party will be deprived of access to the child, if the court does not act.

V. OTHER FACTORS IN DECIDING CUSTODY ISSUES

A. Home Studies: The court may order that the home of each party be evaluated to enable it to have a full record on which to determine the child's best interest. The evaluation is usually performed by a Children & Youth caseworker.

1. The caseworker makes a home visit and conducts separate in-person interviews with each parent.

2. The children are interviewed separately and their interactions with each parent and any significant others are observed.
 3. The caseworker must also assess the physical environment. This assessment includes the space, the furnishings, the maintenance and the cleanliness of the house, and its proximity to schools, churches and recreational facilities.
- B. Psychological Examinations: The court may order that all the parties to the custody action be examined by a psychiatric expert. Psychological reports are usually ordered in order to determine the impact of certain parental behavior on the child.

DIVORCE

A. Grounds

1. Fault

- a. Desertion-gone one or more years without cause
- b. Adultery
- c. Cruel and barbarous treatment - endangered life or health of spouse
- d. Bigamy
- e. Imprisonment of two or more years
- f. Indignities-injured spouse's condition intolerable and life burdensome as a result of at fault spouse's conduct

2. Institutionalization-Spouse committed for at least eighteen months and no expectation that he'll be released for the next eighteen months

3. Mutual Consent(no-fault)

4. Irretrievable breakdown(no-fault)-the parties have been separated for at least two years. Doesn't require mutual consent.

B. Procedure

1. Fault/Institutionalization requires a hearing

2. Mutual Consent

- a. Complaint
- b. 90 day waiting period
- c. Consents
- d. Praecipe (motion to the court for final decree)

3. Irretrievable breakdown

- a. Complaint
- b. Affidavit that parties have been separated at least two years

- c. Notice of intent to request decree
- d. Praecipe (motion to the court for final decree)

C. Costs

- 1. In Forma Pauperis allows for filing without payment of fees
 - a. Must file an In Forma Pauperis Petition listing income, assets, family size and averring inability to pay fee.
 - b. Court order then grants IFP status where appropriate.

- 2. Costs vary-call prothonotary to be certain

D. Other Counts Which Can Be Included In A Divorce Complaint

- 1. Custody-must comply with custody rules
- 2. Equitable distribution-any property of value, including pension rights, is subject to equitable distribution. If there is any chance that property is involved, clients should be encouraged to consult with a private divorce attorney. The factors in determining how property is divided are similar to those for alimony listed below except that marital misconduct is not a factor.
- 3. Alimony-if the marriage is of long duration and the other spouse has the ability to pay, the client should be urged to consult a private divorce attorney.
- 4. Alimony pendente lite-court ordered spousal support during the pendency of the divorce.

E. Financial support

- 1. Child support
 - a. Duty owed by a parent regardless of marital status
 - b. Can be sought by the custodial parent any time the parents are separated
 - c. Duty is not dependent on visitation
 - d. Amount is determined by a uniform grid or a formula if the grid is inappropriate

e. Paternity - an assumed father can request blood tests. HLA testing is extremely accurate. If a child is born of a marriage, it is presumed that the husband is the natural father.

f. Child support is administered and enforced by the Domestic Relations Office

2. Spousal support

a. Owed to a dependent spouse while the parties are married

b. Determined by grids

c. Administered by Domestic Relations

3. Alimony pendente lite

a. May be awarded after a divorce complaint is filed

b. Purpose is to provide support to a dependent spouse while divorce is pending

c. Determined by court order

4. Alimony

a. Support for a dependent spouse after a divorce decree is entered.

b. Factors

1.) Relative earnings and earning capacities

2.) Ages; physical, mental and emotional conditions

3.) Sources of income

4.) Expectancies and inheritances

5.) Duration of the marriage

6.) Contribution of one party to the education, training or increased earning power of the other party

7.) Child custody

8.) Standard of living established during the marriage

9.) Relative education; time necessary to obtain sufficient education to enable party seeking alimony to find appropriate employment

10.) Relative assets and liabilities

11.) Property brought into the marriage

12.) Contribution as a homemaker

13.) Relative needs

14.) Marital misconduct

15.) Tax ramifications

16.) Does the party seeking alimony have sufficient property to provide for their own support without alimony

17.) Is the party seeking alimony capable of self-support through employment

c. Must be determined before the divorce is final. Therefore, if a client might be entitled to alimony, he or she should consult a private divorce attorney.

ABUSE OUTLINE

1. WHAT IS THE PROTECTION FROM ABUSE ACT?

It is a law which allows someone who has been subjected to certain acts which the law defines as "abuse" to get both an emergency and a final court order against the abuser. As explained below, this order is designed to protect the victim and prevent the abuse from recurring.

2. WHO IS COVERED BY THE ACT?

Abuse between individuals who are in the following relationships is covered by the Act:

- a) Spouses
- b) Former spouses
- c) People who are living as spouses or have lived as spouses in the past
- d) People who are sexual or intimate partners or have been sexual or intimate partners in the past
- e) People who share biological parenthood of a child
- f) Parents and children
- g) People related by blood or marriage

3. WHAT ARE THE ACTS WHICH CONSTITUTE ABUSE UNDER THE ACT?

- a. Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury or serious bodily injury, rape, spousal sexual assault, or involuntary deviate sexual assault.
- b. Placing by physical menace another in fear of imminent serious bodily injury.
- c. False imprisonment
- d. Physical or sexual abuse of minor children

4. HOW DOES ONE OBTAIN RELIEF UNDER THE ACT?

a. The law has been written to make it clear that victims of abuse have the right to file a petition for relief under the Act on their own, without a lawyer. This type of representation is called **pro se**. Every county is required to have simplified forms available for people filing **pro se** to use.

The person who brings the action is called the "plaintiff" and the person against whom the order is sought is called the "defendant."

b. The process of getting protection is begun by filing a petition with the Court of Common Pleas in the appropriate county. If there is a need for an emergency order and the Court of Common Pleas is closed, i.e. at night or on weekends, the petition can be filed with the local District Justice. A District Justice must always be available to accept and rule on these petitions. The District Justice is empowered to issue an emergency protection order which lasts until the Court of Common Pleas is back in session.

c. Normally, one must pay a filing fee to the clerk of the court to start a lawsuit. In abuse cases, however, if the plaintiff files a statement swearing that plaintiff cannot pay a filing fee or pay for having the petition served, the court must allow plaintiff to proceed without paying any fee. At the time the final hearing is held, the court will decide who will pay the filing fee and service costs. If the plaintiff wins, the court will usually order the defendant to pay.

d. Emergency relief is available through temporary protection orders. If the plaintiff's petition states that she is in immediate danger of further abuse, the court can give her a protection order right away, without any notice to the defendant. The order will last for up to ten days, until a hearing is held in court on plaintiff's petition.

e. Final orders are issued after a hearing. The court must hold a hearing within ten days of the petition being filed. At the hearing, the judge will listen to testimony and decide if the abuse occurred. If the judge finds that it is more likely than not that abuse did occur, he or she will then issue an order which lasts for up to one year. The order will contain whatever relief that the judge finds is necessary to stop the abuse.

5. WHAT PROTECTION IS AVAILABLE UNDER THE ACT?

The court can order any relief necessary to stop the abuse. The most common provisions in orders are:

- a. ordering the defendant to stop abusing the plaintiff and/or any minor children.
- b. giving the plaintiff sole possession of a home which had been shared by the plaintiff and the abuser. This doesn't resolve the question of who owns the property, it just means that the plaintiff is the only one who is allowed to live there while the order is in effect.
- c. ordering the abuser to stay away from the plaintiff, her children and her relatives and to not have any contact with them (this can include contact by phone).
- d. entering a custody order for any children of the plaintiff and defendant.
- e. ordering the defendant to pay spousal support and/or child support to the plaintiff. Even if the court orders this, the plaintiff must still go to Domestic Relations and file a support complaint within two weeks in order to keep the temporary support order in effect.
- f. ordering the defendant to pay the plaintiff for any financial losses he has caused her, including medical bills she has had to pay.
- g. ordering the defendant to pay the plaintiff's legal fees.
- h. confiscating any weapons in the abuser's possession

6. WHAT SHOULD HAPPEN IF THE ORDER IS VIOLATED?

Both the temporary order and final order are orders of the court. This means that violation of the orders is contempt of court. The Protection From Abuse Act makes a violation of a Protection From Abuse Order a crime called "indirect criminal contempt." The maximum penalty for violating an order is a jail term of up to six months and/or a fine of up to \$1,000.

The statute specifically allows the police to make arrests for violations of a Protection From Abuse Order

without a warrant, so long as the officer has probable cause to believe a violation has occurred. Copies of PFA orders are sent to local and state police.

7. MUTUAL ORDERS

The Pennsylvania Superior Court has recently issued a decision making it clear that a court may not order relief (for example, a no contact order) against the plaintiff, in a PFA action, unless the defendant has first filed a petition seeking such relief. Mutual orders should therefore not be entered as a routine matter.

8. WHO DO YOU CALL TO GET HELP FOR A CLIENT?

People who work for domestic violence programs as counselors or advocates are permitted to assist plaintiffs in preparing pro se petitions and may accompany them to court. The following counties are served by the domestic violence programs named below:

MIFFLIN COUNTY - THE ABUSE NETWORK (717) 242-0715

JUNIATA COUNTY - THE ABUSE NETWORK (717) 242-0715

HUNTINGDON COUNTY - HUNTINGDON HOUSE (814) 643-1190

CENTRE COUNTY - WOMEN'S RESOURCE CENTER (814) 234-5222

CLEARFIELD COUNTY - HOPE FOR VICTIMS OF DOMESTIC VIOLENCE
(814) 371-0207

Most cases can be handled by these organizations and clients should be told to contact them first. The agencies contact us when they feel that a client needs to be represented by an attorney at the hearing.

Housing Law

EVICTION PROCESS

- I. The Eviction Process (Landlord/Tenant Act 68 P.S. 250.101, et. seq.)
 - A. Notice to Quit (68 P.S. 250.501)
 1. Clear and Unequivocal
 2. Written
 3. Three grounds for termination of lease
 - a. The lease term has ended.
 - b. There has been a breach of the lease.
 - c. Non-payment of Rent.
 - B. Length of notice
 1. Lease of less than one year - 30 days
 2. Lease of more than one year - 3 months
 3. Non-payment of rent - 15 days if the notice is given on or after April 1 and before September 1.
 4. The Tenant can agree to a lesser amount of time.
 - C. Service of Notice
 1. Notice may be served personally upon the tenant; or
 2. Notice may be posted the same conspicuously on the leased premises.
- II. Method by which the Landlord may seek possession of the leasehold.
 - A. At the end of the notice period the Landlord may file a Landlord/Tenant complaint with the District Magistrate.
 - B. Tenant may counterclaim by filing a Trespass/Assumpsit complaint anytime before the Landlord/Tenant hearing.
 - C. The District Magistrate may issue subpoenas and grant continuances.
 - D. The District Magistrate may issue a judgement in favor of either party.
 1. There is a 30 day appeal period after judgement is issued on behalf of either party.

- a. The judgement is appealed to the Court of Common Pleas.
2. District Magistrate issues judgement on behalf of the Landlord.
 - a. The Landlord may be given a judgement for possession, back rent and/or damages.
 - (1) The Landlord may request a Writ of Possession at the end of the appeal period.
 - (a) Writ of Possession requires a 15 day notice.
 - (2) The Writ of Possession is served by the constable or sheriff
 - (3) If the eviction is solely for nonpayment of rent, the Tenant may pay all the rent due and costs prior to the execution of the writ of possession.
 - (4) If the Tenant is still in possession 15 days after the Writ of Possession has been issued, the constable or sheriff may break and enter the leasehold to remove the Tenant.
3. The District Magistrate enters judgement on behalf of the Tenant.
 - a. The DJ may order that the Landlord pay damages to the Tenant.

REPAIR AND DEDUCT

- I. Repair and deduct remedy sanctioned by the Pennsylvania Supreme Court in Pugh v. Holmes.
 - A. The Tenant may repair defects impairing the habitability of the leasehold. (Ex. Repairs to the furnace or a broken window.)

- B.
 - 1. The repairs may be financed by deducting their cost from the monthly rental payment.
 - 2. The repairs must be reasonably priced and cannot exceed the amount owed for the lease term.
 - 3. The repairs should be necessary to make the premises habitable.
- C. The Tenant may counterclaim in a Landlord/Tenant action for the cost of repairs.
- D. The Tenant may sue the Landlord to recover the cost of the repairs.
- E. The Tenant may recover rent for any time period during which the premises were uninhabitable.
- F. The Tenant may sue for reasonably related damages. (Ex.: Excessive utility bill due to the uninhabitability of the premises.)

SECURITY DEPOSITS

- I. Security Deposits - 68 P.S. 250.511a - 512
 - A. A Landlord may not request more than the equivalent of 2 months rent for leases under 1 year as a security deposit.
 - B. The Tenant must give the Landlord in writing his/her new address when vacating the premises.
 - 1. Failure to provide the Landlord with a forwarding address will release him/her from their obligation under the statute.
 - C. The Landlord must either return the security deposit or provide the tenant with an itemized list of deductions for repairs in 30 days.
 - 1. Tenant can recover the security deposit by filing an action before the DJ, if the Landlord does not respond within 30 days.

2. The Landlord loses all rights to deduct for repairs from the security deposit, if he does not itemize damages within the 30 day period.
 - a. The Landlord also loses any right to sue the Tenant for damages to the Leasehold.

MOBILE HOME PARK RIGHTS ACT

Pennsylvania developed a special law to protect residents of mobile home parks called the Mobile Home Park Rights Act. This law protects people who are buying or who already own their mobile home, and who rent space in a mobile home park containing at least three (3) mobile homes.

Residents of a mobile home park can only be evicted for the following reasons:

1. Nonpayment of rent;
2. Two or more violations of park rules within a six-month period; or
3. The park is closed or the park land is changed to a different use.

To evict a resident for nonpayment of rent, the park owner must notify the resident by certified mail that an eviction case may be started in court unless the resident pays the unpaid rent within 20 days of getting the notice (30 days if the notice is given from September 1 to March 31).

To evict the resident for breaking park rules or for breaking part of the lease agreement, the park owner must first notify the resident by certified mail of the violation. The owner can bring an eviction case in court only if the resident breaks park rules or breaks the lease again within six months.

WARRANTY OF HABITABILITY

When a person offers an apartment or house for rent, he guarantees that it is safe and sanitary. Also that he will make the necessary repairs to keep it safe and sanitary through the lease term. This is called the warranty of habitability.

If there are problems the tenant should try to work it out with the landlord in a fair manner. However, if it can not be worked out, the tenant must take the following steps.

1. The tenant must inform the landlord of the problem and what actions the tenant intends to take if the problem is not fixed. This should be done in writing. It is a good idea to send the notice by certified mail to have proof of the notice. The tenant should keep a copy of the letter.

2. The tenant should give the landlord a reasonable time to fix the problem. What is reasonable depends on the seriousness of the problem. For example, forty-eight hours is probably a reasonable time to provide heat in the winter time.

3. The tenant must be able to show that the repairs were not made. Photographs and witnesses are helpful, a housing code inspection is good if an inspector is available in the area.

If the landlord does not correct the problem within a reasonable time the tenant has several options.

1. He can move without any further duty to pay rent.

2. He can withhold his rent and keep it until the problem is fixed. It is important to keep the money, as the tenant may be required to pay some or all of it once the problem is resolved. If possible, the money should be placed in an escrow account.

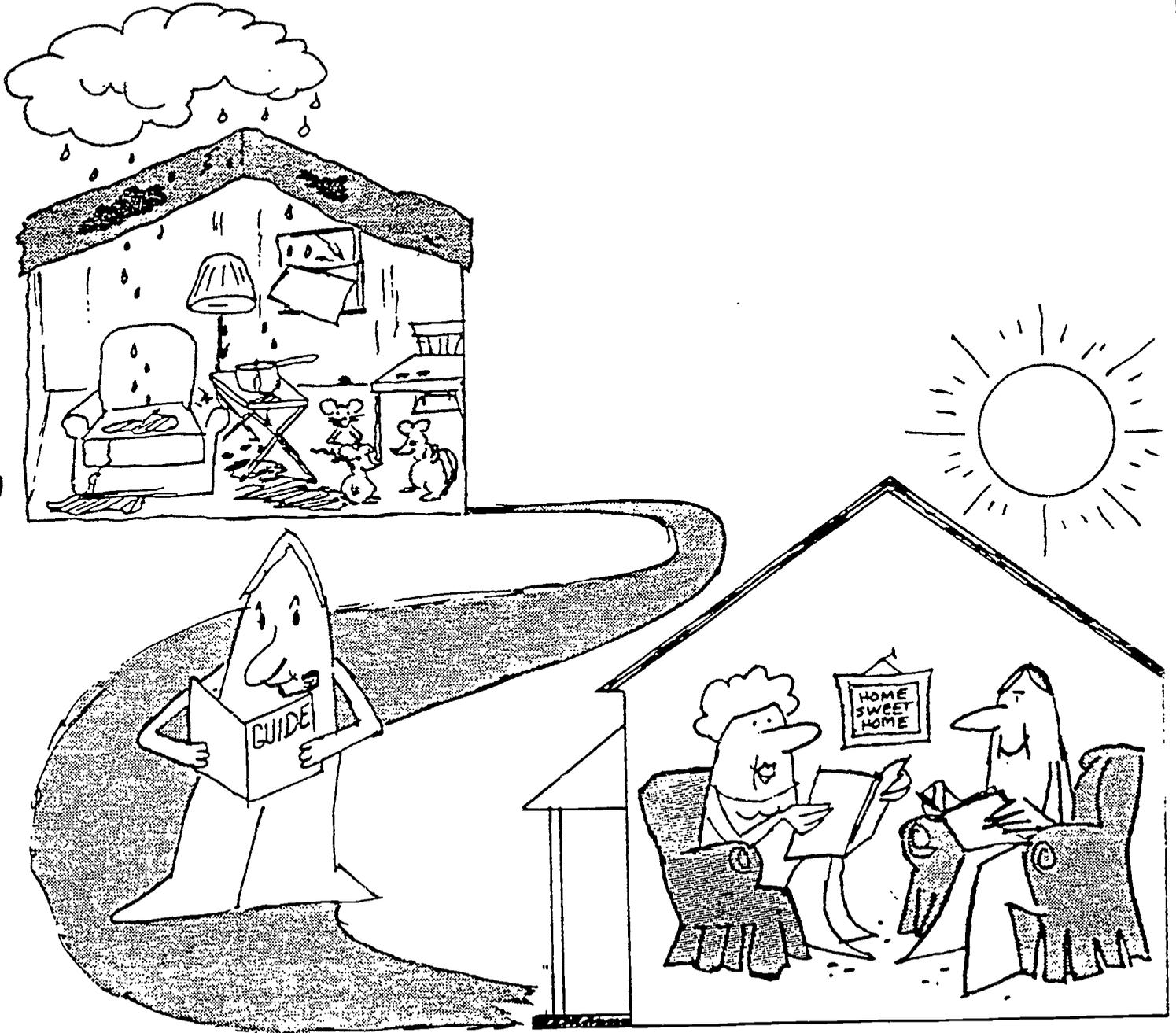
3. He can make the repair and deduct the cost from his rent.

4. He can recover past rent paid by seeking damages in District Justice Court.

5. In some cases he can seek a court order requiring the landlord to do certain things to make the residence safe and sanitary.

Often, if a tenant attempts to deal with the problem in this manner, the landlord will try to evict the tenant. If the tenant has given the landlord notice and kept copies of the notice, the District Justice may agree with the tenant and not give the landlord a judgement for possession. Even if the District Magistrate does give the landlord a money judgement for the amount of rent the landlord has requested.

TENANTS' SELF-HELP GUIDE TO A DECENT HOME



A Public Information Booklet
Published By Legal Services, Inc.
Chambersburg, Pennsylvania

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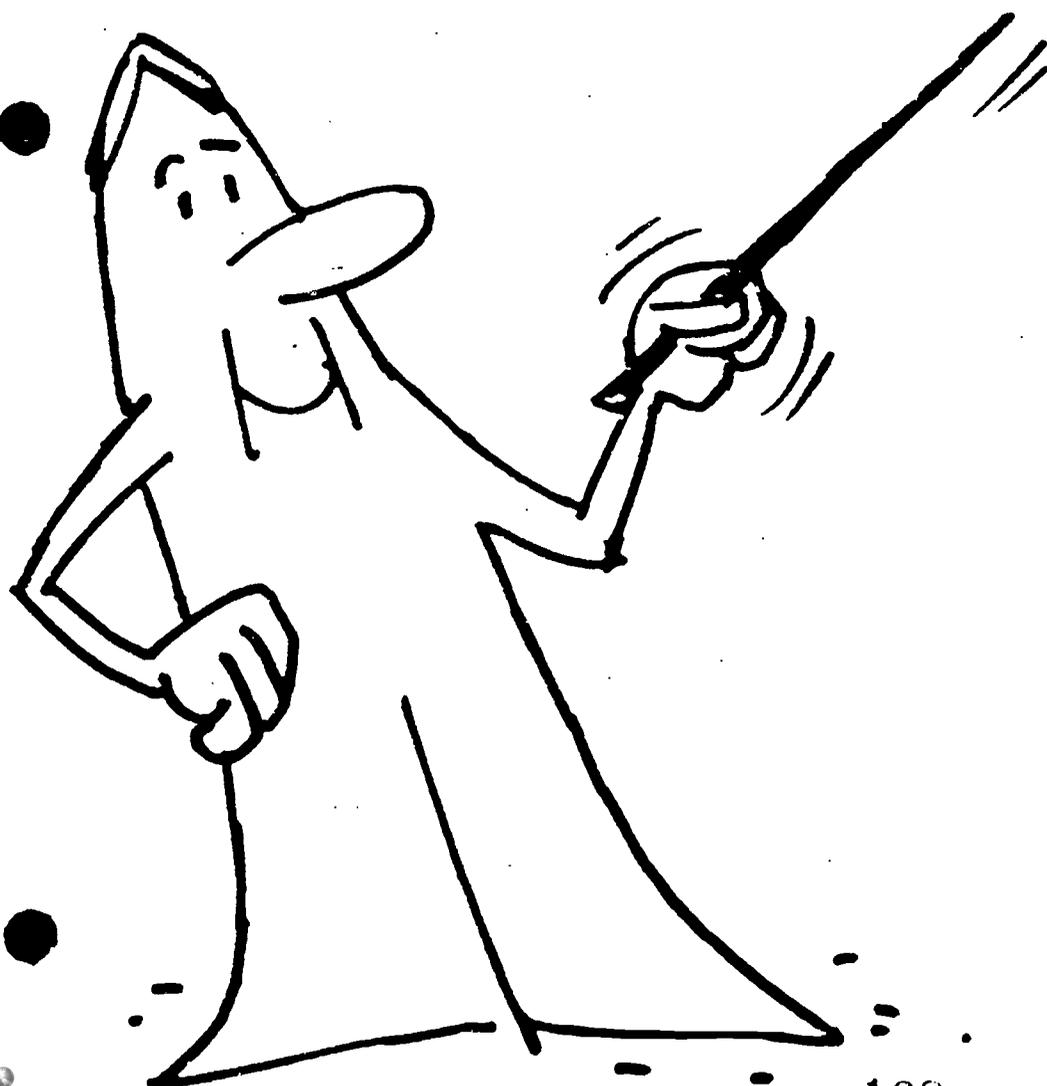
TENANTS' SELF-HELP GUIDE TO A DECENT HOME

Do you live in bad rental housing?
Want to do something about it?

Read this booklet!

Know your rights as a tenant!

Exercise those rights!



ABOUT THIS BOOKLET

This self-help guide is written for you, Pennsylvania tenants. It's intended to inform you of your right to live in a rental home that is safe, sanitary and liveable. It encourages you to protect that right! It gives you a detailed step-by-step explanation of how to exercise your rights on your own.

This guide is not intended to give you specific legal advice about your own specific situation. And it does not address the big problem facing Pennsylvania tenants -- the statewide shortage of decent housing at affordable rents.

The purposes of this booklet are:

- To provide Pennsylvania tenants with basic information about the law that protects their right to a liveable home and how to use that law.
- To help you as a tenant help yourself by using your rights to decent housing and fair treatment.

Now it's up to you! Read on!

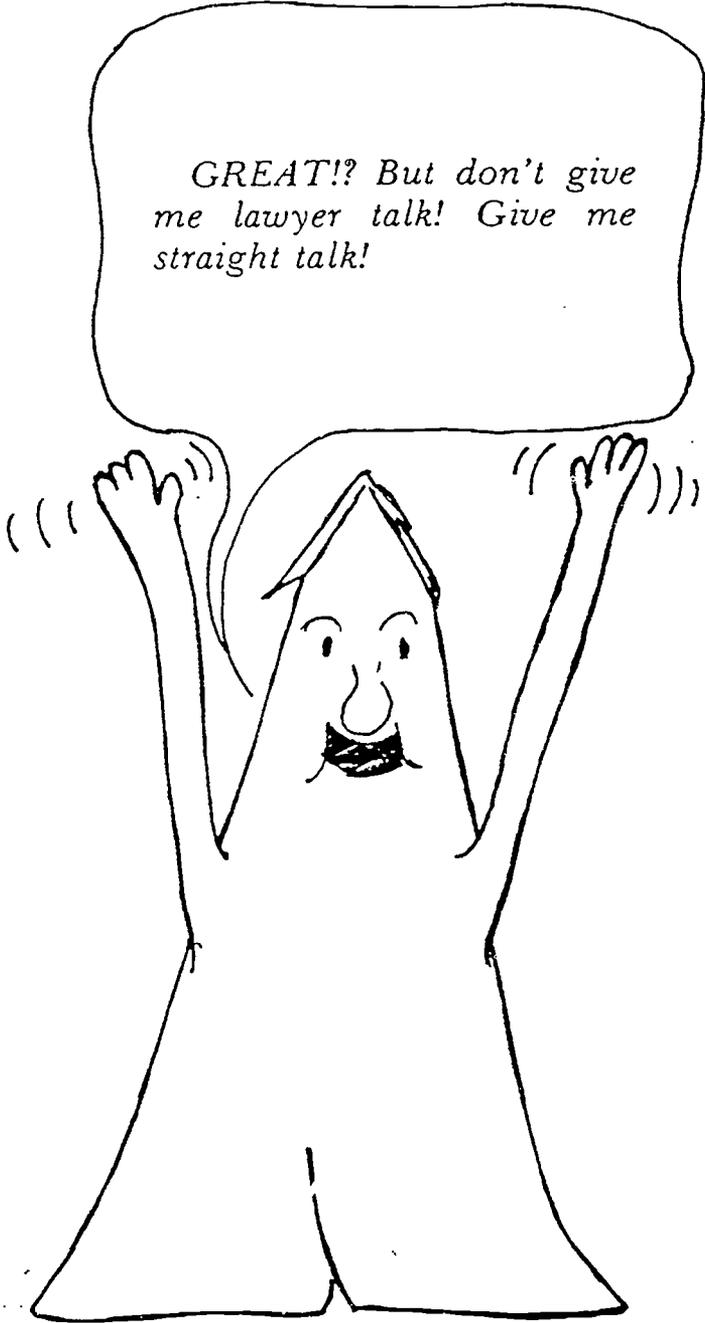


A Law For You

The Pennsylvania Supreme Court has said that you as a tenant have the right to get what you bargained for -- a decent place to live. To protect that right, the Pennsylvania Supreme Court in 1979 adopted a law called the "implied warranty of habitability."



The implied warranty of habitability applies to all residential leases throughout Pennsylvania.



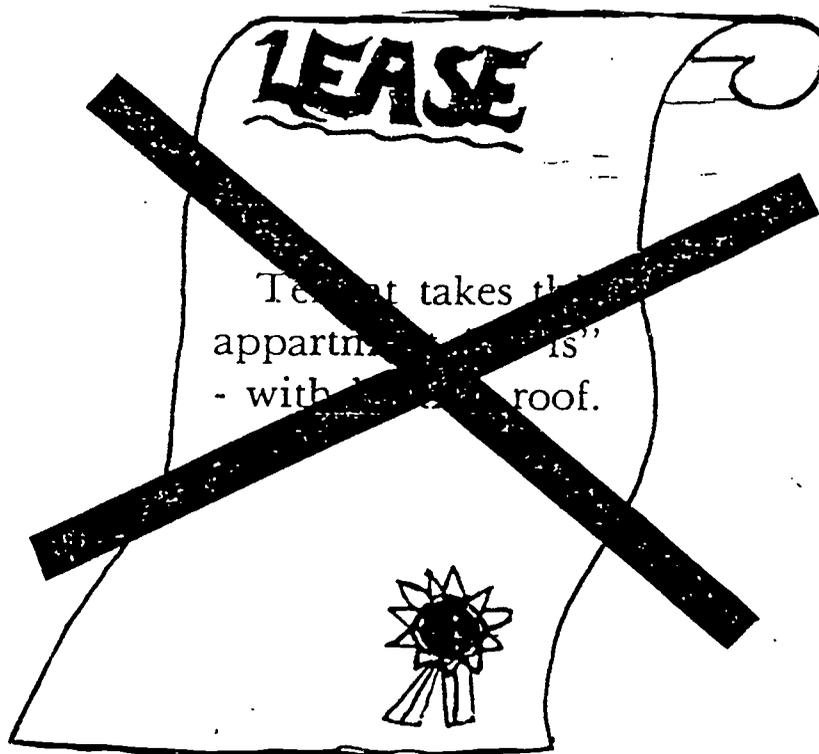
GREAT!? But don't give me lawyer talk! Give me straight talk!

This law means that in every oral or written residential lease in Pennsylvania, there is a promise (warranty) -- whether stated in the lease or not -- that your landlord will provide rental home that is safe, sanitary and healthy! This means that your rental home must be fit for its intended purpose as a place to live. It also means that your landlord must keep it that way throughout your rental period by making necessary repairs.

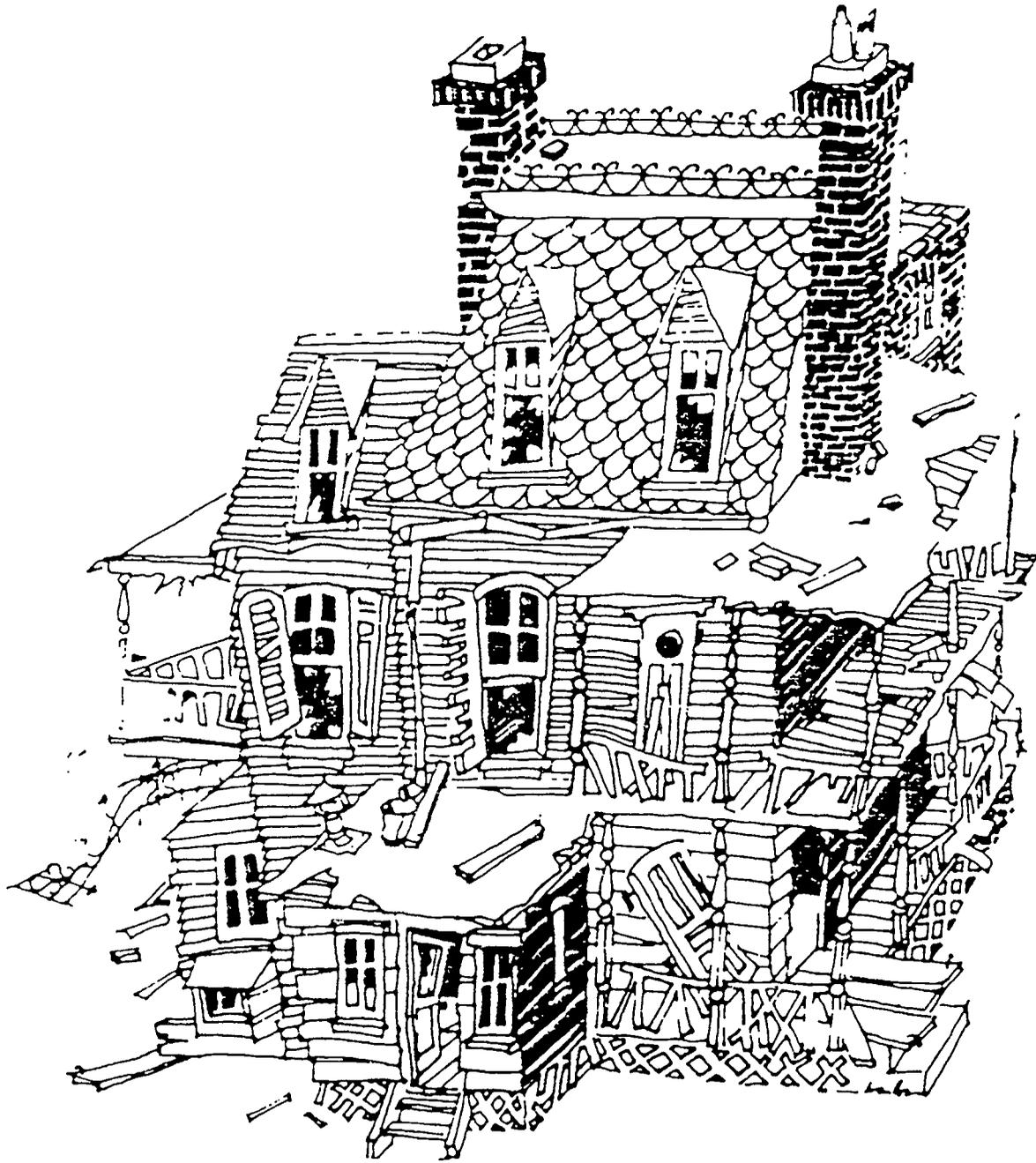


The implied warranty law applies to all residential leases in Pennsylvania -- meaning rental agreements for apartments, houses, mobile homes or other dwelling units used as homes.

This law is in effect whether you have an oral or a written lease agreement. And it applies even if your lease says that you take the home "as is" or that you otherwise waive (give up) your right to a safe and fit place to live. Courts have said that this right is so important that it cannot be given up in the lease even if the lease says you take the rental home as it is.



YOUR RIGHT TO A LIVEABLE HOME CAN'T BE WAIVED IN THE LEASE



What Repairs Must The Landlord Make?

Your landlord must make repairs needed to keep your home in a safe, sanitary and liveable condition. Only serious defects (flaws or problems) are covered under the law. For example, a badly leaking roof, a broken furnace, plumbing that doesn't work, broken floors, dangerous wiring, or lack of water would have to be corrected by your landlord. This is because the law holds your landlord to the guarantee (warranty) that throughout the rental period such basic facilities as these and others actually work and are safe.

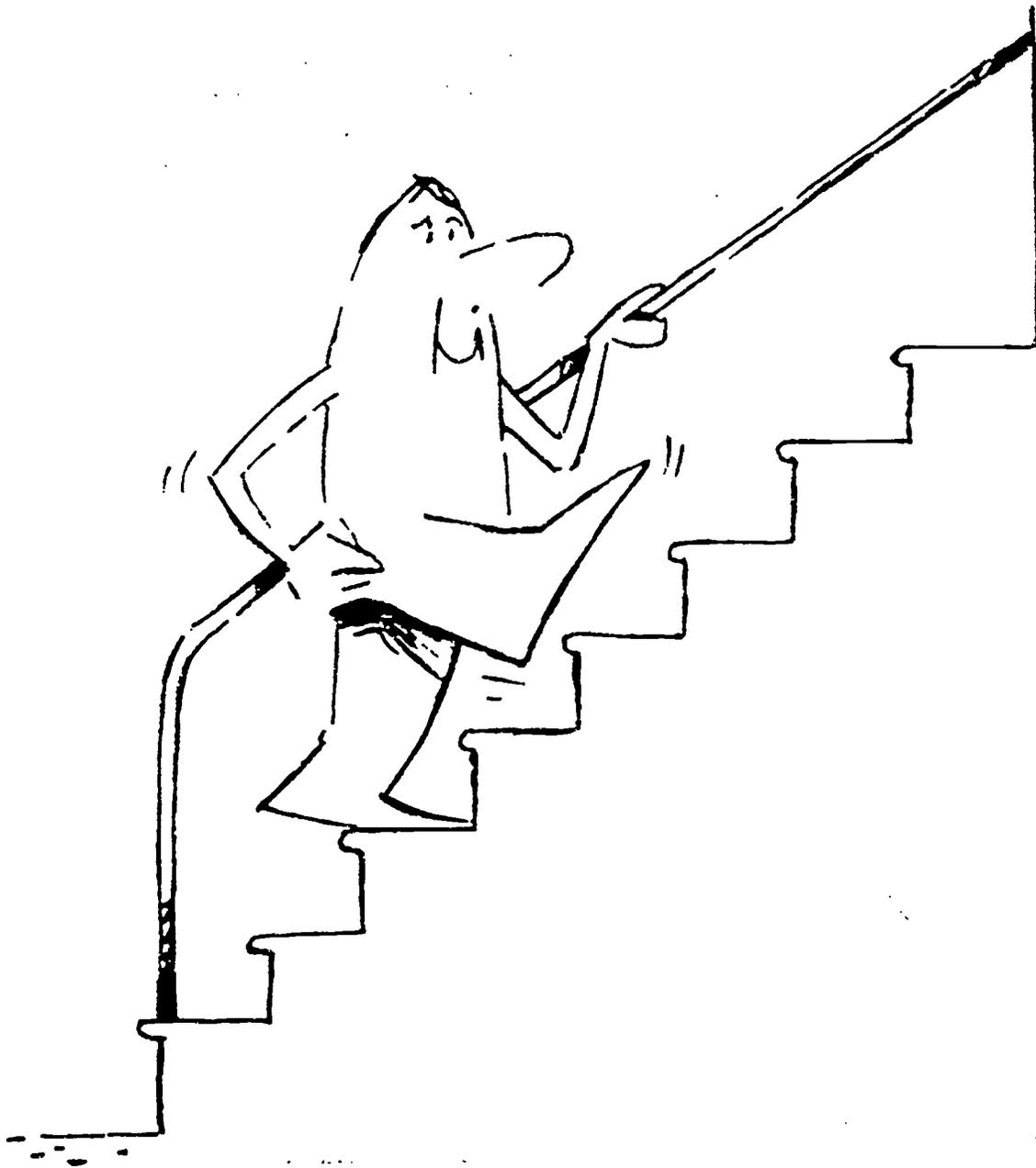
But your landlord is not required to provide you with a perfect dwelling. "Cosmetic" repairs aren't covered by the law. For example, you cannot use this law to beautify your apartment by requiring the landlord to change the color of paint.

Also, the landlord is not required to repair damages caused by the tenant. The tenant must correct or pay for these.

3 EASY BUT IMPORTANT STEPS TO PROTECT YOUR RIGHTS

TO PROTECT YOUR RIGHTS UNDER THE IMPLIED WARRANTY LAW, YOU MUST:

1. NOTIFY YOUR LANDLORD IF A PROBLEM EXISTS.
2. ALLOW YOUR LANDLORD A REASONABLE TIME TO REPAIR.
3. IF THE LANDLORD DOESN'T REPAIR, SHOW THAT HE FAILED TO DO SO



Let's take these steps one at a time.



STEP 1: GIVE YOUR LANDLORD NOTICE

Tell your landlord what the problem is and what you intend to do about it if he does not fix it within a reasonable time.

It's best to notify your landlord in writing. Write a letter telling your landlord about the problem, asking him to make the repairs as soon as possible, and stating what steps you'll take if he doesn't. (A sample checklist to use in inspecting your home for all needed repairs, and a sample notice letter to use as a model in writing your own letter are at the back of this booklet.) Make a copy of your letter. Send the original letter to your landlord by certified mail. Keep your copy plus the receipt you'll get at the post office when you send the letter and the return receipt card you'll get back after the landlord signs for the certified letter.

In emergencies, such as no heat in winter, when you can't take the time to write a letter, speak to the landlord about the problem. Bring a witness along, if possible. Send a follow-up letter to the landlord immediately, reminding him of your conversation and again telling him about the problem and what steps you'll take if he doesn't make repairs within a reasonable time.

STEP 2: ALLOW YOUR LANDLORD A REASONABLE TIME TO REPAIR

The law gives your landlord a "reasonable time" to make the necessary repairs. What is reasonable depends on several things. The most important factors are how serious the problem is (whether it is an emergency) and its effect on the tenant's health and safety.

Emergencies such as lack of heat in winter should be attended to quickly -- for example within 48 or 72 hours, or whatever time is reasonably necessary to prevent danger to the tenant's health and safety.



Non-emergencies such as a broken furnace in summer could be repaired within a longer time -- for example, within 30 days.

But the law does not define what a "reasonable time" for repairs is in all situations. What is a reasonable time in your case will depend on your unique situation.

STEP 3: SHOW THAT YOUR LANDLORD FAILED TO REPAIR

You must be able to prove that your landlord failed to repair within a reasonable time after being told about the problem(s).

(See "How Do I Prove My Case" on page 20.)

WHAT CAN YOU DO IF YOUR LANDLORD FAILS TO MAKE NECESSARY REPAIRS?

You must follow Steps 1 (notice), 2 (allow landlord a reasonable time to repair) and 3 (show landlord didn't repair). Then, depending on your own special situation, you may be able to use any one or more of the following "remedies" (legal steps):

1. **MOVE** without any further duty to pay rent.
2. **WITHHOLD RENT** -- reduce the amount of rent you pay.
3. **REPAIR AND DEDUCT** -- have the defect(s) repaired and deduct the cost from future rental payments.
4. **RECOVER PAST RENT** you paid when your rental home was unfit.
5. **OBTAIN A COURT ORDER** requiring your landlord to repair, if no other step will work in your special case.
6. **RECOVER PAYMENT (DAMAGES) FOR SEVERE EMOTIONAL SUFFERING.**
7. **USE A COMBINATION OF THESE REMEDIES.**



Each of these remedies is discussed on the following pages of this guide.

TENANT REMEDIES:

WHAT YOU CAN DO AFTER STEPS 1, 2 AND 3.

IF . . .

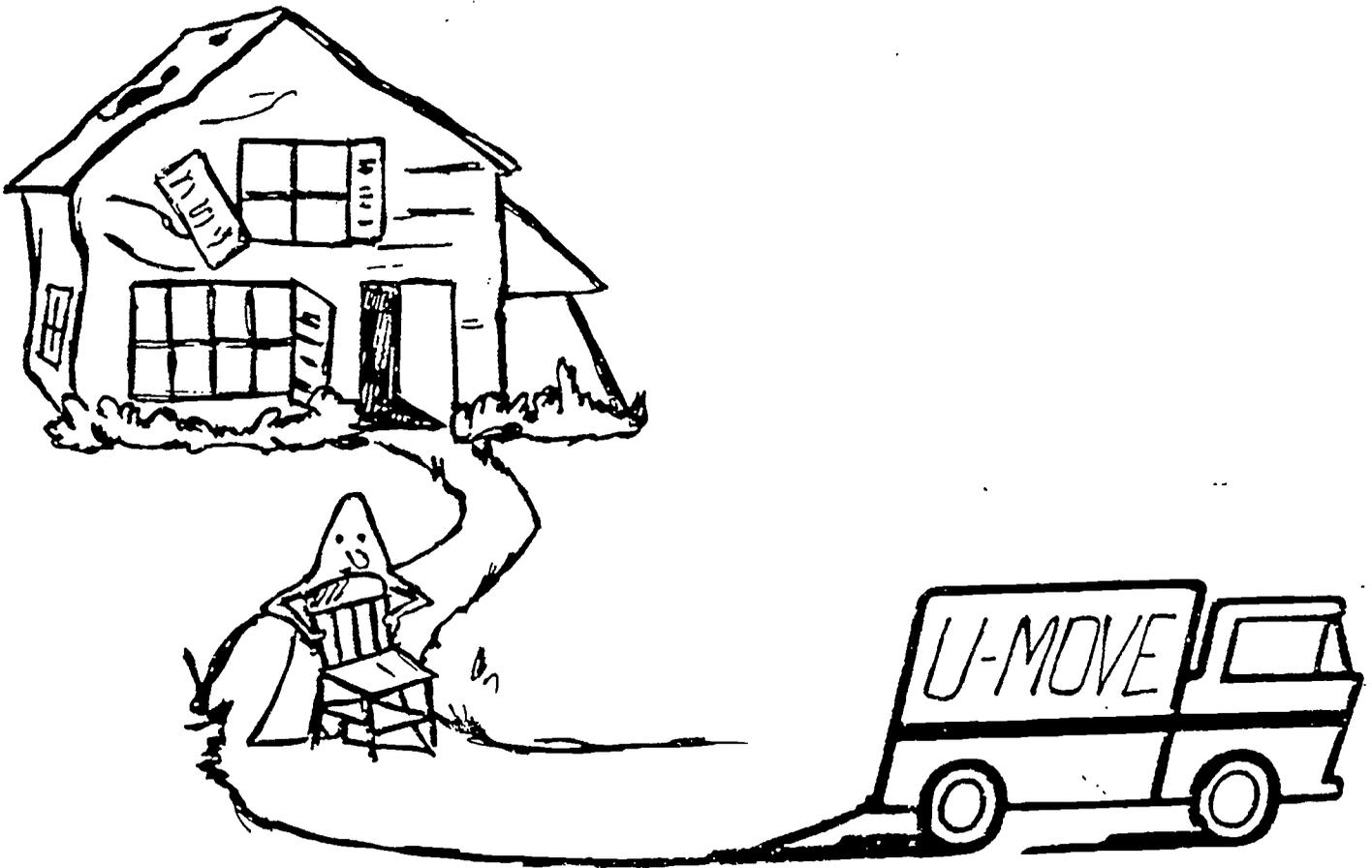
You have notified your landlord of serious defects that make your home unsafe, unhealthy or unliveable . . .

You have allowed your landlord a reasonable time to correct those serious problems and . . .

Your landlord has failed to make the necessary repairs . . .

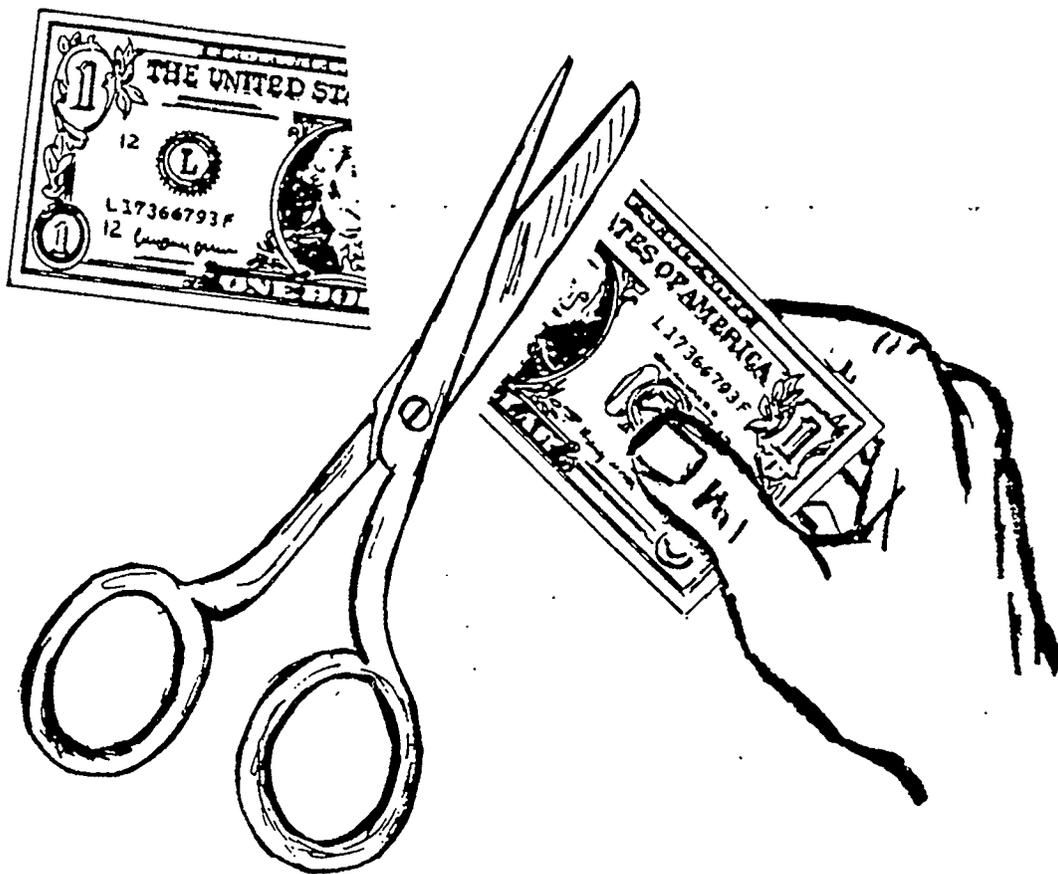
You may be able to choose one or more of the following remedies.

TENANT REMEDY #1: MOVE



If you choose to move out because of bad conditions that make your home unfit to live in, you should again write to your landlord telling him that you have moved or intend to move on a certain date because of the major defects you notified him about before and which he failed to correct.

Once you move out, return the key(s) and give up all rights to use the dwelling, you will no longer have any obligation to pay any future rent.



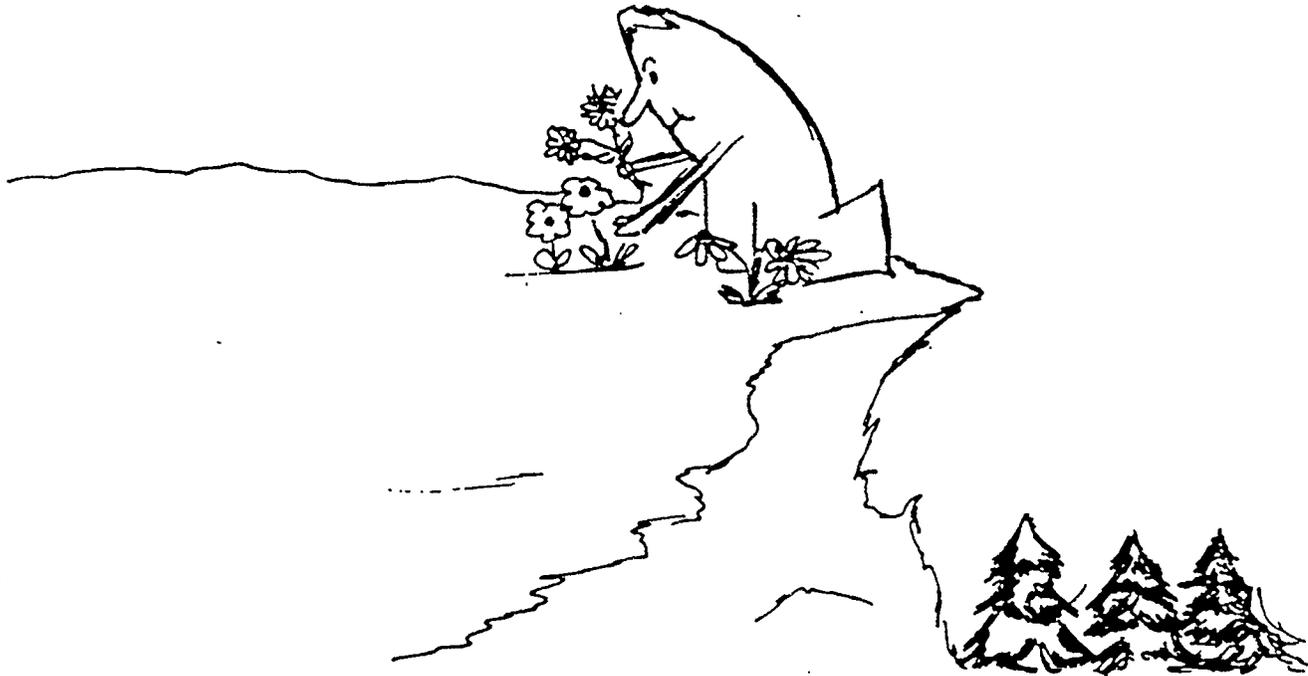
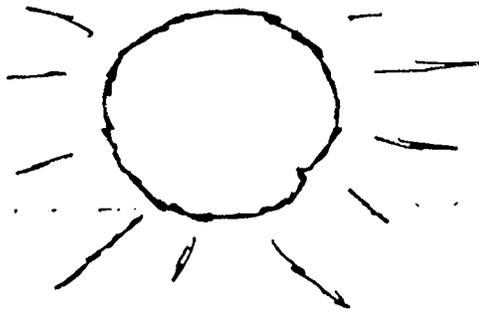
TENANT REMEDY #2: WITHHOLD RENT

You may decide to reduce the amount of rent you pay. How much you reduce your rent by will depend on how serious the defects in your home are and how much they reduce your use of the dwelling as a place to live. For example, if your home is totally uninhabitable (unfit to live in), you may determine that no rent at all should be paid.

On the other hand, if your home is not totally unfit, you may cut your rent by the amount your use and enjoyment of the dwelling has been reduced. This reduction in use can mean that you can't use all the space in your home because of the defects -- for example, you can't use one bedroom because of a large hole in the ceiling. But it can also mean that your use and enjoyment of the entire dwelling is reduced because of the defects -- for example, lack of heat, or dangerous electrical wiring, or any other serious problems that make the dwelling unsafe, unsanitary or otherwise unfit for its purpose as a place to live.

For example, if you believe that your use and enjoyment of your rental home has been cut in half by any serious defects -- for example, because of no heat and water -- you should notify your landlord in writing (see Step 1) that you will withhold 50% of your rent unless he makes the needed repairs within a reasonable time. If he doesn't, you may then deduct 1/2 of the rent from your next rental payment and inform your landlord that you will continue to pay 1/2 of the rent until the repairs are made.

But there are risks. Read on!

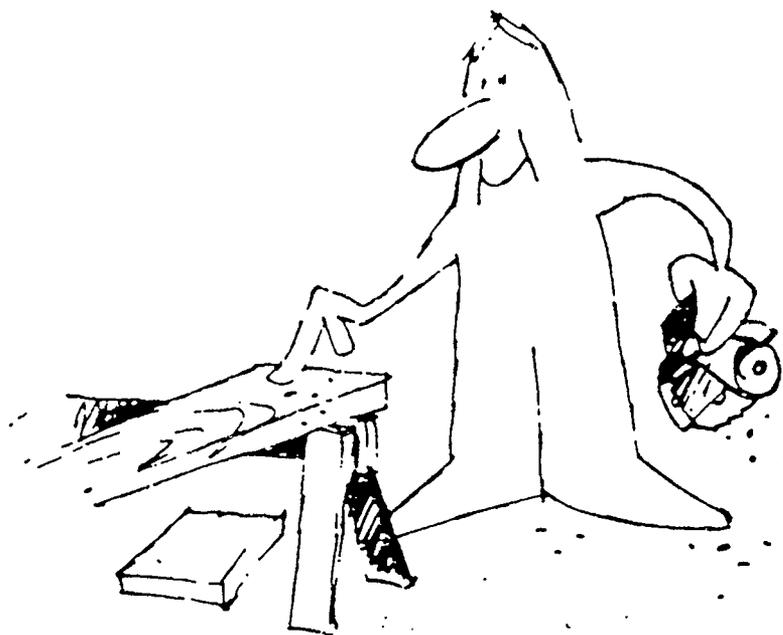


ARE THERE RISKS IN RENT WITHHOLDING?

Yes! If you and your landlord cannot agree about the amount that you have a right to deduct from your rent, then this question may have to be decided in court. This could happen if your landlord sues you to collect the unpaid rent or to evict you for non-payment of rent, or if you sue your landlord to enforce your rights.

If the person who decides the case (a district justice, a panel of arbitrators who are attorneys assigned to hear the case, a judge or a jury) disagrees with you on the correct amount of rent to be deducted, you will have to pay or arrange to pay the amount of rent that is determined that you owe to your landlord. For example, if your landlord sued to evict you for non-payment of 2 month's rent, and it's determined that you were entitled to withhold only 1 month's rent, you can be evicted if you don't pay or arrange to pay the extra month's rent.

TO AVOID THIS RISK, you should set aside any amount of rent you withhold. It's best to deposit it in a separate savings account. That way you'll have it ready in case a court decides later that you owe it, or a part of it, so you can pay it and avoid being evicted.



TENANT REMEDY #3: REPAIR AND DEDUCT

If your landlord fails to correct serious problems within a reasonable time after you notify him about them and tell him what repairs you will make if he doesn't do it (see Step 1), you may have the repairs made yourself and deduct the repair costs from your next rent.

REMEMBER these important points about the repair and deduct remedy:

1. The repairs must be **necessary** to make your rental home safe and liveable.

For example, you can deduct the costs of replacing a broken window, exterminating rodents or roaches, or repairing an outside door lock. But you may not deduct from your rent the cost of purely cosmetic repairs such as putting in wall-to-wall carpeting.

If after you repair and deduct, a court decides the repairs you made were not needed, you would have to pay the amount you previously deducted from your rent for repairs.

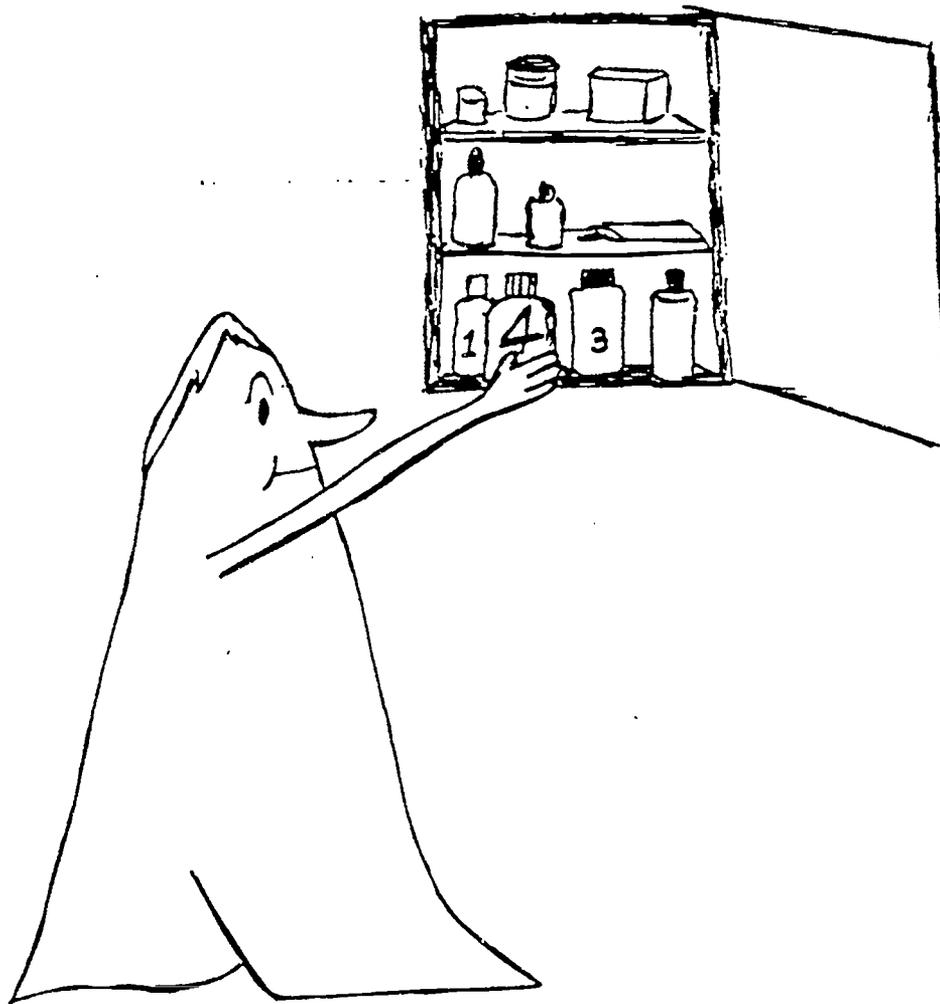
2. The repairs must be **reasonably priced**. You should get at least 2 written estimates, if possible, from qualified repairmen. It is best not to get estimates from friends or relatives. Having the repairs done by reputable businessmen will help prove that you acted fairly.

Choose the most reasonable estimate. If a court later decides that the cost of the repairs was unreasonably high, you will have to pay the difference between the reasonable cost and the higher price you paid for the repairs.

3. The cost of repairs cannot be greater than your rent.

For example, if you rent under a month-to-month lease and your rent is \$300 a month, you cannot deduct more than \$300 as the cost of repairs in any one month.

4. Once the repairs have been made, get a **signed receipt** for the costs from the repairman. When your next rent is due, give the receipt to the landlord and pay the difference between your rent and the cost of the repairs. Keep a copy of the receipt for your records.



TENANT REMEDY #4: RECOVER PAST RENT PAID

If you have been paying rent even though your home is in an unsafe, unsanitary or unliveable condition, you may be able to have some or all of the past rent you paid returned. Again, you must first notify your landlord of the problems and allow him a reasonable time to fix them.

The amount of rent that should be returned to you will depend on several things, mainly the seriousness of the defect, its effect on your health or safety, and how long it has existed. For example, if the defect(s) caused you to lose all use and enjoyment of your home for 2 months, you would be entitled to get back 2 months' rent.

As another example, if your rent is \$300 a month and the defects made you to lose 1/3 of the use and enjoyment of your home for the past 4 months, during which time you paid your rent in full, you would be entitled to recover 1/3 of the past 4 months' rent. (\$300 per month rent x 4 months = \$1200 ÷ 3 = \$400 returned to you.)

If your landlord refuses to return the excess rent you paid, you may sue him by filing a lawsuit yourself with a District Justice (formerly called a Justice of the Peace) or Municipal Court, or you can contact a private attorney or legal services and sue in a higher court called the Court of Common Pleas.



TENANT REMEDY #5: OBTAIN A COURT ORDER FOR REPAIRS

In certain special situations, when no other remedy would work in your unique case and you've followed **STEPS 1, 2 and 3**, you may request a court to order the landlord to make the necessary repairs.

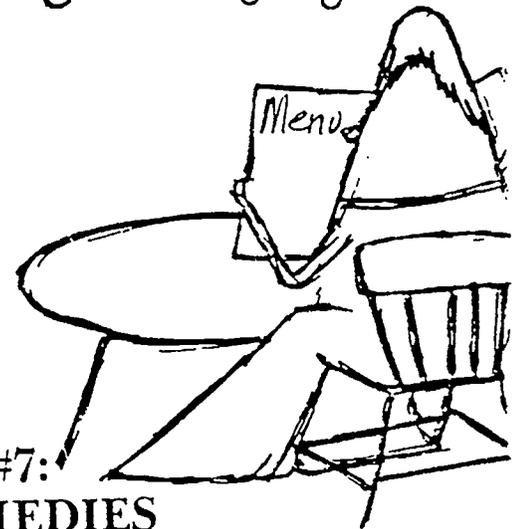
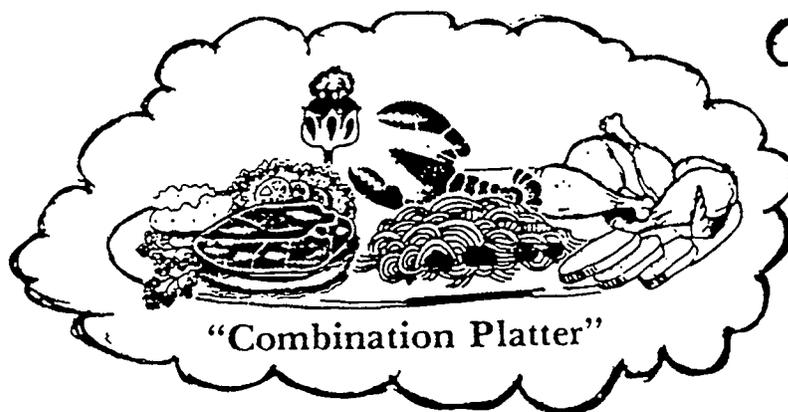
For example, it's winter. Your furnace breaks down. It would cost \$750 to fix it. Your monthly rent is \$250. You can't move because you can't find another place. You can't make the repairs and deduct the cost from your rent because the repairs cost more than your monthly rent. (See **Tenant Remedy #3**) You can't afford to wait to withhold your rent and hope your landlord repairs because it's 10 degrees below zero, and you and your kids are freezing. You should contact a private attorney or a legal services' attorney immediately to request a court order for repairs.

This is known as asking for "specific performance" --requiring your landlord to perform his obligation under your rental agreement to make repairs. But remember, this remedy is available only in rare cases -- usually, when no other remedy is satisfactory.

TENANT REMEDY #6: COMPENSATION FOR SEVERE EMOTIONAL SUFFERING

If you can prove that your landlord, by failing to make repairs of very serious defects that create a danger to your health or safety, has intentionally or recklessly caused you or your family to suffer severe emotional suffering, you may be able to recover money damages from your landlord to pay for this severe emotional distress. The landlord's conduct in failing to repair, usually over a long period of time, despite notice from you of the defects, must be "extreme and outrageous." Your landlord must have intentionally or recklessly caused you serious emotional distress. And the emotional suffering you experience must be severe.

You should know that this remedy is fairly new and the extent to which it is available has not yet been fully decided by Pennsylvania courts. It would be best to contact an attorney if you wish to bring such a lawsuit for severe emotional distress.

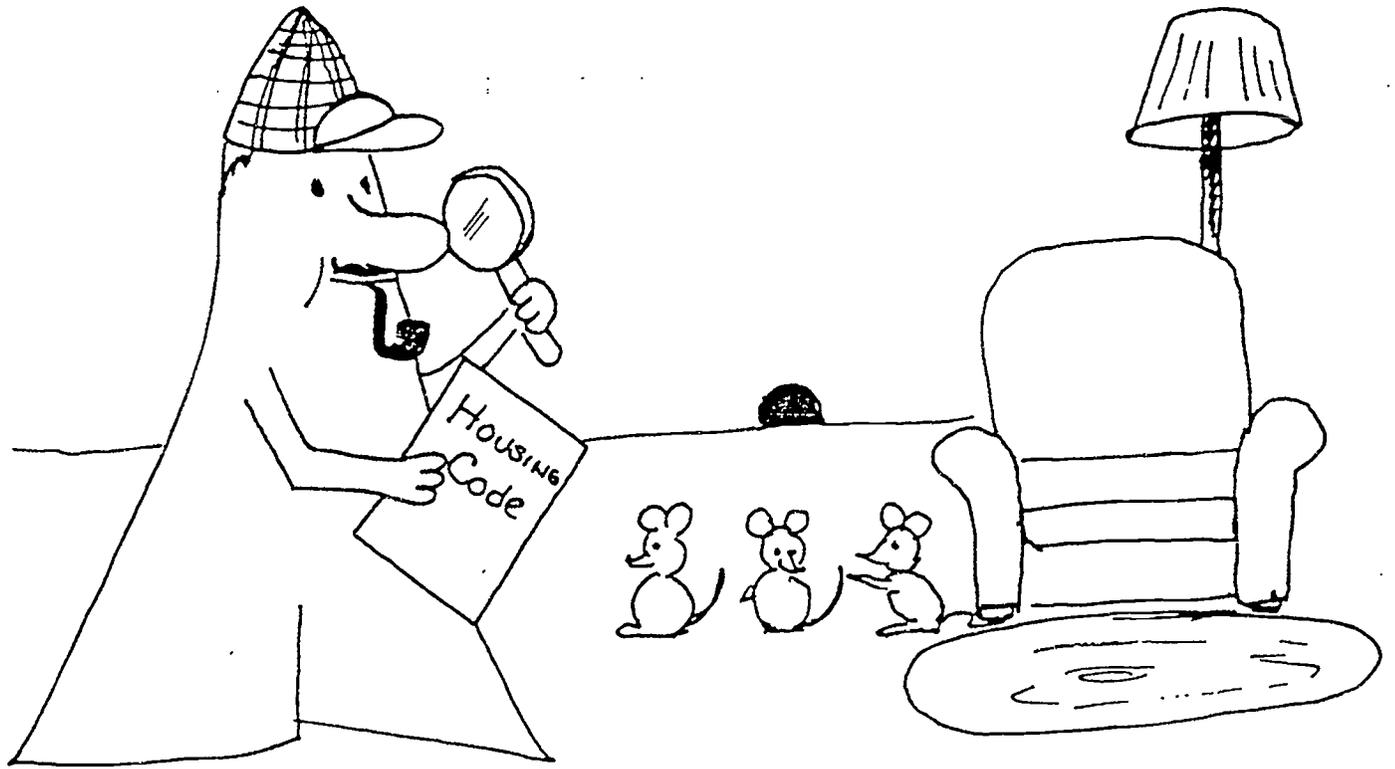


TENANT REMEDY #7: COMBINATION OF REMEDIES

You may choose a combination of remedies. Any one of the previous remedies, by itself, may not be totally suitable for you. Your situation may enable you to use a combination of different remedies.

Suppose, for example, that for the past 2 months you have paid the full rent but have been without hot water. You have told the landlord about it, but he has not made the repairs in a reasonable length of time. In the meantime you have found another place to live and plan to move next month. What can you do? You may choose to:

- 1) request that a part of the past 2 months' rent be returned to you;
- 2) reduce part of this month's rent; and
- 3) move out next month without being responsible for future rent to your present landlord.



WHAT ABOUT HOUSING CODES? HOW DO THEY FIT IN WITH THE IMPLIED WARRANTY LAW?

Some cities, towns, and boroughs have adopted housing codes. These local laws are meant to help you by providing for your safety and protection. They contain rules for adequate light, air, heat, water, ventilation, space for occupants, and safety from fire.

The dwelling you rent should meet the requirements of your local housing code, if there is one in your area. Find out if there is a code by calling your local borough or municipal offices. If there is a housing code in force in your area and you live in poor housing, call your local housing inspector and ask for an inspection of your rental home.

If the housing inspector finds that the defective conditions in your dwelling violate the local housing code, he may order your landlord to make repairs and may fine the landlord if he fails to do so. In other cases, the housing inspector may have the power to make the repairs and charge the landlord for the costs.

REMEMBER: It is NOT necessary to prove that the defective conditions in your rental home violate a local housing code in order to prove that your landlord broke the implied warranty of habitability law (the law we have been talking about), or to use any of the tenant remedies discussed in this booklet. But the existence of housing code violations is evidence of poor housing conditions. So an inspection report of a local housing code official or the testimony of the housing inspector himself will help, but is not necessary, to prove your case.

WHAT ABOUT PENNSYLVANIA'S RENT WITHHOLDING LAW?

HOW DOES IT FIT IN WITH THE IMPLIED WARRANTY LAW?

You can use the Rent Withholding Law, or you can use one or more of the tenant remedies already discussed in this guide. (In certain situations you may be able to use both.)

The Rent Withholding Law applies only in large cities in Pennsylvania. Contact your city or municipal offices or an attorney to find out if it applies where you live. This is how it works.

1. The tenant may contact the appropriate city or county office (the Department of Licenses and Inspections, Department of Public Safety, or Public Health Department, depending on where the tenant lives) and arrange for a housing inspection.

2. If the inspector certifies that the rental dwelling is "unfit for human habitation" (not fit to live in), the tenant can stop paying rent to the landlord but must instead deposit the rent in a separate account (called an "escrow account") at a bank approved by the city or county.

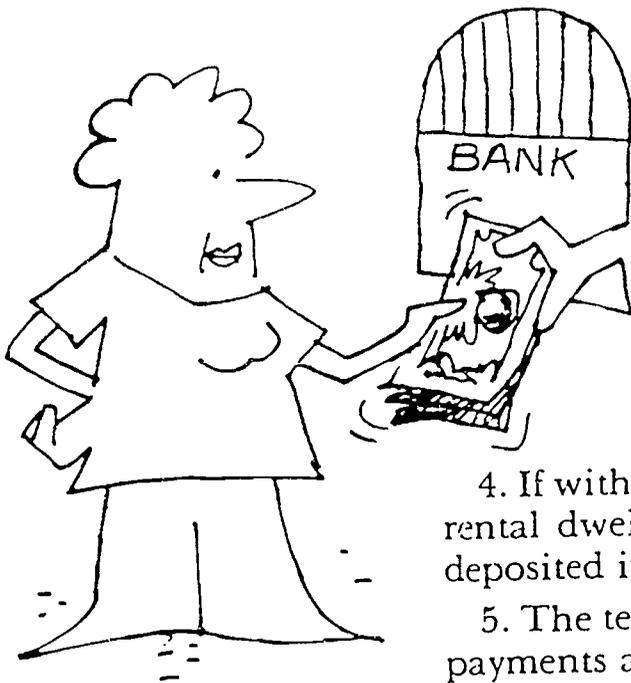
3. If the landlord fails to make repairs within 6 months, the tenant gets the rent money paid into escrow -- except that this money may be used to make repairs and pay any utility bills the landlord is supposed to pay but doesn't.

4. If within 6 months the landlord does make repairs and the rental dwelling is certified as fit to live in, the rent money deposited in escrow is paid to the landlord.

5. The tenant can't be evicted for any reason -- provided rent payments are deposited in escrow.

REMEMBER: The remedies provided under the Rent Withholding Law are separate from the remedies under the implied warranty of habitability law we've discussed. If you live in a city where the Rent Withholding Law applies, you can use its remedies or those explained in this booklet.

REMINDER: If you are withholding all or part of your rent money under the implied warranty law (see **Tenant Remedy #2**), you should put that money in a separate bank account. Then you will have it so you can pay it and avoid being evicted if a court decides later that you owe it.



Steps 1 + 2 + 3 = Answer



HOW DO I PROVE MY CASE?

Try to work out the problems with your landlord. If this doesn't work, follow Steps 1 (notice), 2 (allow landlord a reasonable time to fix), and 3 (show landlord failed to repair).

If you must still go to court, you can help prove your case by:

1. Obtaining a housing code inspection report showing violations of the local housing code, if there is one in your area, and having the housing inspector testify in court.

2. Explaining (testifying) to the person who decides your case:

What the serious defects in your rental home are;

How they affect the safety and health of you and your family;

That you notified your landlord of them (have copies of letters you sent and, for certified letters, the sender's receipt and the return card your landlord signed);

That you allowed the landlord a reasonable time and opportunity to repair; and

That the landlord didn't make necessary repairs, or the repairs made weren't adequate.

3. Taking pictures of the defective conditions in your home, writing on the back of each picture what it shows and the date it was taken, and bringing the photographs with you to court.

4. Bringing to the hearing written estimates that you got from reputable repairmen for the cost of repairs.

5. Asking members of any local housing groups or social service agencies who have seen the defective conditions in your home to testify.

6. Having friends, neighbors, or relatives who have visited your rental home and have seen its condition testify.

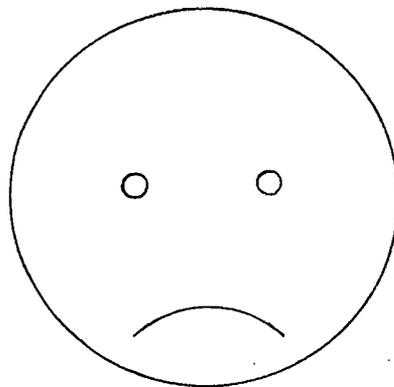
WHY EXERCISE YOUR RIGHT TO A DECENT RENTAL HOME?

To improve the housing you and your family live in each day!

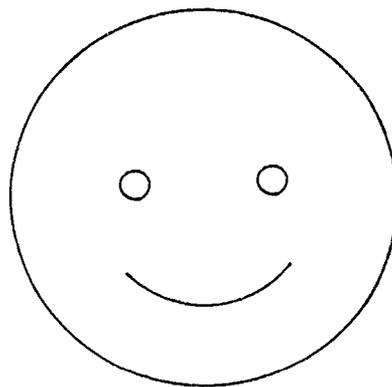
To receive the fair treatment you deserve as a tenant!

To encourage landlords throughout Pennsylvania to keep up their residential housing so that you, they, and everyone benefits.

BAD HOUSING AFFECTS EVERYBODY!



SO DOES GOOD HOUSING!!



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APPENDIX 1

Sample Checklist

Before notifying your landlord of the problem(s), it's a good idea to inspect every part of your house to decide all the repairs that are needed to make your home fit. Here is a checklist to help you in inspecting your home and listing defects.

Directions:

1. Put a check (✓) or a short word describing the problem in the appropriate box on the checklist for every defect in your home.
2. Review the checklist before writing your notice letter so you'll be sure to list all needed repairs in the letter.
3. You may also want to review the checklist to help you decide how much rent to withhold (how much your use and enjoyment of your home has been cut), if you decide to use the rent withholding remedy. (See **Tenant Remedy #2.**)

	BATHROOM	KITCHEN	LIVING ROOM	BEDROOM 1	BEDROOM 2	BEDROOM 3	DINING ROOM	OTHER ROOMS (Identify them)	COMMON AREAS (Such as hallways or stairs that you and others use.)
DEFECTS:									
DOOR									
CEILING									
FLOOR									
WINDOWS									
ELECTRICAL OUTLETS									
OUTLETS									
LIGHT FIXTURES									
HEATING VENTS									
BASEBOARD HEATER									
STOVE									
REFRIGERATOR									
FAUCET LEAKS									
STAIRS									
LIGHTING									
LOCKS									
FURNACE									
THERMOSTAT									
ELECTRICAL WIRING									
PEST INFESTATION									
NO HEAT									
NO HOT WATER									
NO WATER AT ALL									
PLASTER									
FLOOR TILE									
BATHTUB									
TOILET									
SINK									
PIPES									
WALLS									

APPENDIX 2

Sample Notice Letter

To help you write your own letter, here's a sample letter telling the landlord what the problems are and what the tenant will do if the landlord doesn't correct them.

Date _____

Dear (landlord's name),

I am your tenant at (tenant's address), Pennsylvania. I am writing to notify you of repairs that are needed in my home. The specific problems which must be repaired include: [Fill in your own problems below. The following are only examples.]

1. No hot water,
2. Leak in living room ceiling.
3. No heat
4. Broken lock on front door.
5. (List others.)

These conditions are serious and make my home unfit.

I would appreciate it if you would make these repairs as soon as possible. If these conditions are not corrected within a reasonable time, I intend to exercise my legal rights, including (Here tell the landlord which of the steps described in this booklet you'll take, such as moving out, reducing the rent you pay, or repairing yourself and deducting the cost of repairs from your rent.)

Sincerely yours,
(Your Signature)

YOUR NOTES

This space is for you. You may want to use it to keep track of what happens and when in your case.

PUBLIC HOUSING

TYPES OF PUBLIC HOUSING

I. Section 8 Certificates or Vouchers

A. System of assistance payments.

1. Existing Housing

a. HUD pays the agency or private owner the difference between the family contribution and the approved contract rent for the unit.

b. The family must find an approvable unit.

c. The rent must fit within the applicable rent limits.

d. Once the unit and rent have been approved, the tenant and landlord execute a lease and the PHA and landlord enter into a housing assistance payments contract.

e. The initial term of the contract is five years, but it may be extended.

2. New Construction

a. Funds are available for private owners to construct housing units.

b. Developers submit proposals for new housing construction.

c. The Developer receives the difference between the family contribution and the approved rent contract.

B. Provided to public housing agency owners, private owners or state or local agencies.

C. HUD specifies the number of units which it can make available for the allocation area.

D. Admissions procedure is similar to the public housing policies.

E. Section 8 certificate tenants must be provided with a 90 day notice of termination of the Housing Assistance Payments contract.

Section 8 landlords may evict for a valid business reason proffered in good faith.

II. Public Housing - Most widely used federal housing program and almost all new construction.

A. Public housing is owned and operated by a local public housing authority, created pursuant to state enabling legislation.

1. HUD is ultimately responsible for the operation of public housing units.

2. Tenants are required to pay 30 per cent of the family's monthly adjusted income. Adjusted income is the income which remains after exclusions.

Exclusions:

1. \$550 for each member of the family residing in the household (other than the head of the household or his spouse) who is eighteen years of age or who is 18 years of age or older and is disable or handicapped or a full-time student.

2. \$400 for any elderly family

3. medical expenses

4. child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education; or excessive travel expenses, not to exceed \$25 per family per week, for employment or education related travel, except that this clause shall apply only to families assisted by Indian housing authorities.

5. 10 percent of the earned income of the family

6. any payment made by a member of the

family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household.

The total tenant payment includes utilities and other essential housing services when they are furnished by the PHA. If utilities are not supplied by the PHA, and they are not included in the rent amount, the tenant rent equals the amount calculated under the regulations minus the PHA utility allowance.

Lump sum payments:

HUD has issued a series of memoranda limiting the manner in which lump sum payments can be included in income. Any portion of the lump sum that is attributed to a period of time when the tenant was not living in public or subsidized housing should not be included in income. Attorney fees paid to secure the lump sum payment are excluded from the lump sum. With the Section 8 project-based subsidy program, the entire lump sum payment is excluded from income, unless, prior to receiving the lump sum, the tenant had secured an interim recertification of income and rent reduction. HUD has also made it clear that PHAs are allowed to make the calculations prospectively or retroactively.

B. Admission is based upon the federal preference list.

1. Each PHA is required to provide not less than 70 percent of the units available annually to:

a. families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families) - Substandard housing is defined as housing that is dilapidated, does not have operable indoor plumbing, does not have a usable flush toilet, bathtub, or shower inside the unit for the exclusive use of a family, does not have safe and adequate electrical service or heat source, does not have a kitchen, or has been declared unfit for habitation. A housing unit is dilapidated if it does not

provide safe and adequate shelter and, in its present condition, endangers the health, safety, or well-being of the family or has one or more critical defects or needs considerable repair.

Homeless: A family that occupies substandard housing or that lacks, fixed, regular, or adequate night residence and has a primary night residence that is (1) a shelter; (2) a temporary residence for individuals intended to be institutionalized; or (3) not designed for regular sleeping accommodations for human beings.

b. are paying more than 50 percent of family income for rent,

c. involuntarily displaced at the time they are seeking assistance - an individual is involuntarily displaced if the following circumstances exist: (1) a disaster such as a fire or a flood that results in the uninhabitability of the unit; (2) government action such as eminent domain or code enforcement; (3) action taken by a housing owner, other than a rent increase, that causes the applicant to vacate the unit, if the owner's action is beyond the applicant's ability to prevent and the applicant has complied with the lease terms; or (4) as a result of actual or threatened physical violence directed against the applicant or a member of the applicant's family by a spouse or other household member. An applicant living with an individual who engages in violence also qualifies for the preference. The actual or threatened violence must have occurred recently or be of a continuing nature.

d. A family evicted from subsidized housing due to drug-related activity cannot receive a preference for three years, unless the evicted tenant successfully completes a rehabilitation program approved by the PHA.

2. The remaining 30 percent of the units must be made available in accordance with a system of preferences established by the public housing

agency in writing and after public hearing to respond to local housing needs and priorities, which may include:

a. Very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act.

b. Participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities.

c. Families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family.

d. Assisting youth, upon discharge from foster care, in case in which return to the family or extended family or adoption is not available.

C. Definition of Family:

1. a person who is at least sixty-two years of age, is under a disability

2. a displaced person - displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a formally recognized disaster.

3. the remaining member of a tenant family

4. any other single persons - The HUD field office director must authorize the admission of single persons pursuant to 24 C.F.R. section 912.3.

D. Each public housing authority has some discretion in tenant selection, but all policies and procedures must be reasonably related to the purpose of the National Housing Act.

1. Admission policies must be publicized and furnished to applicants.
2. The PHA is not permitted to discriminate in the selection and placement of tenants.
3. There is no minimum age limit under the federal regulations. However, the public housing occupancy handbook allows a PHA to establish a minimum age to avoid unenforceable contracts.

E. Eviction

1. 24 C.F.R Section 966.4 (1) (1) provides "that the PHA shall not terminate or refuse to renew the lease other than for serious or repeated violation of material terms of the lease such as failure to make payments due under the lease or to fulfill the tenant obligations set forth in Section 944.4(f) or for other good cause.

a. the PHA must give the tenant a 14 day notice of intent to evict. The notice of proposed lease termination must inform the tenant of

(1) the specific grounds for termination; (2) the right to reply; (3) the right to examine relevant PHA documents; and (4) the right to request a hearing in accordance with the PHA's grievance procedure when the PHA is required to afford the tenant an opportunity for a grievance hearing.

b. the tenant must also be given notice in compliance with state law.

2. Each PHA must maintain a grievance procedure. A tenant may grieve any eviction, sanction or problem. Each eviction notice must inform the tenant of his/her right to a grievance hearing and the time limits imposed upon requesting a hearing. A tenant who has a complaint must first present the grievance to the project manager and discuss the grievance informally. The manager must then prepare a summary of the discussion and give a copy to the tenant. If the tenant is dissatisfied with the attempted resolution, he or she must submit a written request for a hearing within a reasonable time after receipt of the summary of

the informal settlement conference. The written request must state the reasons for the grievance and the action requested or relief sought.

A hearing officer is selected jointly by the PHA and the tenant. If the parties cannot agree on a hearing officer, each party selects a panel member, and the two panelists select a third member.

3. Notice of eviction must be hand delivered to the tenant and the tenant must sign a document stating that the notice was received.

4. The notice must state the reason for the eviction.

5. A tenant is not being evicted for nonpayment of rent is entitled to at two warnings prior to eviction. The tenant must be given the opportunity to cure the lease violation. The PHA must issue the warnings in writing to the tenant and hand it to the tenant.

III. Farmers Home Administration multi-family housing loan and grant program.

A. Statutory basis is Section 515 of the National Housing Act of 1949.

1. The Secretary of Agriculture is authorized to make loans to private nonprofit corporations and consumer cooperatives and Indian tribes to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income or other persons and families of low income in rural areas.

2. Loans may be made for a period of up to fifty years.

3. Several subsidies are available to the tenants, including Section 8.

B. Evictions

1. The Borrower or project manager may terminate or refuse to renew any tenancy only for material noncompliance with the lease or other good cause.

2. Notice is to be given in accordance with State or local law and

(a) must refer to relevant provisions in the lease

(b) Set a specific date for termination of the lease.

(c) The FmHA regulations have provisions for a grievance procedure, however, nonpayment of rent was previously exclude. However, a Georgia district court invalidated the FmHA regulation excluding evictions from the grievance procedure.

C. Prepayments: The most significant problem for tenants of FmHA housing is the prepayment of the mortgage. The purchaser would evict the tenant and solicit other tenants who could afford to pay without subsidies.

In the Housing and community Development Act of 1987, Congress restricted the right of owners of FmHA rental projects financed prior to December 21, 1979, to prepay their loans. On April 22, 1988, FmHA adopted interim regulations which would implement the Act.

In section 206 of the HUD Reform Act of 1989, Congress placed 50-year use restrictions on all FmHA rural rental projects approved after December 15, 1989.

D. Moratorium Relief

In a case of first impression, a district court invalidated the FmHA regulation that denied moratorium relief to single-family Section 502 and Section 504 borrowers after their homes loans had been accelerated.I.

COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS)

CHAS is a five-year action-oriented plan developed at the local level to serve as a working guide for the community's use of federal and other housing resources. CHAS is intended to replace other housing plans presently required by federal law.

HOME INVESTMENT PARTNERSHIP PROGRAM (HOME)

A block grant program primarily for rehabilitation of units, but also for construction or acquisition of units or subsidies.

HOME OWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE)

Title IV of the Cranston-Gonzalez National Affordable Housing Act includes a number of programs to facilitate the sale of public, HUD-owned or -insured housing and other federally, state or locally owned housing to organizations for subsequent sale to individual low-income occupants. The programs offer home ownership opportunities for families at the high end of the low-income range. This program is a pet of Housing Secretary Kemp.

SELF-SUFFICIENCY PROGRAMS

The Cranston-Gonzalez National Affordable Housing Act added a provision to the United States Housing Act requiring some Section 8 certificate, voucher and public housing families to work toward economic independence and self-sufficiency. Participating families must be provided supportive services which may include child care, transportation necessary to receive services, remedial education, education for completion of high school, job training, substance abuse treatment and counseling, training in homemaking and parenting skills, training in money and household management, or other appropriate services. Participating families enter into a contract to fulfill their obligation toward achieving self sufficiency within five years unless extended for good cause.

PUBLIC HOUSING
TENANT GRIEVANCE PROCEDURE

Public Housing Authorities (PHA) are required by federal law to establish grievance procedures and policies. The purpose of the procedure is to provide an informal platform for public housing tenants to voice and resolve their problems with the PHA.

Every tenant of public housing has the right to grieve any PHA action or failure to act. The act or failure to act must be related to the PHA's obligation to the tenant under the lease or PHA regulations and adversely affect the tenant.

The tenant must request the grievance, personally, either orally or in writing to the PHA. Tenants should make all request in writing to avoid problems and keep copies of all documents.

The grievance is first discussed informally by the PHA and the tenant. A summary of that discussion should be prepared by the PHA and a copy provided to the tenant. If the tenant is unhappy with the results of the informal discussion, he/she should request a hearing in writing. The written request should contain:

- (1) The reasons for the grievance.
- (2) The action or relief sought.

The PHA should arrange for a hearing officer or hearing panel to convene to hear the grievance. Tenants have the right to review all of the PHA's evidence prior to the hearing and to present evidence at the hearing. A written decision shall be prepared by the hearing officer or hearing panel. In most cases, the decision is binding on the PHA. However, the decision is not a waiver of the tenant's right to seek help in court.

A tenant may pursue a grievance without the aid of an attorney. The PHA should provide the tenant with all the information necessary to participate in the grievance process. All eviction and proposed action notices should contain instructions on how to grieve the PHA's action. This is a very important process for a public housing tenant, since it may avoid possible future litigation and resolves matters quickly.

Public Benefits

SSI/SOCIAL SECURITY WORK RULES

I. THREE GOALS TO CONSIDER

A. REINTEGRATING DISABLED INTO WORKFORCE

B. PROTECTING BENEFIT ENTITLEMENT FOR MAXIMUM PERIOD POSSIBLE IN ORDER TO SUPPORT THEM IN THIS TRANSITION (extremely important because loss of Social Security can mean loss of Medicare and loss of SSI can mean loss of MA).

C. MAXIMIZING INCOME AND PERFORMING FINANCIAL PLANNING FOR OUR CLIENTS IN THE SAME WAY IT IS DONE FOR OTHER SEGMENTS OF SOCIETY.

II. KEY CONCEPTS

SOCIAL SECURITY - Insurance program under which an individual is paid monthly benefits if they have either accrued enough quarters of work to be covered on their own account, or entitled as the spouse, child, adult disabled child or widow/widower of an insured worker. One must also be either retired or disabled. Benefit amounts depend on the amount paid in by the wage earner.

SSI - is a benefits program which currently pays a monthly benefit of \$457 per month to those individuals who are disabled or 65 and over and who have countable resources below \$2000 for an individual and \$3000 per couple and whose other income is below the SSI limit.

DISABILITY - Defined by Social Security as the inability to perform over a sustained period of time work which exists in significant numbers in the national economy. One way this is determined is to see if an individual has such a serious disability (e.g. paraplegia, I.Q. below 60, etc) that we assume that there are not enough jobs they are capable of performing. This is called meeting a listing. Also look to see if an individual is performing what is known as substantial gainful activity.

SUBSTANTIAL GAINFUL ACTIVITY - Level of employment activity at which the Social Security Administration assumes that the person is not disabled. Current level is \$500 per month. However, can deduct impairment related work expenses paid by claimant from this (example attendant care services); can also show work is performed with such accommodations or subsidy that isn't worth what claimant is getting paid (e.g. employer is paying for a job coach). N.B. problem with sheltered workshop clients.

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MEDICAL IMPROVEMENT - Basis for terminating Social Security benefits or SSI. SSA must show that the claimant's medical condition has improved and that the improvement is related to the ability to do work. Medical improvement can be found at any point after benefits begin, but most people are only reviewed every three years or so. If a person is enrolled in an approved vocational plan (see below), they can continue to receive benefits even after they have medically improved until they complete the plan.

TRIAL WORK PERIOD - Concept not relevant any more for SSI, will explain below. For Social Security, is a period of nine months, which need not be consecutive during which a person can earn over SGA amount and still get benefits. Also, fact they are performing SGA cannot be used as evidence of medical improvement. A month counts towards the trial work period if person earns more than \$200 in it.

404.15

REENTITLEMENT PERIOD - For those on Social Security, a period of 15 months following their completion of the 9 month trial work period during which they receive benefits in the months they earn less than SGA and don't receive benefits if they earn more than SGA.

404.15

II. WORK INCENTIVE PROVISIONS

a. Trial Work period - allows people to try and work without fear of immediately losing benefits. As noted above, can earn over \$500 per month and still be considered disabled. For Social Security, get nine months in which to do this. For SSI. can continue to receive benefits indefinitely so long as :

- 1) remain disabled under medical improvement standard
- 2) income, after deducting impairment related work expenses and \$65 plus 50% of remaining earnings is less than SSI level (457 month). So, someone on SSI who was earning SGA amount of \$500 per month and had no impairment related deductions would get to

keep \$239 per month in SSI, plus their earnings. This would give them an additional \$282 per month in income. Of course, they could earn more than \$500 per month so long as their total countable earnings didn't go over the SSI limit.

b. Vocational Rehabilitation - Someone who is participating in an approved vocational rehabilitation plan which makes it less likely that he or she will return to the disability rolls can continue to receive payments under either Social Security or SSI until he or she completes or quits the voc rehab program.

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c. Continued Medicare Eligibility - So long as the individual who had been receiving Social Security and Medicare benefits remains disabled, he or she can keep Part A coverage for up to 48 months without charge and indefinitely thereafter so long as he or she pays the part A premium. Can keep Part B so long as pay the premium.

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d. Continued Medical Assistance Eligibility-. If someone loses their SSI (and therefore his or her automatic MA entitlement) because of increased earnings, he or she can retain MA eligibility for so long as he or she:

- 1) remains disabled
- 2) has no income other than earnings which would be higher than the SSI level
- 3) shows that terminating his or her MA inhibit his or her ability to continue working
- 4) has earnings at a level which would not allow him or her to go out and pay for equivalent services.

III. PASS - PLAN TO ACHIEVE SELF SUPPORT

Is a program which is a part of the SSI program. It basically allows an SSI applicant or recipient to exclude income or resources which would otherwise affect his or her SSI benefits or eligibility. PASS can allow someone to qualify for SSI, retain SSI eligibility, or get more SSI benefits.

a. What are the requirements for a PASS?

1. It must contain a designated occupational objective (self-employment, competitive employment, sheltered employment, etc).
2. It must be likely to decrease the claimant's dependence on Social Security, SSI, etc.
3. It must contain an explanation of expenses and how they related to the plan (e.g. buying a computer or a vehicle, or purchasing supplies on an ongoing basis).
4. It must contain a savings and a spending plan. E.g. if part of plan is saving to buy a car, must say how much will set aside each month and when will have enough saved to buy car.
5. It must set out a specific time limit for achieving the plan goals. Initial approval for 18 months with maximum plan 48 months for plans requiring education or training (e.g. four year college).
6. Must be approved by local SSA office. Have right to appeal denial.

b. Who is a good candidate for a PASS?

Since a PASS must, in order to be approved, leave the person enough income to live on after setting aside money in the PASS, someone getting only SSI probably can't swing it. Person should either have: non-SSI unearned income (Social Security, pension, alimony, VA benefits) or significant work income.

c. What can you use it for?

Anything you can dream up that will work. Can use PASS to set aside funds to start own business, to go to school (e.g. pay living expenses not covered by OVR or loans), to pay for child care during training or employment, to buy equipment or services like readers or job coaches.

PUBLIC BENEFITS

I. Common benefits available to help individuals and families attempt to meet basic living expenses:

A. Cash assistance

1. AFDC (Aid to Families with Dependant Children): federal money to help households with children who are "deprived" (continued absence of one or both parents; incapacitated or impaired parent; unemployment of the parent who is the principle wage earner)

2. GA (General Assistance): state money to help individuals and couples without children

B. MA (Medical Assistance): state and federal money to help meet the medical needs of low-income people

1. Chronically Needy (Blue card)

2. Medically Needy (Green card)

C. Food Stamps: federally funded, state operated program to help meet the nutritional needs of low-income people

D. Supplemental Security Income (SSI): federal money, with a small state supplement, to help individuals who are unable to work due to physical and/or mental impairments; may be in addition to SSD

E. Social Security Disability (SSD or Title II): federal program to help individuals and/or families who are unable to work due to physical and/or mental impairments and who have a work history (benefit rates are dependant on work history)

II. Eligibility Criteria

A. AFDC

1. a pregnant woman in her last trimester OR a "dependant" child in budget group (continued absence of one or both parents, death or incapacitation of a parent, or unemployment of principle wage earned) OR care taker living with child who would be AFDC eligible but who receives SSI
2. income of budget group--people residing together whose needs and eligibility are taken together
3. resources of budget group--equity value limit = \$1000 (\$1500 of equity in one vehicle is exempted)
4. Employment and Training Program (ETP) requirements must be met if not exempted; many exemptions, e.g. cares for child under 6, in drug and alcohol (D & A) program. Sanctions for noncompliance increase with each occurrence (i.e., 1st time: ineligible until complies; 2d time: greater of 3 months or until complies; 3d time: greater of 6 months or until complies)

B. GA

1. income
2. resources--equity value limit = \$250 (\$1000 if budget group = 2+); same vehicle exemption as AFDC
3. ETP requirements must be met if not exempted; exemptions and sanctions same as AFDC
4. categories
 - a. Chronically Needy (CN)
 - (1) 45+
 - (2) physical or mental handicap that keeps one from working more than 30 hours/week OR below minimum wage OR limits ability to work without accommodations

(3) less than 19 years old OR 18 and attending school full-time and expected to graduate before reaching 19

(4) receiving at least 30 days of in-patient care for mental illness or retardation

(5) required to take health-sustaining medication for a chronic illness

(6) must care for a child under 6 (same residence)

(7) must care for an incapacitated person (same residence)

(8) in a D & A program (maximum lifetime eligibility of 9 months)

(9) work history and unemployment compensation (UC) expired

(10) income is less than family size allowance due to natural disaster and ineligible for UC

(11) work 30+ hours per week but still meet income limits

b. Transitionally Needy (TN): anyone who is not CN; maximum receipt of TN GA is 90 days/year

C. Food Stamps

1. income of household

a. definition of household: a group of people who purchase food and prepare meals together

b. mandatory household members: even if people in the household do not purchase/prepare meals together, certain people must be counted together in determining eligibility and food stamp allotment (e.g., spouses, child and parent if parent is not elderly or disabled, siblings unless one is elderly or disabled and

purchases/prepares meals separately OR one has a minor child and purchases/prepares meals separately OR siblings do not live together)

2. resources of household
 - a. limit: \$2000 (\$3000 if household contains a member 60 or over)
 - b. types of counted resources: equity value of real property; cash on hand; savings or checking account; IRA; personal property; fair market value of one vehicle exceeding \$4500
3. job/training requirements.
 - a. unless exempt, must participate in ETP (20 exemptions, e.g., child under 6, receiving expedited stamps, physically or mentally unable to work)
 - b. entire household is ineligible for 90 days if primary wage earner quit job without good cause
4. Categorical Eligibility: those eligible for SSI or cash are automatically eligible for stamps (resource/inc determination needn't be made)

III. Common Issues for Recipients

A. Cash

1. grant groups--AFDC must include biological or adoptive parents and siblings under 21 who are also deprived
2. reporting changes/MRF--7 days even if on MR
3. overpayments/reimbursement--regardless if client or CAO erred, claim will be established; reimbursed by 1) lump sum repayment 2) payment plan 3) grant reduction of no more than 10% of monthly grant
4. receipt of lump sum income--may result in a period of ineligibility (net lump sum divided by standard of need = # months ineligible)

5. deeming--income and resources of another are counted; lump sums may also be deemed; watch for step-parents

6. child support--should be receiving a monthly report; if child support paid makes budget group ineligible, will receive info re: refund, ineligible for AFDC; although to happen w/in 2 weeks great delays

7. Underpayments--no time limit for AFDC; 12 month time limit for GA

B. Food Stamps

1. grant groups--a few mandatories, common separate households

2. reporting changes--if not on monthly reporting (MR), 10 days; if on MR, just report the change on the MRF unless the change is not specifically asked for on the MRF, then 10 days

3. overpayments/reimbursement--regardless if client or CAO erred, claim will be established; reimbursed by 1) lump sum repayment 2) payment plan 3) recoup stamps (greater of \$10 month or 10% of monthly allotment if inadvertent client error)

C. Appeals

1. deadlines--10/30; 10/90

2. pre-hearing conference

3. hearings--overpayment may occur; interim assistance available if no decision w/in 90 days

IV. Common Issues for Applicants

A. right to apply

B. verification

C. expedited benefits--food stamps 5 days

D. right to receive written decision/notice of appeal (15 days for cash, 5 days for stamps)

E. minor parent living with parent--income and resources of applicant's parents will be deemed to budget group of minor parent and child

F. emancipated minor--generally, minor cannot receive GA grant unless emancipated (married or a duck)

G. assignment of child support--by operation of law, right to receive arrears then owed and accrued while receiving assistance

H. lien on real property (cash only)

V. Other Benefits Available at CAO

A. LIHEAP (Low Income Home Energy Assistance Program)

federal money, state operated program
150% poverty line
most recipients of LIHEAP are senior citizens
many people who are eligible never apply

1. crisis component: open until 4/2/93 or until \$ runs out; to meet emergency heating needs (e.g, w/o heat or in imminent danger of being w/o heat); must be responsible for paying primary or secondary heating bill directly to vendor (e.g., heat is not part of rent); should get assistance w/in 24 hrs; amount of assistance = amount necessary to resolve the emergency.

2. cash component: open until 1/20/93 or until \$ runs out; to help w/ non-emergency heating needs; must be responsible for paying heating bill to vendor; should receive written decision w/in 30 days after filing application; amount of assistance depends on household size and heating region; only one such payment per program year.

B. ESA (Emergency Shelter Allowance)

1. for an individual or family to meet housing needs that arise from an emergency

2. to prevent eviction (landlord must agree that receipt of ESA will stop eviction) or foreclosure:
400/300

3. to provide permanent housing (i.e., security deposit): 300/100

4. to provide temporary shelter because uninhabitable housing: 100

5. income limit is based on annual gross (e.g. budget group = 1 5296; BG=3 10,720; BG=6 14, 336)

6. no resource limit for families with children under 21 or an individual under 21; others must meet GA resource limit

C. Special Allowances (work incentives)

1. for AFDC and GA recipients and food stamp household members to participate, accept, maintain or seek for employment, education or training; must be enrolled in New Directions

2. moving costs to accept permanent employment (max \$200/12 month period)

3. transportation to apply for or accept employment (\$.12/mile)

4. clothing needed for employment or ETP participation (max \$75 per job)

5. tools or equipment needed for employment or training (max \$2000)

6. tests fee (max \$250)

7. vehicle fees (license, tags, inspection, max \$200)

8. vehicle repairs or purchase (max \$200)

9. books and supplies for education or training (max \$500)

10. child care necessary to participate in employment or ETP (child under 13 y.o. or if older, handicapped; child also must receive cash, stamps or SSI)

D. TCC (Transitional Child Care)

1. for AFDC recipients who received AFDC at least 3 of the past 6 months, who gain employment or whose income from employment increases thus are no longer eligible for cash

2. 185% poverty line; no resource determination
3. dependent child must be under 13, or, if over, handicapped or under court order for adult supervision
4. amount of TCC is based on sliding fee schedule

JUST HOW HIGH ON THE HOG A PUBLIC BENEFITS RECIPIENT LIVES

	<u>HH=1</u>	<u>HH=2</u>	<u>HH=4</u>	<u>HH=6</u>
Federal Poverty Level	567	765	1162	1559
KLS eligibility	709	957	1453	2197
Mifflin Gross limit	525	821	1291	1745
Mifflin Net limit	284	444	698	943
Mifflin cash grant	195	305	479	647
Juniata Gross limit	468	751	1225	1654
Juniata Net limit	253	406	662	894
Juniata cash grant	174	279	454	614
Food Stamp Gross limit	738	996	1512	2027
Food Stamp Net limit	568	766	1163	1560

SOCIAL SECURITY AND SSI

- I. SOCIAL SECURITY (sometimes called DIB or Title II)
 - a. insurance program
 - b. must have enough covered quarters paid in
 - c. available to:
 - i) retirees (early retirement at age 62 with actuarial reduction or without reduction at age 65)
 - ii) disabled (defined below)
 - iii) widows/widowers of insured worker at age 50 if disabled or sixty if not disabled.
 - iv) to certain other dependents of disabled or retired insured workers.
 - d. Medicare benefits tied to receipt of Social Security benefits. Available at age 65 or after individual has been receiving disability benefits for two years.
 - e. For disability benefits, have five month waiting period after disability begins before entitled to receive benefits.

- II. SUPPLEMENTAL SECURITY INCOME (SSI)
 - a. means tested (i.e. income and resource tests for eligibility)
 - b. recipient must either be elderly (65 +) or disabled (defined below).
 - c. current benefit levels: \$454.40 for one person and \$681.70 for a couple.
 - d. resource limits: \$2,000 in non-excluded resources for a single person and \$3,000 for a couple.
 - e. Medical Assistance eligibility benefits automatic for anyone receiving SSI.

III. DISABILITY

Definition of disability is the same for both SSI and Social Security. "Disability" is defined by the Social Security Administration's regulations as an impairment or combination of impairments which result in the inability to perform over a sustained period of time work which exists in significant numbers in the national economy.

To be considered disabling, an impairment must be expected to either last for at least twelve months or to result in death. Disability need not be permanent, however, and benefits can be awarded for a closed period.

No matter what impairment someone has, he or she will not be found disabled if he or she is performing "substantial gainful activity" ("SGA"). SGA is the level of employment activity at which Social Security will assume that the person is not disabled. Currently, someone with earnings of \$500 per month is considered to be performing SGA unless he or she can show that his or her work is subsidized by the employer and isn't really worth his or her salary. One can also deduct impairment related work expenses from earnings to calculate whether SGA is being performed.

IV. APPLICATIONS

Begin by filling out application at SSA office. For certain impairments, most notably AIDS, SSI recipients should ask for presumptive eligibility, which is awarded within weeks based solely on the treating physicians' certification. Many local offices are unaware of this procedure, so clients need to be insistent and seek legal help if the local SSA office is not cooperative.

If a client is receiving either cash benefits or medical assistance through the Department of Public Welfare, he or she may be referred to the Disability Advocacy Program (DAP) worker, who is a DPW employee. It is a requirement of eligibility for both welfare and MA to cooperate in obtaining disability benefits.

If the claim is denied initially, the client then has 60 days to file for RECONSIDERATION. If then denied at this step, client has 60 days to file a REQUEST FOR HEARING BEFORE AN ALJ. It is at this stage that legal representation is crucial. If one loses at the ALJ stage, can then file for review by the Appeals Council of SSA and, if that is denied, can file a complaint in federal district court.

V. SSI ISSUES/APPEAL DEADLINES

- a. in-kind income and 1/3 reduction rule
- b. reporting problems
- c. resources
- d. overpayments
- e. rep/payees

IN ALL CASES WHERE SOCIAL SECURITY INTENDS TO TAKE ADVERSE ACTION AGAINST THE CLIENT, IT MUST SEND ADVANCE WRITTEN NOTICE OF THE PROPOSED ACTION. IF THE CLIENT APPEALS WITHIN 10 DAYS OF THE DATE ON THE NOTICE (LONGER IF GOOD CAUSE FOR THE DELAY EXISTS), THE BENEFITS WILL CONTINUE UNCHANGED PENDING A DECISION ON THE APPEAL.

Health Law

MEDICAL ASSISTANCE

Medical Assistance (MA) is a public health insurance program funded by the federal and state governments. Federal funding of MA in PA will decrease about \$63 million in FY 93-94.

MA cuts were to go into effect 1/1/93:

for all MA recipients 21 and over: elimination of all non-surgical and non-emergency dental coverage; elimination of payment for medications used to treat coughs and colds.

for GA MA recipients: increased co-payments, doctor visits limited to 18 per year, prescriptions limited to 3 per month, elimination of payment for several prescription drugs, etc.

GA MA recipients not affected include those under age 21, pregnant women, those applying for disability, those with a disability or chronic illness.

See handout for the terms of the temporary settlement.

I. Categories and Colors

As with other public assistance benefits, there are income and resource rules, reporting requirements and notice and appeal rights.

A. A rainbow of colors

1. blue card: AFDC recipients, Chronically needy GA recipients, SSI recipients, Healthy Horizons categorically needy and Healthy Beginnings
2. green card: GA, Transitional needy
3. pink card: State Blind Pension recipients
4. orange card: Healthy Horizons cost-sharing (pays for Medicare deductible and co-insurance fees only)
5. yellow card: MA recipients enrolled in an HMO

Categorical Eligibility: If eligible for AFDC or GA, everyone in budget group gets a medical card.

B. Who gets which color

1. Chronically Needy (Blue)

a. AFDC recipients

b. pregnant women and kids

(1) newborns if mom is MA eligible

(2) pregnant women if woman would qualify if kid was actually born (treat as 2)

(3) kids up to age 6 and pregnant women if budget group's income is less than 133% of poverty guideline

(4) 60 days postpartum if woman applied for and was eligible for MA while pregnant

(5) up to age 7 and born after 9/30/83 if budget group meets AFDC income and resource limits (purpose: cover kids when budget group doesn't meet the "deprived" prong of AFDC test)

(6) kids between 6 and 19 born after 9/30/83 and budget group income is less than or equals 100% poverty guideline

c. families and kids who are no longer eligible for AFDC because of increased earnings (coverage for 6 months) a/k/a MA Expansion

d. families and kids who are no longer eligible for AFDC because of increased support payments (coverage for 4 months) a/k/a MA Expansion

e. AFDC eligibles whose grant is less than \$10/mo, thus do not receive a cash grant

- f. kids who receive federal adoption assistance or foster care maintenance payments
- g. AFDC eligibles who are paying back an overpayment
- h. SSI recipients
- i. GA Chronically Needy (those receiving CN GA)

2. Medically Needy (Green)

This coverage is optional; if a state chooses to fund this program, certain people must be covered. Generally, green card recipients would be eligible for cash but exceed the income and resource guidelines thus are not in a mandatory group (for example, a pregnant woman who exceeds the resource and/or income limits).

C. Why Blue is best (see List of Covered Services)

II. Special MA Services

- A. EPSDT (Early and Periodic Screening, Diagnosis and Treatment) 1-800-543-7633
 - 1. for kids 21 and under w/ any type (any color) of MA
 - 2. only issue is medical necessity; coverage is infinite (anything from braces to wheelchairs to diagnostic services not otherwise covered)
 - 3. doesn't matter if health care provider (MD, physical, speech family therapist, etc) isn't enrolled
 - 4. it's a non-deductible, no-limit health care plan for kids
- B. Hospice care
- C. Nursing home care
- D. MA transportation (reimbursement for transportation costs to obtain medical care and prescription drugs)

E. Healthy Beginnings/Plus

- a. for kids 5 and under, pregnant women and 60 days postpartum
- b. 133% poverty guidelines
- c. blue card
- d. HB PLUS: A DPW and Dept of Health program that provides expanded maternity care for woman who receive cash or any type MA (basic and high risk care, special services including social, homemaker, home nursing and substance abuse counseling) 1-800-322-0112

F. Healthy Horizons

- a. 65 or older OR disabled per SSA rule
- b. for blue card and ~~payment of Medicare~~ buy-in premiums and deductibles (parts A and B): SSI resource limit (\$2000) and 100% poverty income limit (\$567)
- c. for Medicare buy-in premiums and Medicare deductibles: resources are less than twice the SSI limit and 100% poverty income limit

III. Secrets in obtaining Coverage

- A. spend down--equivalent to a deductible in private insurance, the amount an individual must spend on medical bills before s/he is eligible. Applicant may deduct paid or incurred medical bills against their income in an attempt to get applicant eligible. (blue and green)

B. Retroactive Eligibility

1. MA will pay for medical services listed in the covered expenses sheet that were incurred up to 3 months before the date of application if client would have been eligible in that period had s/he applied. Bills must be unpaid and incurred in the retroactive period. (blue and green)
2. green spend-down retroactive--medical bills paid in the month of application or 3 months prior to month of application OR unpaid bills incurred any time (green only). Can use

bills incurred before the retroactive period to determine eligibility but MA won't pay for pre-retroactive period bills.

- C. presumptive eligibility and the Medical Review Team) MRT--an applicant who alleges a disability is referred to the DAP and the MRT; while awaiting the determination, the applicant is MA eligible for up to 60 days.

*Cuts do
not affect
people under
21*

TEMPORARY SETTLEMENT AVERTS SOME MEDICAL ASSISTANCE CUTBACKS

On December 31, 1992, CLS filed a class action suit in the Eastern District of Pennsylvania on behalf of medical assistance recipients seeking to avert the state's cutbacks scheduled to begin on January 1, 1993. (See Pa. Bulletin of December 12, 1992). Theories for recovery include violations of due process, the Americans with Disabilities Act and the Medicaid Statute.

The Pennsylvania Health Law Project and CPLS have prepared but not yet filed a state court action seeking similar relief, and in the alternative, seeking to avoid implementation of cutbacks in areas of the state where no HMO option exists for avoiding the cutbacks. Most medicaid-participating HMOs do not intend to implement any of the proposed cutbacks.

On January 7, 1993, CLS succeeded in obtaining a temporary settlement with DPW, approved by Judge Padova, which is good for 120 days or until the case is resolved. Pursuant to the agreement:

- 1) Four categories of prescription medications, which were to have been denied to GA category recipients, are not excluded. They are:
 - (a) Immunosuppressive agents
 - (b) Steroids
 - (c) Hormones
 - (d) Gastrointestinal drugs
- 2) DPW will issue within 2 or 3 weeks a full complement of prescription drug vouchers (9 more) to cover the balance of the fiscal year.
- 3) DPW will cover treatment of all dental emergencies including, for example, root canal work.
- 4) Any person for whom dental work was begun before December 31, 1992 will be covered for completion of the work.
- 5) There will be no copayment requirement for any emergency dental services or for exceptions to capped services.
- 6) DPW will issue a new notice to recipients to be approved by the plaintiffs' attorneys, explaining:
 - a) that neither the MA participating HMOs nor Healthpass are currently implementing the cutbacks
 - b) that recipients can avoid the cutbacks and double copayments if they join an HMO
 - c) that recipients can avoid the cutbacks if they are, or when they become, age 65
 - d) that recipients are not subject to the cutbacks if they have a dependent child in the household and
 - e) that recipients cannot be denied services due to inability to afford copayments
- 7) DPW will automatically issue a rebate of excess copayments from January 1, 1993 forward for anyone who has been wrongly subjected to double copayment through miscoding.
- 8) DPW will automatically issue a rebate of copayments from January 1, 1993 forward for anyone who enrolls in an HMO within 15 days of DPW's notification that they can avoid copayments by so enrolling.
- 9) DPW will reissue a correct medical card within one working day for anyone who is determined to have a miscoded card.
- 10) DPW will inform providers of the terms of this temporary agreement via immediate notice to their association as well as memo/bulletins and remittance invoices to providers.

The judge has set April 26th as the trial date

MEDICAL ASSISTANCE ELIGIBILITY HANDBOOK

MEDICAL ASSISTANCE BENEFITS

SERVICES COVERED BY THE MEDICAL ASSISTANCE CARD

SERVICES	ELIGIBLE PERSONS		
	Categorically Needy (Blue Card)	Medically Needy (Green Card)	State Blind Pension (Pink Card)
1. PRIMARY CARE SERVICES			
Doctors			
- office	yes	yes	yes
- home	yes	yes	yes
- inpatient hospital	yes	yes	no
- nursing home	yes	yes	no
Midwives	yes	yes	no
Outpatient Hospital Clinics	yes	yes	no
Independent Medical Clinics	yes	yes	no
Rural Health Clinics	yes	yes	yes
Emergency Rooms	yes	yes	no
2. HEALTH PROGRAMS			
Family Planning Services (includes drugs and devices)	yes	yes	yes
Health Maintenance Organization	yes	yes	no
Early and Periodic Screening, Diagnosis & Treatment Program (for persons under age 21)	yes	yes	no
Outpatient Drug & Alcohol Clinics	yes	yes	yes
Outpatient Psychiatric Services			
- outpatient psychiatric clinics	yes	yes	yes
- psychiatric partial hospitalization	yes	yes	yes
3. OTHER PROFESSIONAL CARE			
Dental Services	yes	under 21 only	yes
Podiatrists	yes	yes	no
Chiropractors	yes	yes	yes
Home Health Services	yes	yes	yes*
Optometrists	yes	yes	yes
Eyeglasses	under 21 only	under 21 only	no
4. SUPPLEMENTAL SERVICES			
Outpatient Renal Dialysis Services (includes dialysis treatments, equipment & supplies needed for dialysis provided at a facility or in the patient's home)	yes	yes	no
Birth Center Services	yes	yes	no
Medical Supplies	yes	under 21 only	no
Outpatient Laboratory	yes	yes	no
Prescription Drugs	yes	under 21 only	yes
X-rays and Other Tests	yes	yes	no

*not eligible for medical supplies

HEALTH LAW OUTLINE

I. ACCESS TO HEALTH CARE

A. THE RIGHT TO EMERGENCY HEALTH CARE - THE FEDERAL ANTI-DUMPING LAW

1. What facilities are covered?

Any hospital which receives Medicare funds and provides emergency services is covered under this law.

2. Facility's duties?

When someone presents at the facility and asks for treatment, the hospital is required to provide him or her with an appropriate screening to determine if an emergency medical condition exists or if the person is in active labor. If the person is suffering from an emergency medical condition or is in active labor, the hospital must provide treatment to stabilize the condition.

3. What is an emergency medical condition?

The basic test is whether the condition would deteriorate, cause permanent injury, cause serious pain, or pose a threat to the patient's health if left untreated. For cases of active labor, danger to the fetus is also considered.

4. What if the patient has no way to pay for the emergency services?

The facility is still required to provide the treatment, even if the patient is both indigent and uninsured. A facility may not delay treatment to inquire into ability to pay and may not charge a deposit prior to providing services.

5. When may a patient be transferred?

After his or her condition has been stabilized or if the transfer is medically necessary. The transfer must be done by medically appropriate means.

8. What are the remedies for violations?

Any person injured by a violation of this law may either file an administrative complaint with the Department of Health and Human Services or may bring a lawsuit in either state or federal court.

B. HILL-BURTON AND EQUAL ACCESS TO HEALTH CARE

Direct appeal from state to federal court

1. What are the different obligations under Hill-Burton?

1. Uncompensated care facilities

a. Uncompensated Care - a time limited duty imposed on covered facilities to provide a certain amount of free care every year to persons whose income is below federally set guidelines.

20 yrs.

b. Community Service Obligation - a permanent obligation imposed on covered facilities to insure that no one living within the facility's service area is denied access to any service of the facility for any reason other than total inability to pay. (Emergency services may not be denied for any reason.) This statute imposes an affirmative duty on facilities to take whatever steps are necessary to create equal access to its services.

permanent

2. What facilities are covered?

Those which accepted funds under the Hill-Burton program. All local hospitals are covered facilities.

3. How can violations be addressed?

By filing an administrative complaint with the Department of Health and Human Services. If the agency does not take corrective action within 45 days, the complainant can then bring suit in federal court for injunctive relief.

II. HOSPITAL DISCHARGE RIGHTS

Under the patients' bill of rights, which is a part of the state regulations governing hospitals, patients may not be discharged from a hospital (including a Rehabilitation hospital or a mental hospital without having an adequate discharge plan in place. There is a similar requirement for discharges from nursing homes. Patients whose care is being covered by Medicare have special discharge rights; they must be given advance written notice of intent to discharge and have the right to a pre-discharge hearing within 72 hours of requesting it.

*If person needs help of nursing home...
...for discharge*

III. PAYMENT FOR HEALTH CARE ISSUES

A. Medicaid as Payment in Full (The Boston Funds)

Both federal and state regulations governing the Medicaid (Medical Assistance in Pa.) program require any provider who bills the MA program for services rendered to a patient to accept whatever MA pays as payment in full. The Pennsylvania regulation also specifically requires a provider to give advance written notice to an MA recipient that certain services will not be covered before the provider can impose liability for the services in the patient. Around the country, courts have extended the plain language of the regulations to also forbid providers whose claims are completely denied by Medical Assistance from later billing the patient and to protect from liability patients who are informed only after services are rendered that the provider does not participate in the MA program.

B. MOM bill - AKA THE HEALTH CARE PRACTITIONERS MEDICARE FEE CONTROL ACT

This a state law which forbids any health care practitioner, which includes doctors, dentists, optometrists, podiatrists, nurses, physical therapists, and psychologists from charging any person eligible for Medicare a fee which exceeds the fee amount set by Medicare as the reasonable charge for that service.

IF YOUR CHILD HAS A DISABILITY, OR IF YOU THINK YOUR CHILD MAY HAVE A DISABILITY, YOU HAVE

THE RIGHT to request a free evaluation in his/her native language by the District at no cost to you.

THE RIGHT to review the results of the evaluation and all other relevant materials and records on your child.

THE RIGHT to ask the District to pay for an independent evaluation of your child. The District must either agree to the request or must prove to a Hearing Officer that its evaluation is appropriate.

THE RIGHT to have the results of any independent evaluations considered by the District (whether the evaluations were paid for by you or by the District).

THE RIGHT to written notice of whether or not the District agrees that your child needs special education.

IF YOU AND THE DISTRICT AGREE THAT YOUR CHILD NEEDS SPECIAL EDUCATION, YOU HAVE:

THE RIGHT to a free appropriate program of education and related services for your child which is based on your child's needs and which will give your child the chance to make reasonable progress.

THE RIGHT to have an Individualized Education Program (IEP) developed for your child which describes the services your child will get, including educational goals and objectives, and the related services which your child needs to benefit from the program.

THE RIGHT to participate at a conference with District officials in the development of the IEP.

THE RIGHT to have the IEP reviewed by the District, and if appropriate, revised annually, or more often at your request.

THE RIGHT to have your child re-evaluated by the District every two years, or more often at your request.

IF YOU AND THE DISTRICT DISAGREE AS TO THE NEED TO EVALUATE YOUR CHILD, OR THE TYPE OR DEGREE OF DISABILITY YOUR CHILD MAY HAVE, OR THE PRESENT OR RECOMMENDED IEP OR PLACEMENT OF YOUR CHILD, YOU CAN:

- Ask for a "mediation session." This is a meeting with a trained "mediator" who is not connected with the school system. The mediator will help you and the school try to work out an agreement concerning changes in your child's program or placement. There is no charge for using the mediation service, and you will not be required to agree to any change that you don't like. To find out about mediation, see our Guide, pages 42-43, or call 1-800-992-4334.

- Send the principal a letter requesting a "prehearing conference." This is a meeting with school officials only. For more information on prehearing conferences, see our Guide, pages 39-42.

- Request (in writing) a "due process hearing." This is a legal procedure that can take some time. It is conducted by a hearing officer, who will decide whether your child's program or placement should be changed and, if so, how. For more information, see our Guide, pages 43-49.

ALL NOTICES TO YOU FROM THE DISTRICT MUST BE WRITTEN IN THE LANGUAGE YOU NORMALLY USE

SOME "HOW TO DO ITS" FOR PARENTS OF HANDICAPPED CHILDREN IN PENNSYLVANIA

IF YOU WANT YOUR CHILD TO BE CONSIDERED FOR SPECIAL EDUCATION BECAUSE OF HIS OR HER SPECIAL LEARNING NEEDS:

WRITE to the principal of your child's school explaining why you believe your child needs special education and requesting an evaluation of your child. Send a copy to the Special Education Supervisor for your District and keep a copy for yourself.

IF YOU HAVE REQUESTED AN EVALUATION OF YOUR CHILD, BUT NO EVALUATION HAS TAKEN PLACE AFTER SEVERAL WEEKS:

CONTACT the principal or counselor and discuss the matter. If this does not resolve the problem, you should

WRITE to the principal requesting a "pre-hearing conference." Send a copy of your letter to the Special Education Supervisor for your District and keep a copy for yourself

School officials must let you know within ten (10) days when the pre-hearing conference will be held. If things aren't worked out at the conference, you may request a Due Process Hearing. The evaluation will almost certainly be done soon after your request

IF YOUR CHILD IS ALREADY IN SPECIAL EDUCATION, BUT YOU WANT HIS OR HER PROGRAM OR PLACEMENT CHANGED IN SOME WAY:

WRITE to the principal and explain what you want changed. Or, if you feel a change is needed but you're not sure what to suggest, you may

WRITE requesting further evaluations of your child's progress.

If the District will not make the change that you request, or will not perform further evaluations of your child, you should request a pre-hearing conference (see above)

IF YOUR CHILD'S SCHOOL IS NOT PROVIDING THE SERVICES LISTED ON HIS OR HER IEP:

CONTACT the principal and ask that your child receive all the services listed on the IEP. If the problem continues, you may:

WRITE to the Division of Regional Review, Bureau of Special Education, Pennsylvania Department of Education, 333 Market Street, Harrisburg, PA 17108. This office should investigate your complaint and issue a decision within approximately sixty (60) days.

FOR FURTHER INFORMATION AND ADVICE ON THESE PROBLEMS, CALL OR WRITE:

Education Law Center, Inc.
801 Arch Street, Suite 610
Philadelphia, PA 19107
(215) 238-6970

SP-127

WHAT TO DO IF YOU'RE NOT SATISFIED WITH YOUR CHILD'S
SPECIAL EDUCATION PROGRAM OR PLACEMENT

1. Try to figure out what's wrong and make a list of the specific changes you would like to see.

If you think you need more information in order to do this, you can:

* Talk with your child's teacher.

* Observe your child's class.

* Request that the school system do a re-evaluation of your child's educational needs.

* Get an "independent" evaluation of your child's needs, from a professional who is not connected with the school system. (For more information, see our Guide for Parents at pages 15-17.)

2. Request a meeting with school personnel. Ask them for their suggestions for changes, and find out if they are willing to make the changes that you think are needed.

3. If you still aren't satisfied, there are three more things you can do. You can do any or all of them.

* Ask for a "mediation session." This is a meeting with a trained "mediator" who is not connected with the school system. The mediator will help you and the school try to work out an agreement concerning changes in your child's program or placement. There is no charge for using the mediation service, and you will not be required to agree to any change that you don't like. To find out about mediation, see our Guide, pages 42-43, or call 1-800-992-4334.

* Send the principal a letter requesting a "prehearing conference." This is a meeting with school officials only. For more information on prehearing conferences, see our Guide, pages 39-42.

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Education Law Center
801 Arch Street, Suite 610
Philadelphia, PA 19107
(215) 238-6970

VOCATIONAL REHABILITATION FACT SHEET

1. WHO IS ELIGIBLE FOR VOCATIONAL REHABILITATION SERVICES?

A person who has a disability which constitutes a substantial handicap to employment and whose employability can reasonably be expected to improve if vocational rehabilitation (VR) services are provided. A person can also qualify if he or she needs an extended period of evaluation to determine if VR services will improve his or her employability.

2. What is a substantial handicap to employment?

A physical or mental disability which prevents an individual from obtaining, retaining, or preparing for employment consistent with his or her capacities and abilities.

3. Are severely handicapped individuals eligible?

Yes, in fact they are given a statutory preference for services.

4. What services can be provided by OVR?

A very wide range of services are available including diagnostic services, evaluation, restoration services (e.g. prostheses and durable medical equipment), training and education, counselling, and support services such as attendant care. The actual services to be provided are set out in an Individualized Written Rehabilitation Plan. This IWRP is drafted by the counselor and the client working together to determine the client's goals and the services needed to reach them.

5. What if the client is told he or she is not entitled to certain services or to VR services at all?

He or she has the right to a written notice of the decision and the reasons for it. He or she also has the right to file and appeal of the decision and have a hearing before an impartial hearing officer. If he or she is still dissatisfied, the client then has the right to file an appeal in state court.

*Eligibility
Auditors*

KEYNOTES

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You Have A Right To Apply for Public Assistance

By Susan M. Michalik
KLS Staff Attorney

Mary Jones lived in a small apartment with her two children. Mary recently lost her job and was receiving unemployment compensation. After a month, Mary found that her income was just not enough to cover all her expenses. Not wanting her kids to go hungry, Mary went to the county assistance office (CAO) in her county to find out if she could get some type of assistance.

Mary told the man at the front

desk, Mr. Grime, that she lost her job, had very little money, and that she needed help until she could find another job. She asked Mr. Grime if she could get any benefits. Mr. Grime said, "You probably won't be eligible so you might as well not apply." Brokenhearted, Mary left the CAO not knowing where to turn next. On her way back home, she stopped at the local food bank, and her spirits were lifted when the volunteer handed her two bags of groceries. "At least my kids won't go hungry," she told the volunteer.

Mary called Keystone Legal Services and told them about what had happened to her. Keystone told her that she has a right to fill out an application, and then the CAO will interview her to get her income, names of the children and other information. Depending on how much unemployment compensation Mary was getting, she could be eligible for cash assistance, medical assistance and food stamps. If Mary's income was extremely low, she could be eligible for "expedited" (emergency) assistance and would receive the assistance within 5 days.

Mary went back to the CAO and told Mr. Grime that she has a right to apply. Mr. Grime threw an application for foodstamps at Mary. Ms. Starr, a caseworker, then took Mary to her desk for an interview. Ms. Starr computed Mary's income and expenses and found that Mary and the kids were eligible for medical cards, \$278 in foodstamps and \$185 in cash assistance. Mary said, "But I only applied for foodstamps." Ms. Starr responded, "It doesn't matter. My job is to see if you are eligible for all types of assistance. By the way, let me tell you about the Single Point of Contact (SPOC) program. With your work background and interests I think this program may be for you."

A few days later, Mary received a notice from the CAO stating that Mary's family was eligible for foodstamps and medical and cash assistance. Mary saw a box in the lower right hand corner of the notice which told her about appealing the decision. She was confused so she called Ms. Starr and asked about appealing. Ms. Starr explained

....Continued on Page Four....

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YOUR RIGHT TO EMERGENCY HEALTH CARE

By Roberta L. Mueller
KLS Staff Attorney

There is a federal law called the Anti-Dumping Act. If you go to the hospital and have a medical condition which must be treated right away, this law makes it illegal for the hospital to refuse to treat you or to send you to another hospital. The hospital must treat you even if you have no way of paying the bill. This article will tell you what your rights are and what the hospital must do if you go to the emergency room.

When you go to the emergency room, the hospital staff must examine you to see if there is something seriously wrong with you. For example, if you were having an asthma attack that made you unable to breathe, you would need treatment right away to keep you from getting sicker. This

is called an emergency medical condition. Being in active labor is also considered an emergency medical condition.

If, after examining you, the

...If you need emergency medical treatment, it is illegal for the hospital to refuse to treat you...

hospital finds that you do not have an emergency medical condition, the hospital does not have to do anything more for you.

If you do have an emergency medical condition, the hospital must treat you to keep your condition from getting worse.

If the hospital wants to send

you to another hospital, they can only do it if that is what you want or if they do not have the medical services you need.

If you are denied emergency medical care you can: (1) sue the hospital in either federal or state court, and/or, (2) file a complaint against them with the Health Care Financing Administration, a part of the federal Department of Health and Human Services.

If the Department of Health and Human Services finds that the hospital refused to treat you, it can fine the hospital and the doctor. The fine can be up to \$25,000.

If you have questions about emergency care, contact Keystone Legal Services, Inc.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

If you have any suggestions or issues you would like to see in Keynotes, please send us a letter addressed to: Keynotes, Keystone Legal Services, Inc., 2054 E. College Ave., State College, PA 16801.

Editor: Roberta Mueller, Esq.

Publisher: Linda Lovett

LOCAL BAR ASSOCIATION FUNDING

By Susan J. Lucas
KLS Program Administrator

KEY EVENTS



By Elizabeth Hamilton
KLS Office Manager

PHILIPSBURG OUTREACH:

Keystone Legal Services, Inc., recently opened an outreach office in Philipsburg. The Community Action Center has donated space for Keystone staff to conduct client interviews. The outreach office provides service to Philipsburg area residents. Please call 1-800-326-9177 or (814)238-4958 (M-F, 9:00 a.m. to 5:00 p.m.) to have your eligibility determined for a consultation with a Keystone caseworker.

AGENCY TRAINING:

Keystone will be conducting trainings for staffs of Human Service Organizations on October 13, 20 and 27, 1992. The topic will be Legal Issues in the Low Income Community. If you are interested in attending a training, please contact Beth Hamilton at (814)234-6231.

WELCOME TO OUR NEW STAFF:

Gwen Washington is the new receptionist in the Centre County office.

Vickie Page is the newest legal secretary in the Centre County office. Vickie had been working at Keystone Legal Services through the JTPA Program.

Keystone Legal Services receives local funding from the Centre County Bar Foundation and the bar associations of Clearfield and Huntingdon counties. This funding is called "Local Option IOLTA Funding." IOLTA refers to Interest on Lawyers' Trust Accounts. This is a source of funding available to legal services programs in Pennsylvania.

Some of the IOLTA funds can be kept by local bar associations so the money can be returned to the legal

services program in the bar association's area. The funding that actually comes from a county is used to provide legal services to the county's residents.

Keystone Legal Services will receive \$8,400 from the Centre County Bar Foundation. The Clearfield County Bar Association will award \$1,800 to the program, and the Huntingdon County Bar Association will award \$1,100. All of these funds will be used for the delivery of general legal services.



WINTER REMINDERS

Remember all utility companies that are regulated by the Public Utility Commission (PUC) cannot shut off utilities from December 1 to March 31. Most utility companies such as electric, gas and water companies are regulated by the PUC. There are some utility companies that are not covered by the PUC. Check with your company to be sure.

Remember to apply early for the Low Income Energy Assistance program (LIHEAP). For more information and an application, contact your local public assistance agency:

- Centre: 814-355-6000
- Clearfield: 814-765-7591
- Huntingdon: 814-643-1170
- Juniata: 717-436-2158
- Mifflin: 717-248-6746

IF YOUR UTILITY IS BEING SHUT-OFF OR YOU ARE DENIED BENEFITS CONTACT, KEYSTONE LEGAL SERVICES.

**...You Have A Right To Apply,
Continued from Page One....**

that if Mary thought the amount of benefits was wrong, she had the right to appeal the notice. Ms. Starr also said, "If your income goes up in the future, you may receive a similar notice stating that you are no longer eligible or your assistance will be reduced. The notice will also say why the reduction or termination is being done. If you disagree with the notice, be sure to appeal by filling out the section on the back of the notice. You may want to call Keystone if you ever get such a notice, as they will be able to see if, perhaps, I made a mistake and then be able to help you with your appeal."

The next week, Mary received her assistance check, foodstamps and medical cards in the mail. With the information Mary got from Ms. Starr and Keystone, Mary knew her kids would not be going hungry, and she was thankful for the help she received.

Did You Know:

Keystone Legal Services, Inc., was incorporated in 1973.

Prior to the federal budget cuts of 1980, Keystone had a staff of 34. Keystone now has a staff of 19.

Keystone serves a five county area, consisting of Centre, Clearfield, Juniata, Mifflin and Huntingdon Counties. These counties cover about 3,000 square miles. According to the 1990 census there are 312,869 residents in this area. The poverty population is 43,854.

Ninety-six private attorneys have volunteered their time to Keystone's Pro Bono Project this year.

Riverside/BiLo Total Commitment Program

Please save your Riverside/BiLo register tapes. Riverside/BiLo grocery stores are helping non-profit organizations raise money. For every \$200.00 in register tapes that Keystone submits, it receives \$1.00 through the Total Commitment Program. Keystone has a collection bin in the BiLo store at the Hills Plaza, State College. You can also drop your tapes off at our State College or Clearfield offices or mail them to us. Thanks for your contributions!!



KEYSTONE LEGAL SERVICES, INC. OFFICE DIRECTORY



Centre County*
2054 E. College Ave.
State College, PA 16801
(814)238-4958

Clearfield County*
213 N. Second St.
Clearfield, PA 16830
(814)765-9846

Mifflin, Juniata and Huntingdon Counties
2054 E. College Ave.
State College, PA 16801
(800)326-9177

*Phillipsburg area residents: (800)326-9177

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For information on the Disability Advocacy Project-Institutional Law Project-Pro Bono Project, contact:
Keystone Legal Services, Inc., 2054 E. College Ave., State College, PA 16801, (814)238-4958.

KEYNOTES

Vol. 3 No. 4

A Quarterly Publication by Keystone Legal Services, Inc.

January 1993

HOSPITAL DISCHARGE RIGHTS

By Roberta Mueller
KLS Staff Attorney

This article will give you information about what to do if you are a patient in a hospital that tells you that you "have" to leave the hospital (be "discharged") before you think you are well enough. You may be told by hospital staff that medicare, insurance or medical assistance "says" that you are only allowed to stay a certain number of days, and since that time is up, you have to leave. You or your family might even be told that you will be sent home if you do not go home right away. If you think you need to stay longer, or if the hospital has not made plans for how you will be taken care of after you leave the hospital, it may be illegal for them to discharge you.

CAUSES OF THE PROBLEM

Hospitals are paid under a system which pays them a set amount depending on your diagnosis. This amount is set by figuring out the average length of stay for patients with that diagnosis on admission. What this means is that hospitals make money if they get you out faster than average

and lose money if they get you out slower than average. This gives them a reason to discharge people early.

This practice is called "quicker and sicker." You need to know that **what they get paid has nothing to do with how long the law says you can stay. You are to be kept in the hospital as long as your medical needs require it.**

YOUR



RIGHTS

If Medicare is paying for your stay and the hospital tries to force you to leave, you have to be given a notice called a PRO notice. It gives you the right to an immediate (within 72 hours) hearing to appeal the decision telling you to leave. If you ask for a hearing, the hospital cannot discharge you until after your hearing has been held; it also cannot charge you for the days you are in the hospital between the time you are given the notice and the time you have your hearing.

Even if you are not a Medicare recipient, Pennsylvania law

requires that the hospital have an adequate discharge plan for you before it discharges you. This means that, if you need home health care or a visiting nurse, the hospital must make sure those services are in place before they send you home. If your medical needs cannot be taken care of at home, they must keep you until they can find you a suitable placement such as a personal care home or a nursing home.

Do not be scared into leaving the hospital before you can do so safely.

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YOUR PAYCHECK AND YOUR RIGHTS

By Dennis Kenny, KLS Staff Attorney

This article explains your rights under a Pennsylvania law called the Wage Payment and Collection Law and the Federal Fair Labor Standards Act.

You have a right to be paid for the work you do. Under PA law, it is illegal for your employer to withhold or unfairly reduce your pay. Even if you quit or are fired, the employer must pay you wages you have earned for the hours you have worked.

Your employer cannot withhold deductions from your paycheck without your specific written permission. For example, if your employer accuses you of damaging his/her property and you agree in writing that you caused the damage, but do not

agree to any specific wage reduction, your employer is still required to pay you the full amount of your paycheck.

The law requires that you specifically agree in writing to any reduction in your pay. If you agree in writing to a pay reduction, your employer still cannot reduce your paycheck to less than the minimum wage for any job covered by the minimum wage standard. The minimum hourly wage is based on a 40 hour work week.

If you are paid overtime hours, (over 40 hours/week), it is calculated on a weekly basis. For example, if you are paid every two weeks, and you work 45 hours one week and 30 hours the next,

you would be entitled to 5 hours overtime pay. This is important. Employers may argue that because you worked 75 hours for the pay period you have not worked over 40 hours a week. Be sure that your pay accurately reflects your hours.

If you are denied payment, contact:

(1) The District Office of Labor and industry, 1101 Green Avenue, Altoona, PA. They will contact your employer and may bring a lawsuit at the Commonwealth's expense; or,

(2) The U. S. Department of Labor, Wage and Hour Division, in Altoona, PA, 814-942-4125. They will bring litigation, if necessary.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

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Keynotes
Keystone Legal Services, Inc.
2054 E. College Ave.
State College, PA 16801.

Julie Moore's daughter, Dot, has muscular dystrophy. Julie found it difficult to pay for Dot's medical treatment.

She applied for SSI (disability) on behalf of Dot.

While she awaited the decision, Julie applied for medical assistance at the county assistance office. Julie was issued a blue medical card and given information on what the card covers. Julie told the caseworker about Dot's medical problems and the high costs involved, especially for a wheelchair and ramp. The caseworker said, "There is a special program for children called EPSDT (Early and Periodic

Screening, Diagnosis and Treatment). Under EPSDT, medical assistance will pay for any treatment or service which is medically necessary, including a wheelchair and ramp, as long as

Dot's doctor says she needs it."

"There is no co-payment or deductible."

"EPSDT is for children up to the age of 21 as

long as they have a medical card. Under EPSDT, medical assistance will pay for any medical service, treatment or equipment which is medically necessary."

To enroll in EPSDT and get more information call: 800/543-7633.

EPSDT

By Susan Michalik,
KLS Staff Attorney

KEY EVENTS

By Beth Hamilton
KLS Office Manager



MILLHEIM OUTREACH:

Keystone recently opened an outreach office in Millheim, Centre County. The outreach office provides service to Millheim area residents. Call 800-326-9177 or (814)238-4958 (M-F, 9:00 a.m. to 5:00 p.m.) to determine your eligibility for a consultation.

PRO SE CUSTODY CLINICS:

Keystone does not have the resources to directly represent all the persons who need our help. We can, however, help some people to conduct their own legal actions. Some clients have cases that can go "pro se." What is pro se? Pro se means "on your own." Pro se means you are representing yourself.

Pro se custody clinics have been scheduled for the end of January. Current clients have been notified of the date, time and place. If you are interested in filing a pro se custody and you think you are financially eligible for Keystone's services, please use the office directory on page 4.

NEED HELP MEETING YOUR HEATING BILLS? CONTACT YOUR COUNTY ASSISTANCE OFFICE AND ASK ABOUT PENNSYLVANIA'S LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).

CENTRE: 814/355-6000
CLEARFIELD: 814/765-7591
HUNTINGDON: 814/643-1170
JUNIATA: 717/436-2158
MIFFLIN: 717/248-6746

INSTALLMENT SALES

By Robin J. Foor
KLS Staff Attorney

Installment sales contracts provide that the buyer can make payments over a period of time. In exchange, the buyer pays interest. This means that the buyer pays more than he/she would pay if he/she paid in cash.

Furniture, cars and appliances are commonly bought by installments. There is a law which says what must be in an installment sales contract. A buyer should carefully read an installment sales contract. There is valuable information in the contract that the buyer should know. A buyer should never sign a contract that does not have all the information completed.

At the top of the agreement, there is a series of blocks. The information in those blocks tells the buyer exactly what he/she is paying for the item. The first block is the annual percentage rate. This is the percentage of interest the buyer pays each year he/she makes payments. Another block has the finance charge. This is the amount the buyer pays in addition to the price of the item. The amount financed is the price of the item less any down payments plus any insurance costs. The total of payments is the total amount in dollars and cents the item is going to cost the buyer. At the top of the contract, it will say how many payments, the amount of the payments and when the payments would start.

Example: A buyer buys a car for \$1000 at 15% annual percentage rate. He/she intends to make payments for 24 months. He/she will

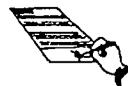
pay a \$198.43 finance charge or a total of \$1198.43 for the car. The payment will be \$49.93 a month. (The interest rate is 15%. The amount of interest you pay is \$198.43).

The contract will specify if there is collateral. **Collateral** is an item which can be sold if the buyer defaults. A buyer **defaults** when he/she does not make the regular payments. If the collateral is a vehicle the seller will hold the title until all payments are made.

Charges for life and disability insurance are usually on the contract. Life insurance pays the debt if the buyer dies. Disability insurance pays if the buyer is hurt or becomes disabled. The policy has provisions which govern when the policy is activated, when it will pay and how much it will pay. The buyer has a choice as to whether or not he/she wishes to purchase insurance. The buyer should ask questions about the policy provisions before agreeing to buy insurance.

DOOR TO DOOR SALES

If a seller comes to the buyer's home, the buyer has 3 days after signing the contract to change his/her mind. You must cancel in writing. This is because when a seller is in a buyer's home, the buyer may feel pressure to buy the product. Once the seller has left and the buyer is no longer under pressure, he/she can decide to cancel the contract. Every door to door contract should have a written notice of your right to cancel and how to do it.



**READ BEFORE
YOU SIGN!**

BRIDGING THE GAP

□□□ 1992 Pro Bono Project □□□

*By Beth Hamilton
Pro Bono Coordinator*

Keystone Legal Services, Inc., recognized 92 attorneys who volunteered their services in 1992 to the Keystone Pro Bono Project. Keystone's staff and Board of Directors would like to thank the following attorneys:

CENTRE COUNTY ATTORNEYS

Rodney A. Beard, John Becker, Tracey Benson, Denise Bierly-McDermott, Bill Bispels, Jeffrey Bower, James Bryant, Richard Campbell, Andrea Commaker, Allan Crider, William Donovan, Virginia Eisenstein, Fredrick Farber, Mark Faulkner, Grant Fleming, William T. Fleming, Ronald Freidman, Stephen Furst, Anthony Gerace, James L. Green, H. Amos Goodall, Kimberly Hamilton, Gary Heim, Alfred Jones, Winifred Jones-Wenger, Richard Kalin, Rosadele Kauffman, Karen Keeney, Claire Kimmel, Thomas K. Kistler, Donald Lee, Brad Lunsford, David Mason, H. Denning Mason, Paul Mazza, Ronald McGlaughlin, Delbert McQuaide, Sonja Napier, Lee Nollau, Kent O'Neil, James Rayback, Lillian Raycroft, Robert Rayman, Dennis Reiter, Robert Richards, Jeffrey Rosenfeld, Pamela Ruest, Betsy Sanders, Charles Schneider, Robert Storch, Charles Tauber, Jose Texidor, W.

David Todd, Kenneth Walsh, Jeffrey Warren, David Weixel and Leslie Zuck.

CLEARFIELD COUNTY ATTORNEYS

David Ammerman, Ronald Archer, F. Cortez Bell, Jr., Richard Bell, Benjamin S. Blakely, III, Joseph Colavecchi, Andrew Gates, R. Denning Gearhart, Scott V. Jones, Kim Kesner, Dwight Koerber, Jr., Kimberly Kubista, Thomas Morgan, John Ryan, Barbara Schickling, Laurance Seaman, John Sughrue and Ann Wood.

HUNTINGDON COUNTY ATTORNEYS

Barbara Baxter, Charles Bierbach, Robert Covell, Frederick Gutshall, Thomas McDowell, Peter McManamon, William Myers, Charles Swigart and Helen P. Woolley.

JUNIATA COUNTY ATTORNEYS

Michael Johnston and Donald Zagurskie.

MIFFLIN COUNTY ATTORNEYS

Stuart A. Cilo, Robert Ferguson, David Goldman, Richard Mohler, Timothy Searer and Stephen Snook.

The Pro Bono Project helps to "bridge the gap" by providing legal representation to low income persons in the Centre Region by seeking the support and assistance of members of the private bar and others in the legal community. Each attorney participating in the Pro Bono Project has four options for providing assistance to the poor: accepting cases referred through the legal services office, participating in the Legal Advice Clinic, providing community education or making a financial contribution to Keystone Legal Services, Inc.

This year the Pro Bono Project made 116 direct referrals and 131 other clients were served by attorney participants in the Legal Advice Clinic.

Projects accomplished this year through community education included an attorney who donated time to assist Keystone staff attorneys with legal research projects.

Two other attorneys specializing in environmental law and military/veterans issues provided assistance to Keystone's staff attorneys working on issues in these areas.

KEYSTONE LEGAL SERVICES' OFFICE DIRECTORY

Centre County: 2054 E. College Ave., State College, PA 16801. (814)238-4958

Clearfield County: 213 N. Second St., Clearfield, PA 16830, (814)765-9646

Mifflin, Juniata and Huntingdon Counties: 2054 E. College Ave., State College, PA 16801, (800)326-9177

Phillipsburg-Millheim Areas: 2054 E. College Ave., State College, PA 16801, (800)326-9177

For information on the Disability Advocacy Project, Institutional Law Project, Pro Bono Project call: (814)238-4958.

Consumer Law

CONSUMER LAW

I. DEBT COLLECTION

A. Coverage

1. Federal law covers persons or entities whose primary business is collecting debts.
2. State law covers anyone or entity collecting a debt.

I am going to focus on the state law

B. Prohibitions

1. Deceptive tactics
 - a. Making false representations to obtain information from the debtor
 - b. Misrepresenting the character, extent or amount of the debt or the status in legal proceedings
 - c. Misrepresenting the collector's identity or affiliation
 - d. Using simulated process or simulated official documents
 - e. threatening consequences for nonpayment unless the action is lawful and the collector or creditor intends to take it
 - f. Falsely claiming that the debtor has committed a crime or engaged in other disgraceful conduct
2. Communication with the debtor and others
 - a. Cannot make collect calls
 - b. Telephone within 7 days of last contact or visit the debtor's home within 30 days of last visit

- c. Must disclose identity at the beginning of contact
 - d. Cannot call debtor at place of employment after a written request that such calls cease
 - e. Cannot call debtor at place of employment unless it is current billing address or creditor has been unable to reach debtor for thirty days and has no reason to know that employer prohibits such calls
 - f. Cannot send mail to debtor at job unless that is current billing address or debtor has consented
 - g. Cannot visit debtor at the job unless requested in writing by debtor
 - h. Cannot enter a debtor's home without permission of adult family member and must leave if asked
 - i. Cannot allow the conversation to be overheard by others
 - j. Cannot communicate with a debtor represented by an attorney
 - k. Cannot use profane, obscene and other abusive language
 - l. Must contact at convenient times between 8:00 am to 9:00 p.m.
3. Debtor can request a collector cease contact in writing. Does not apply to creditors collecting their own debts.

C. Remedies

1. Damages-actual for injuries

II. RENT-TO-OWN

There are many organizations which target poor people, people who feel they can not obtain a small loan or buy furniture or appliances or purchase them on credit. These organizations advertise there is no credit check. These organizations offer to rent a person an appliance or other consumer item and at the end of the lease the consumer can usually purchase the item. This discussion does not include automobile leases.

A. Rent vs. installment sales

1. Most states have consumer protection laws which regulate installment sales contracts and other credit transactions. Calling the transaction a lease is a way to avoid those consumer protection laws..
2. In most, if not all rent to own transactions the consumer pays many times what the product is worth. In actuality the consumer has paid a usurious interest rate.

B. Collection issues

1. Rent to own companies may threaten criminal charges if a customer in default refuses to return an item. This threat is based on a theft of leased property law which was enacted to protect the automobile industry. This law probably does not apply to the rent to own industry. I am unaware of any situations where it has been applied.
2. These companies may hire officials, like off duty sheriff's deputies to collect from consumers. This is probably an improper use of an official position.
3. Collectors for these companies have been notorious for breaking the peace by entering home without permission, removing property by force and threatening consumers.

III. UTILITIES

- A. PUC regulated - Most utility companies are regulated by the Pennsylvania Utility Commission. There are detailed regulations which the utilities follow. They are closely regulated because they are monopolies.
1. Termination procedures - the regulations require certain notices, given at specific times and to specific persons. These notices give the consumer information on the PUC agreement procedure as well as the amounts due and when the termination is scheduled.
 2. PUC works out agreements in most cases and those agreements are based on the consumer's ability to pay. An agreement can be renegotiated after twelve months.
- B. Certain utility companies are not regulated by the PUC, for example, rural cooperatives; municipalities; cable companies.
1. However, the PUC regulations may apply by analogy.
 2. Basic contract law does apply in these transactions. So some problems, like trying to make a new subscriber pay the previous tenant's or owner's bill can be challenged on contract principles.
- C. Tenant's rights when the landlord is the utility subscriber.

Tenant's Utilities Rights Act

1. notification - The utility ascertain if there are tenants and who they are. It must then notify the tenant that the landlord has not paid the bill and give the tenants options to retain the service.
2. pay current bill - The tenant or tenants may pay the bill for the previous 30 days and maintain the service without having it put in their name. They may deduct the amount from the rent. The landlord cannot evict the tenant or take over retaliatory action.

3. individual subscription - The tenant or tenants may individually subscribe to the utility if feasible.
4. Remedy - This act is to be enforced by the Attorney General.

IV. REPOSSESSIONS - All repossessions are governed by the Uniform Commercial Code. Certain other repossessions involving specific types of property or contracts are governed by additional laws.

A. Prerequisites for a repossession

1. There must be a valid security interest. A security interest is an interest that a seller or lender holds until the it is paid all the money owed by the buyer or borrower. The most common security interest other than a mortgage is taken in automobiles. In that type of transaction, the seller or lender usually physically holds tne title. Another common type, is the purchase money security interest in personal property. That interest is created when the money borrowed is actually used to purchase the specific item. In addition, the contract must specify that there is a purchase money security interest. The FTC now prohibits the taking of security interests in consumer personal property for other loans.
2. There must be default. That almost always means a failure to pay the payments.
3. A notice may be required which gives the consumer the right to cure. The right to cure is the right to pay all the money due and stop the repossession. Most purchase money security interest transactions are governed by an act that require a twenty day notice. Mobile home sales are governed by an act that requires a thirty day notice. The act governing automobile sales does not require a notice and right to cure.
4. US Soldiers and Sailors Civil Relief Act- prohibits the repossession of collateral for a transaction entered into before the individual entered the service. The creditor must seek judicial remedy.
5. An individual repossessing an item must not breach the peace. That at least means, he can not enter the consumers home without permission and cannot remove property by force.

B. After the repossession

1. The creditor must give the consumer notice of the right to redeem. Which is the right to pay all the money owed including the cost of the repossession and take the property back.
2. The creditor must sell the property in a commercially reasonable manner. This would be a way which would likely bring the best price for the collateral.

C. Deficiency - If the creditor sells the collateral and does not receive the amount owed on the contract the difference is called a deficiency. The creditor can and often does seek payment of the deficiency including going to court and obtaining a judgement.

V. JUDGEMENTS, EXECUTION OF JUDGEMENTS, SHERIFF SALES

- A. Judgements - When a consumer defaults on a contract or otherwise owes money, the creditor can file a complaint with the Court of Common Pleas or the District Magistrate. If after going through the hearing or other procedure, the creditor wins, he is awarded a judgement.
- B. If the consumer does not pay the judgement amount the creditor can then seek to execute on the judgement. This is usually done through a sheriff or constable sale.
 1. Judgement from the Court of Common Pleas.
 - a. The creditor can use discovery to find if the debtor has assets.
 - b. A writ of execution is served on the debtor and certain items of property are levied. The debtor may claim exemptions. A wide range of property may be levied on including real property and bank accounts as well as personal property.
 - c. A sale must be held within six months of the writ.
 2. Judgement from the District Justice.
 - a. The creditor must seek an order of execution.
 - b. The order is served and property is levied. Only personal tangible property is subject to levy.
 - c. A sale must be held within six months of the writ.
- C. Common exemptions or immunities
 1. All debtors have a \$300.00 dollar exemption. If an individual does not own property worth \$300.00, he is judgement proof. The instructions for claiming the exemption are part of the writ or order for execution.

2. If a third party owns the property levied he can file a third party claim, which usually removed the property from levy.
3. In Pennsylvania, married persons own property by the entirety. That means that each the property entirely. So if a creditor has a judgement against one spouse and levies on property owned by both, the other spouse can file a third party claim.
4. Wage attachment is not available in Pennsylvania generally. The two common exceptions are for child support and student loans.

Client Handout Answering Common Bankruptcy Questions*

A decision to file for bankruptcy should be made only after determining that bankruptcy is the best way to deal with your financial problems. This brochure cannot explain every aspect of the bankruptcy process. If you still have questions after reading it, you should speak with an attorney familiar with bankruptcy or a paralegal working for an attorney.

What Is Bankruptcy?

Bankruptcy is a legal proceeding in which a person who cannot pay his or her bills can get a fresh financial start. The right to file for bankruptcy is provided by federal law, and all bankruptcy cases are handled in federal court. Filing bankruptcy immediately stops all of your creditors from seeking to collect debts from you, at least until your debts are sorted out according to the law.

What Can Bankruptcy Do for Me?

Bankruptcy may make it possible for you to:

- Eliminate the legal obligation to pay most or all of your debts. This is called a "discharge" of debts. It is designed to give you a fresh financial start.
- Stop foreclosure on your house or mobile home and allow you an opportunity to catch up on missed payments. (Bankruptcy does not, however, automatically eliminate mortgages and other liens on your property without payment.)
- Prevent repossession of a car or other property, or force the creditor to return property even after it has been repossessed.

* Adapted by the National Consumer Law Center from a pamphlet prepared by Legal Services, Inc., under a grant from the Pennsylvania Law Coordination Center, and from National Consumer Law Center, *Surviving Debt* (1992). Those seeking more detailed and technical information should consult National Consumer Law Center, *Consumer Bankruptcy Law and Practice* (4th ed. 1992), or National Consumer Law Center, *Surviving Debt*.

- Stop wage garnishment, debt collection harassment, and similar creditor actions to collect a debt.
- Restore or prevent termination of utility service.
- Allow you to challenge the claims of creditors who have committed fraud or who are otherwise trying to collect more than you really owe.

What Bankruptcy Cannot Do

Bankruptcy cannot, however, cure every financial problem. Nor is it the right step for every individual. In bankruptcy, it is usually *not* possible to:

Eliminate certain rights of "secured" creditors. A "secured" creditor has taken a mortgage or other lien on property as collateral for the loan. Common examples are car loans and home mortgages. You *can* force secured creditors to take payments over time in the bankruptcy process and bankruptcy *can* eliminate your obligation to pay any additional money if your property is taken. Nevertheless, you generally cannot keep the collateral unless you continue to pay the debt.

Discharge types of debts singled out by the bankruptcy law for special treatment, such as child support, alimony, some student loans, court restitution orders, criminal fines, and some taxes.

Protect cosigners on your debts. When a relative or friend has co-signed a loan, and the consumer discharges the loan in bankruptcy, the cosigner may still have to repay all or part of the loan.

Discharge debts that arise after bankruptcy has been filed.

What Different Types of Bankruptcy Cases Should I Consider?

There are four types of bankruptcy cases provided under the law:

Chapter 7 is known as "straight" bankruptcy or "liquidation." It requires a debtor to give up property which exceeds certain limits called "exemptions", so the property can be sold to pay creditors.

Chapter 11, known as "reorganization", is used by businesses and a few individual debtors whose debts are very large.

Chapter 12 is reserved for family farmers.

Chapter 13 is called "debt adjustment". It requires a debtor to file a plan to pay debts (or parts of debts) from current income.

Most people filing bankruptcy will want to file under either chapter 7 or chapter 13. Either type of case may be filed individually or by a married couple filing jointly.

Chapter 7 (Straight Bankruptcy)

In a bankruptcy case under chapter 7, you file a petition asking the court to discharge your debts. The basic idea in a chapter 7 bankruptcy is to wipe out (discharge) your debts in exchange for your giving up property, except for "exempt" property which the law allows you to keep. In most cases, all of your property will be exempt. But property which is not exempt is sold, with the money distributed to creditors.

If you want to keep property like a home or a car and are behind on the payments on a mortgage or car loan, a chapter 7 case probably will not be the right choice for you. That is because chapter 7 bankruptcy does not eliminate the right of mortgage holders or car loan creditors to take your property to cover your debt.

Chapter 13 (Reorganization)

In a chapter 13 case you file a "plan" showing how you will pay off some of your past-due and current debts over three to five years. The most important thing about a chapter 13 case is that it will allow you to keep valuable property—especially your home and car—which might otherwise be lost, if you can make the payments which the bankruptcy law requires to be made to your creditors. In most cases, these payments will be at least as much as your regular monthly payments on your mortgage or car loan, with some extra payment to get caught up on the amount you have fallen behind.

You should consider filing a chapter 13 plan if you

- (1) own your home and are in danger of losing it because of money problems;
- (2) are behind on debt payments, but can catch up if given some time;
- (3) have valuable property which is not exempt, but you can afford to pay creditors from your income over time.

You will need to have enough income in chapter 13 to pay for your necessities and to keep up with the required payments as they come due.

What Does It Cost to File for Bankruptcy?

It now costs \$150 to file for bankruptcy, whether for one person or a married couple. The court may allow you to pay this filing fee in installments if you cannot pay all at once. If you hire an attorney you will also have to pay the attorney's fees you agree to.

What Property Can I Keep?

[Note to the Attorney: This answer is accurate for states that permit the federal exemptions. For states which have opted out of federal exemptions, the answer must be adapted to indicate that the debtor's exemptions are those specified by state law.]

In a chapter 7 case, you can keep all property which the law says is "exempt" from the claims of creditors. You can choose between your exemptions under your state law or under federal law. In many cases, the federal exemptions are better.

Federal exemptions include:

- \$7,500 in equity in your home;
- \$1,200 in equity in your car;
- \$200 per item in any household goods up to a total of \$4,000;
- \$750 in things you need for your job (tools, books, etc.);
- \$400 in any property, plus part of the unused exemption in your home;
- Your right to receive certain benefits such as social security, unemployment compensation, veteran's benefits, public assistance, and pensions—regardless of the amount.

The amounts of the exemptions are doubled when a married couple files together.

In determining whether property is exempt, you must keep a few things in mind. The value of property is not the amount you paid for it, but what it is worth now. Especially for furniture and cars, this may be a lot less than what you paid or what it would cost to buy a replacement.

You also only need to look at your equity in property. This means that you count your exemptions against the full value minus any money that you owe on mortgages or liens. For example, if you own a \$50,000 house with a \$40,000 mortgage, you count your exemptions against the \$10,000 which is your equity if you sell it.

While your exemptions allow you to keep property even in a chapter 7 case, your exemptions do not make any difference to the right of a mortgage holder or car loan creditor to take the property to cover the debt if you are behind. In a chapter 13 case, you can keep all of your property if your plan meets the requirements of the bankruptcy law. In most cases you will have to pay the mortgages or liens as you would if you didn't file bankruptcy.

What Will Happen to My Home and Car If I File Bankruptcy?

In most cases you will not lose your home or car during your bankruptcy case as long as your equity in the property is fully exempt. Even if your property is not fully exempt, you will be able to keep it, if you pay its non-exempt value to creditors in chapter 13.

However, some of your creditors may have a "security interest" in your home, automobile or other personal property. This means that you gave that creditor a mortgage on the home or put your other property up as collateral for the debt. Bankruptcy does not make these security interests go away. If you don't make your payments on that debt, the creditor may be able to take and sell the home or the property, during or after the bankruptcy case.

There are several ways that you can keep collateral or mortgaged property after you file bankruptcy. You can agree to keep making your payments on the debt until it is paid in full. Or you can pay the creditor the amount that the property you want to keep is worth. In some cases involving fraud or other improper conduct by the creditor, you may be able to challenge the debt. If you put up your household goods as collateral for a loan (other than a loan to purchase the goods), you can usually keep your property without making any more payments on that debt.

Can I Own Anything After Bankruptcy?

Yes! Many people believe they cannot own anything for a period of time after filing for bankruptcy. This is not true. You can keep your exempt property and anything you obtain after the bankruptcy is filed. However, if you receive an inheritance, a property settlement, or life insurance benefits within 180 days after filing for bankruptcy, that money or property may have to be paid to your creditors if the property or money is not exempt.

Will Bankruptcy Wipe Out All My Debts?

Yes, with some exceptions. Bankruptcy will not normally wipe out:

- (1) money owed for child support or alimony, fines, and some taxes;
- (2) debts not listed on your bankruptcy petition;
- (3) loans you got by knowingly giving false information to a creditor, who reasonably relied on it in making you the loan;
- (4) debts resulting from "willful and malicious" harm;
- (5) student loans owed to a school or government body, except if:
 - the loan first became due more than 7 years before the bankruptcy was filed *or*
 - the court decides that payment would be an undue hardship;
- (6) mortgages and other liens which are not paid in the bankruptcy case (but bankruptcy will wipe out your obligation to pay any additional money if the property is sold by the creditor).

Will I Have to Go to Court?

In most bankruptcy cases, you only have to go to a proceeding called the "meeting of creditors" to meet with the bankruptcy trustee and any creditor who chooses to come. Most of the time, this meeting will be a short and simple procedure where you are asked a few questions about your bankruptcy forms and your financial situation.

Occasionally, if complications arise, or if you choose to dispute a debt, you may have to appear before a judge at a hearing. If you need to go to court, you will receive notice of the court date and time from the court and/or from your attorney.

Will Bankruptcy Affect My Credit?

There is no clear answer to this question. Unfortunately, if you are behind on your bills, your credit may already be bad. Bankruptcy will probably not make things any worse.

The fact that you've filed a bankruptcy can appear on your credit record for ten years. But since bankruptcy wipes out your old debts, you are likely to be in a better position to pay your current bills, and you may be able to get new credit.

What Else Should I Know?

Utility services—Public utilities, such as the electric company, cannot refuse or cut off service because you have filed for bankruptcy. However, the utility can require a deposit for future service and you do have to pay bills which arise after bankruptcy is filed.

Discrimination—An employer or government agency cannot discriminate against you because you have filed for bankruptcy.

Driver's license—If you lost your license solely because you couldn't pay court-ordered damages caused in an accident, bankruptcy will allow you to get your license back.

Co-signers—If someone has co-signed a loan with you and you file for bankruptcy, the co-signer may have to pay your debt.

How Do I Find a Bankruptcy Attorney?

As with any area of the law, it is important to carefully select an attorney who will respond to your personal situation. The attorney should not be too busy to meet you individually and to answer questions as necessary.

The best way to find a trustworthy bankruptcy attorney is to seek recommendations from family, friends or other members of the community, especially any attorney you know and respect. You should carefully read retainers and other documents the attorney asks you to sign. You should not hire an attorney unless he or she agrees to represent you throughout the case.

In bankruptcy, as in all areas of life, remember that the person advertising the cheapest rate is not necessarily the best. Many of the best bankruptcy lawyers do not advertise at all.

Paying for debt counseling is almost never a good idea. There is almost nothing that a paid debt counselor can offer other than a recommendation about whether bankruptcy is appropriate and a list of highly priced debt consolidation lenders. There is no good rea-

son to pay someone for this service. A reputable attorney will generally provide counseling on whether bankruptcy is the best option. This avoids the double charge of having to pay a counselor and then an attorney. If bankruptcy is not the right answer for you, a good attorney will offer a range of other suggestions.

Document preparation services also known as "typing services" or "paralegal services" involve non-lawyers who offer to prepare bankruptcy forms for a fee. Problems with these services often arise because non-lawyers cannot offer advice on difficult bankruptcy cases and they offer no services once a bankruptcy case has begun. There are also many shady operators in this field, who give bad advice and defraud consumers.

When first meeting a bankruptcy attorney, you should be prepared to answer the following questions:

- What types of debt are causing you the most trouble?
- What are your significant assets?
- How did your debts arise and are they secured?
- Is any action about to occur to foreclose or repossess property or to shut off utility service?
- What are your goals in filing the case?

Can I File Bankruptcy Without an Attorney?

Although it may be possible for some people to file a bankruptcy case without an attorney, it is not a step to be taken lightly. The process is difficult and you may lose property or other rights if you do not know the law. It takes patience and careful preparation. Chapter 7 (straight bankruptcy) cases are easier. Very few people have been able to successfully file chapter 13 (debt adjustment) cases on their own.

Remember: The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

KEYNOTES

Vol. 3 No. 4

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January 1993

HOSPITAL DISCHARGE RIGHTS

*By Roberta Mueller
KLS Staff Attorney*

This article will give you information about what to do if you are a patient in a hospital that tells you that you "have" to leave the hospital (be "discharged") before you think you are well enough. You may be told by hospital staff that Medicare, insurance or medical assistance "says" that you are only allowed to stay a certain number of days, and since that time is up, you have to leave. You or your family might even be told that you will be sent home if you do not go home right away. If you think you need to stay longer, or if the hospital has not made plans for how you will be taken care of after you leave the hospital, it may be illegal for them to discharge you.

CAUSES OF THE PROBLEM

Hospitals are paid under a system which pays them a set amount depending on your diagnosis. This amount is set by figuring out the average length of stay for patients with that diagnosis on admission. What this means is that hospitals make money if they get you out faster than average

and lose money if they get you out slower than average. This gives them a reason to discharge people early.

This practice is called "quicker and sicker." You need to know that **what they get paid has nothing to do with how long the law says you can stay. You are to be kept in the hospital as long as your medical needs require it.**

YOUR



RIGHTS

If **Medicare** is paying for your stay and the hospital tries to force you to leave, you have to be given a notice called a PRO notice. It gives you the right to an immediate (within 72 hours) hearing to appeal the decision telling you to leave. If you ask for a hearing, the hospital cannot discharge you until after your hearing has been held; it also cannot charge you for the days you are in the hospital between the time you are given the notice and the time you have your hearing.

Even if you are **not** a Medicare recipient, Pennsylvania law

requires that the hospital have an adequate discharge plan for you before it discharges you. This means that, if you need home health care or a visiting nurse, the hospital must make sure those services are in place before they send you home. If your medical needs cannot be taken care of at home, they must keep you until they can find you a suitable placement such as a personal care home or a nursing home.

Do not be scared into leaving the hospital before you can do so safely.

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YOUR PAYCHECK AND YOUR RIGHTS

By Dennis Kenny, KLS Staff Attorney

This article explains your rights under a Pennsylvania law called the Wage Payment and Collection Law and the Federal Fair Labor Standards Act.

You have a right to be paid for the work you do. Under PA law, it is illegal for your employer to withhold or unfairly reduce your pay. Even if you quit or are fired, the employer must pay you wages you have earned for the hours you have worked.

Your employer cannot withhold deductions from your paycheck without your specific written permission. For example, if your employer accuses you of damaging his/her property and you agree in writing that you caused the damage, but do not

agree to any specific wage reduction, your employer is still required to pay you the full amount of your paycheck.

The law requires that you specifically agree in writing to any reduction in your pay. If you agree in writing to a pay reduction, your employer still cannot reduce your paycheck to less than the minimum wage for any job covered by the minimum wage standard. The minimum hourly wage is based on a 40 hour work week.

If you are paid overtime hours, (over 40 hours/week), it is calculated on a weekly basis. For example, if you are paid every two weeks, and you work 45 hours one week and 30 hours the next,

you would be entitled to 5 hours overtime pay. This is important. Employers may argue that because you worked 75 hours for the pay period you have not worked over 40 hours a week. Be sure that your pay accurately reflects your hours.

If you are denied payment, contact:

(1) The District Office of Labor and Industry, 1101 Green Avenue, Altoona, PA. They will contact your employer and may bring a lawsuit at the Commonwealth's expense; or,

(2) The U. S. Department of Labor, Wage and Hour Division, in Altoona, PA, 814-942-4125. They will bring litigation, if necessary.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

Editor: *Roberta Mueller, Esq.*

Publisher: *Linda Lovett*

If you have any suggestions or issues you would like to see in Keynotes, please send us a letter addressed to:

Keynotes
Keystone Legal Services, Inc.
2054 E. College Ave.
State College, PA 16801.

Julie Moore's daughter, Dot, has muscular dystrophy. Julie found it difficult to pay for Dot's medical treatment.

She applied for SSI (disability) on behalf of Dot.

While she awaited the decision, Julie applied for medical assistance at the county assistance office. Julie was issued a blue medical card and given information on what the card covers. Julie told the caseworker about Dot's medical problems and the high costs involved, especially for a wheelchair and ramp. The caseworker said, "There is a special program for children called EPSDT (Early and Periodic

Screening, Diagnosis and Treatment). Under EPSDT, medical assistance will pay for any treatment or service which is medically necessary, including a wheelchair and ramp, as long as Dot's doctor says she needs it."

"There is no co-payment or deductible."

"EPSDT is for children up to the age of 21 as

long as they have a medical card. Under EPSDT, medical assistance will pay for any medical service, treatment or equipment which is medically necessary."

To enroll in EPSDT and get more information call: 800/543-7633.

EPSDT

By Susan Michalik
KLS Staff Attorney

KEY EVENTS

By Beth Hamilton
KLS Office Manager



MILLHEIM OUTREACH:

Keystone recently opened an outreach office in Millheim, Centre County. The outreach office provides service to Millheim area residents. Call 800-326-9177 or (814)238-4958 (M-F, 9:00 a.m. to 5:00 p.m.) to determine your eligibility for a consultation.

PRO SE CUSTODY CLINICS:

Keystone does not have the resources to directly represent all the persons who need our help. We can, however, help some people to conduct their own legal actions. Some clients have cases that can go "pro se." What is pro se? Pro se means "on your own." Pro se means you are representing yourself.

Pro se custody clinics have been scheduled for the end of January. Current clients have been notified of the date, time and place. If you are interested in filing a pro se custody and you think you are financially eligible for Keystone's services, please use the office directory on page 4.

NEED HELP MEETING YOUR HEATING BILLS? CONTACT YOUR COUNTY ASSISTANCE OFFICE AND ASK ABOUT PENNSYLVANIA'S LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).

CENTRE: 814/355-6000
CLEARFIELD: 814/765-7591
HUNTINGDON: 814/643-1170
JUNIATA: 717/436-2158
MIFFLIN: 717/248-6746

INSTALLMENT SALES

By Robin J. Foor
KLS Staff Attorney

Installment sales contracts provide that the buyer can make payments over a period of time. In exchange, the buyer pays interest. This means that the buyer pays more than he/she would pay if he/she paid in cash.

Furniture, cars and appliances are commonly bought by installments. There is a law which says what must be in an installment sales contract. A buyer should carefully read an installment sales contract. There is valuable information in the contract that the buyer should know. A buyer should never sign a contract that does not have all the information completed.

At the top of the agreement, there is a series of blocks. The information in those blocks tells the buyer exactly what he/she is paying for the item. The first block is the **annual percentage rate**. This is the percentage of interest the buyer pays each year he/she makes payments. Another block has the **finance charge**. This is the amount the buyer pays in addition to the price of the item. The **amount financed** is the price of the item less any down payments plus any insurance costs. The **total of payments** is the total amount in dollars and cents the item is going to cost the buyer. At the top of the contract, it will say how many payments, the amount of the payments and when the payments would start.

Example: A buyer buys a car for \$1000 at 15% annual percentage rate. He/she intends to make payments for 24 months. He/she will

pay a \$198.43 finance charge or a total of \$1198.43 for the car. The payment will be \$49.93 a month. (The interest rate is 15%. The amount of interest you pay is \$198.43).

The contract will specify if there is collateral. **Collateral** is an item which can be sold if the buyer defaults. A buyer **defaults** when he/she does not make the regular payments. If the collateral is a vehicle the seller will hold the title until all payments are made.

Charges for life and disability insurance are usually on the contract. Life insurance pays the debt if the buyer dies. Disability insurance pays if the buyer is hurt or becomes disabled. The policy has provisions which govern when the policy is activated, when it will pay and how much it will pay. The buyer has a choice as to whether or not he/she wishes to purchase insurance. The buyer should **ask questions** about the policy provisions before agreeing to buy insurance.

DOOR TO DOOR SALES

If a seller comes to the buyer's home, the buyer has 3 days after signing the contract to change his/her mind. You must cancel in writing. This is because when a seller is in a buyer's home, the buyer may feel pressure to buy the product. Once the seller has left and the buyer is no longer under pressure, he/she can decide to cancel the contract. Every door to door contract should have a written notice of your right to cancel and how to do it.



**READ BEFORE
YOU SIGN!**

BRIDGING THE GAP

□□□ 1992 Pro Bono Project □□□

*By Beth Hamilton
Pro Bono Coordinator*

Keystone Legal Services, Inc., recognized 92 attorneys who volunteered their services in 1992 to the Keystone Pro Bono Project. Keystone's staff and Board of Directors would like to thank the following attorneys:

CENTRE COUNTY ATTORNEYS

Rodney A. Beard, John Becker, Tracey Benson, Denise Bierly-McDermott, Bill Bispels, Jeffrey Bower, James Bryant, Richard Campbell, Andrea Commaker, Allan Crider, William Donovan, Virginia Eisenstein, Fredrick Farber, R. Mark Faulkner, Grant Fleming, William T. Fleming, Ronald Freidman, Stephen Furst, Anthony Gerace, James L. Green, H. Amos Goodall, Kimberly Hamilton, Gary Heim, Alfred Jones, Winifred Jones-Wenger, Richard Kalin, Rosadele Kauffman, Karen Keeney, Claire Kimmel, Thomas K. Kistler, Donald Lee, Brad Lunsford, David Mason, H. Denning Mason, Paul Mazza, Ronald McGlaughlin, Delbert McQuaide, Sonja Napier, Lee Nollau, Kent O'Neil, James Rayback, Lillian Raycroft, Robert Rayman, Dennis Reiter, Robert Richards, Jeffrey Rosenfeld, Pamela Ruest, Betsy Sanders, Charles Schneider, Robert Storch, Charles Tauber, Jose Texidor, W.

David Todd, Kenneth Walsh, Jeffrey Warren, David Weixel and Leslie Zuck.

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HUNTINGDON COUNTY ATTORNEYS

Barbara Baxter, Charles Bierbach, Robert Covell, Frederick Gutshall, Thomas McDowell, Peter McManamon, William Myers, Charles Swigart and Helen P. Woolley.

JUNIATA COUNTY ATTORNEYS

Michael Johnston and Donald Zagurskie.

MIFFLIN COUNTY ATTORNEYS

Stuart A. Cilo, Robert Ferguson, David Goldman, Richard Mohler, Timothy Searer and Stephen Snook.

The Pro Bono Project helps to "bridge the gap" by providing legal representation to low income persons in the Centre Region by seeking the support and assistance of members of the private bar and others in the legal community. Each attorney participating in the Pro Bono Project has four options for providing assistance to the poor: accepting cases referred through the legal services office, participating in the Legal Advice Clinic, providing community education or making a financial contribution to Keystone Legal Services, Inc.

This year the Pro Bono Project made 116 direct referrals and 131 other clients were served by attorney participants in the Legal Advice Clinic.

Projects accomplished this year through community education included an attorney who donated time to assist Keystone staff attorneys with legal research projects.

Two other attorneys specializing in environmental law and military/veterans issues provided assistance to Keystone's staff attorneys working on issues in these areas.

KEYSTONE LEGAL SERVICES' OFFICE DIRECTORY

Centre County: 2054 E. College Ave., State College, PA 16801, (814)238-4958

Clearfield County: 213 N. Second St., Clearfield, PA 16830, (814)765-9646

Mifflin, Juniata and Huntingdon Counties: 2054 E. College Ave., State College, PA 16801, (800)326-9177

Phillipsburg-Millheim Areas: 2054 E. College Ave., State College, PA 16801, (800)326-9177

For information on the Disability Advocacy Project, Institutional Law Project, Pro Bono Project

Call: (814)238-4958.

YOUR CREDIT |

Across the country, there are business credit ratings. These businesses are allowed (the Fair Credit Reporting Act) controls investigations and reports. If you think all have been broken, contact your local Federal Trade Commission, 6th and Pennsylvania, D.C. (202) 724-1181.

WHEN CAN A REPORT ON YOUR CREDIT

- When:
1. it is in response to a court order;
 2. it is at your request;
 3. you have asked for credit; or
 4. it is part of a business transaction or for a governmental purpose.

WHAT ARE YOUR RIGHTS?

1. With some exceptions, credit reports cannot go back more than seven years, unless you have filed for bankruptcy; then these reports can go back 10 years.

2. If a credit report is being made on you, you must be told within three days that this is being done and if you ask, you must be told the details for the report.

3. You have the right to be told, with some exceptions, what information (except for medical information) is in your files; the source of the information; and a list of all people who have accessed the past six months (and of employers and lenders in the last two years).

4. If a report affects your credit, insurance, or a right to be told this. You also have the right to be told if you are being affected by information received from a source that wasn't in the report.

WHAT IF YOU DISAGREE WITH THE REPORT?

The information above describes some of your rights to know about and to see a credit report about yourself. You also have important rights which protect you from false information being told about you to creditors, employers, or other people. If you think false information was given about you, you can take the following steps:

1. Tell the business that is making the report that you disagree and why. They must investigate your claim and, if they agree with you, correct the report.
2. If, after an investigation, the business thinks its report about you is accurate, you have the right to make a public statement of up to one hundred (100) words explaining your side of the story. You should be careful to stick to the facts when you write your statement, and not use it as a way to get even with a creditor or other person with whom you had problems.



Whenever your credit report is requested by anyone in the future, it must include your statement, unless your statement is favourable or unobjectionable.

3. Usually you can be charged for copies of your credit report. But if you have been notified that the report may affect your credit rating, employment, or similar important interests, and you request copies within thirty (30) days, you cannot be charged for the copies.

If your credit rights under the Fair Credit Reporting Act have been violated, you have the right to sue for damages, or to have the Federal Trade Commission investigate your complaint.

REMEMBER: The law often changes. Each case is different. This pamphlet is merely information and no legal advice.

This pamphlet is available
Este folleto esta disponible
A Public Information Pamphlet
Legal Services, funded
under a grant from
Law Coordination C

9/82

BUILDING

A BETTER

CREDIT

RECORD

**What To Do
What To Avoid**

Produced by the
Federal Trade Commission
in cooperation with
Associated Credit Bureaus, Inc.
National Foundation for Consumer Credit
U.S. Office of Consumer Affairs
Consumer Information Center

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INTRODUCTION

"Credit Problems? No problem!"

"Erase bad credit! 100% guaranteed."

"Remove bankruptcy and liens from your credit file."

People who make claims like these may do nothing more than take your money and vanish. Credit repair fraud is a growing problem for consumers. If you have a bad credit history, no one can unconditionally guarantee to clean it up and get you credit. Although errors in your credit report can be corrected, a poor credit history cannot be erased.

But there are steps you can take when your credit applications are turned down or your bills pile up. The first part of this booklet explains how credit bureaus work and how to use them to conduct your own credit check-up. The second part tells you how to understand your credit report — what type of information it covers and what it looks like. The third section suggests steps you can take to improve your credit — how to deal with errors and omissions and how to understand the way time affects your credit history. The fourth section suggests ways you can deal with mounting bills and provides help in evaluating the claims of credit repair companies. The booklet concludes by suggesting where to go for further information.

HOW TO UNDERSTAND YOUR CREDIT HISTORY

If you have ever used a major credit card or financed an expensive purchase, such as a car, you probably have a record at a local credit bureau. This record of your credit history allows creditors to check your payment habits before they give you credit.

If you have been denied credit because of information that was supplied by a credit bureau, the Fair Credit Reporting Act requires the creditor to give you the name and address of the credit bureau that supplied the information. If you contact that bureau to learn what is in your file within 30 days of receiving a denial notice, the information is free. If not, the credit bureau may charge you a small fee.

You always are entitled to learn what is in your credit file, but credit bureaus vary in how they disclose this information. Most will send you a printed copy of your credit report. Some, however, will ask you to visit the bureau to review your record or will give you information over the telephone once you have provided proper identification.

This section tells you how to reach the credit bureau that has your file to review your credit history. It also explains how credit bureaus work and how you can conduct your own credit check-up from information your local credit bureau has collected.

How Credit Bureaus Work

Credit reporting agencies, often called credit bureaus, are companies that gather information on credit users and sell that information in the form of credit reports to credit grantors, such as banks, finance companies, and retailers. Credit bureaus keep records of consumers' debts and how regularly these debts are repaid. They gather information from creditors who send computer tapes or other payment data to credit bureaus, usually on a monthly basis, showing what each account-holder owes or has paid. The data show if payments are up-to-date or overdue, and if any action has been taken to collect overdue bills. The credit bureau adds this data to existing information in consumer files, creating a month-by-month history of activity on consumer accounts.

Credit bureaus cooperate with each other, passing information on to other bureaus when people move, for example. But, as businesses, they also compete for subscribers (credit grantors), who judge credit bureaus on the completeness of their records and the quality of their service.

How To Conduct Your Own Credit Check-Up

Even if you have not been denied credit, you may wish to find out what information is in your credit file. Some financial advisors suggest that consumers review their credit reports every three or four years to check for inaccuracies or omissions. This could be especially important if you are considering making a major purchase, such as buying a home. Checking in advance on the accuracy of information in your credit file could speed the credit-granting process.

To find which credit bureaus have your file, check the Yellow Pages under Credit Bureaus or Credit Reporting Agencies for the phone numbers and addresses of the bureaus near you.

When you contact them, give all identifying information, such as your full name, Social Security number, current address, former address, and spouse's name (if applicable). Ordinarily, a credit bureau will charge \$5 to \$15 to give you your credit file information. To get a complete credit picture, ask all local credit bureaus if they maintain a file on you.

If you are married, you and your spouse probably have individual credit files. These files may contain identical or different information, depending on whether you and your spouse have shared or separate accounts. You and your spouse may find it helpful to review and compare your credit histories together.

Credit information on accounts opened before June 1, 1977, that are shared by a husband and wife often are reported only in the husband's name. However, creditors must report the credit history individually, in the name of each spouse, if you ask them to do so. Newer accounts should be reported on an individual basis automatically. If you find this is not the case, write to the creditor and request that the account be reported in both names. This will help both of you build a credit history.

HOW TO UNDERSTAND YOUR CREDIT REPORT

Contrary to myth, a credit bureau neither tracks all aspects of your personal life nor evaluates credit applications. Credit bureaus are simply organizations that collect and transmit four principal types of information.

What A Credit Report Covers

- *Identification and employment data:* Your name, birthdate, address, Social Security number, employer, and spouse's name are routinely noted. The bureau also may provide other information, such as your employment history, home ownership, income, and previous address, if a creditor requests it.
- *Payment history:* Your account record with different creditors is listed, showing how much credit has been extended and how you have repaid it. Related events, such as referral of an overdue account to a collection agency, may be noted as well.
- *Inquiries:* Credit bureaus are required to maintain a record of all creditors who have requested your credit history within the past six months. They normally include such creditor inquiries in your credit file for at least this long.
- *Public record information:* Events that are a matter of public record and are related to your credit-worthiness, such as bankruptcies, foreclosures, or tax liens, may also appear in your report.

What A Credit Report Looks Like

To help you understand your own credit report, a full page of a sample composite credit report is shown on page 5. It is the basic format used by 1,475 credit bureau members of Associated Credit Bureaus, Inc., a national trade association of credit bureaus and collection services. Other credit bureaus use somewhat different formats, but provide the same basic information.

When you examine this sample credit report, you will find that most of the important information is self-explanatory. For example, the top half of the page is background information such as name, address and employment; the second half lists information about accounts and payment history.

FOR FIRST NATIONAL BANK ANYTOWN, ANYSTATE 12345					Date Received 4/11/86	CONFIDENTIAL creditscope® REPORT								
					Date Mailed 4/11/86									
					In File Since APRIL 1970									
					Inquired As: JOINT ACCOUNT		Member Associated Credit Bureaus, Inc.							
REPORT ON: LAST NAME	FIRST NAME	INITIAL	SOCIAL SECURITY NUMBER		SPOUSE'S NAME									
CONSUMER	ROBERT	G.	123-45-6789		BETTY R.									
ADDRESS. CITY	STATE:		ZIP CODE	S.N.C.E.:	SPOUSE'S SOCIAL SECURITY NO.									
1234 ANY ST. ANYTOWN	ANYSTATE		12333	1973	987-65-4321									
COMPLETE TO HERE FOR TRADE REPORT AND SKIP TO CREDIT HISTORY														
PRESENT EMPLOYER:		POSITION HELD:	SINCE:	DATE EMPLOY VERIFIED	EST. MONTHLY INCOME									
XYZ CORPORATION		ASST. DEPT. MGR.	10/81	12/81	\$ 2500									
COMPLETE TO HERE FOR EMPLOYMENT AND TRADE REPORT AND SKIP TO CREDIT HISTORY														
DATE OF BIRTH	NUMBER OF DEPENDENTS INCLUDING SELF:	<input checked="" type="checkbox"/> OWNS OR BUYING HOME		<input type="checkbox"/> RENTS HOME		OTHER: (EXPLAIN)								
/25/50	4													
FORMER ADDRESS:		CITY:	STATE:	FROM:	TO:									
4321 FIRST AVE.		ANYTOWN	ANYSTATE	1970	1973									
FORMER EMPLOYER:		POSITION HELD:	FROM:	TO:	EST. MONTHLY INCOME									
ABC & ASSOCIATES		SALES PERSON	2/80	9/81	\$ 1285									
SPOUSE'S EMPLOYER:		POSITION HELD:	SINCE:	DATE EMPLOY VERIFIED	EST. MONTHLY INCOME									
BIG CITY DEPT. STORE		CASHIER	4/81	12/81	\$ 1200									
CREDIT HISTORY (Complete this section for all reports)														
WHOSE	KIND OF BUSINESS AND IO CODE	DATE REPORTED AND METHOD OF REPORTING	DATE OPENED	DATE OF LAST PAYMENT	HIGHEST CREDIT OR LAST CONTRACT	PRESENT STATUS				HISTORICAL STATUS			TYPE & TERMS (MANNER OF PAYMENT)	REMARKS
						BALANCE OWING	PAST DUE		NO. MONTHS REVIEWED	TIMES PAST DUE				
							AMOUNT	NO. OF PAYMENTS		30-59 DAYS ONLY	60-89 DAYS ONLY	90 DAYS AND OVER		
2	CONSUMER'S BANK B 12-345	2/6/86 AUTOMTD.	12/85	1/86	1200	1100	-0-	-0-	2	-0-	-0-	-0-	INSTALLMENT	\$100/MO.
3	BIG CITY DEPT. STORE D 54-321	2/10/86 MANUAL	4/81	1/86	300	100	-0-	-0-	12	-0-	-0-	-0-	REVOLVING	\$ 25/MO.
1	SUPER CREDIT CARD N 01-234	12/12/85 AUTOMATD.	7/82	11/85	200	100	100	1	12	1	-0-	-0-	OPEN 30-DAY	
PUBLIC RECORD: SMALL CLAIMS CT. CASE #SC1001 PLAINTIFF ANYWHERE APPLIANCES AMOUNT \$225 PAID 4/4/82														
ADDITIONAL INFORMATION: REF. SMALL CLAIMS CT. CASE #SC1001--5/30/82 SUBJECT SAYS CLAIM PAID UNDER PRDTEST. APPLIANCE DID NOT OPERATE PROPERLY.														

However, at the bottom half of the page under the heading "Credit History" (shown below) are a few items that may be puzzling. For example, in the first column on the left labeled "whose," the purple numbers 1-2-3 indicate who may use and who pays for the credit account. The "2" indicates a joint account — two persons use the account and each is liable for payment. The "3" indicates a user account — one person is authorized to use the account, while the other person, who also may use it, is liable for payment. The "1" indicates an individual account — the person named on the file has sole use and responsibility for payment of the account.

CREDIT HISTORY (Complete this section for all reports)

	DATE OPENED	DATE OF LAST PAYMENT	HIGHEST CREDIT OR LAST CONTRACT	PRESENT STATUS			HISTORICAL STATUS			REMARKS	
				BALANCE OWING	PAST DUE		NO. MONTHS HISTORY REVIEWED	TIMES PAST DUE			
					AMOUNT	NO. OF PAYMENTS		30-59 DAYS ONLY	60-89 DAYS ONLY		90 DAYS AND OVER
CONSUMER'S BANK											
	2/6/86										
	12/85	1/86	1200	1100	-0-	-0-	2	-0-	-0-	-0-	\$100/MO.
BIG CITY DEPT. STORE											
	2/10/86										
	4/81	1/86	300	100	-0-	-0-	12	-0-	-0-	-0-	\$ 25/MO.
SUPER CREDIT CARD											
	12/12/85										
	7/82	11/85	200	100	100	1	12	1	-0-	-0-	

In the second column from the left under "Credit History," the purple letter and numbers under the creditor's name, such as "B 12-345," is a code a credit bureau uses to identify the creditor. In the third column from the left, the terms "AUTOMATED" or "MANUAL" identify the kind of data source used by the creditor. In an actual report, the initials "A" or "M" would be used.

In the second column from the right, the purple words "Installment," "Revolving," and "Open 30-day" refer to types of payment arrangements. In an actual report, the initials "I," "R," or "O" would be used.

- In an **installment** credit agreement, a consumer signs a contract to repay a fixed amount of credit in equal payments over a specified period of time. Automobiles, furniture, and major appliances are often purchased on an installment basis. Personal loans are usually repaid in installments as well.
- In a **revolving** credit agreement, a consumer has the option of paying in full each month or of making a minimum payment based on the amount of the balance outstanding. Department stores, gas and oil companies, and banks typically issue credit cards based on a revolving credit plan.
- In an **open 30-day** agreement, a consumer promises to repay the full balance owed each month. Travel-and-entertainment charge cards and charge accounts with local businesses often require repayment on this basis.

At the bottom of the sample credit report, you will notice a public record reference showing a dispute between the consumer and creditor that was settled in small-claims court. This is followed by a summary of the consumer's side of the dispute, based on an explanation that the consumer provided to the credit bureau. The next section explains when and how you can do this.

HOW TO IMPROVE YOUR CREDIT REPORT

It is important to know what you can do to change information that is reported about your past credit history. It also is important to know what cannot be done. The first two parts of this section tell you what courses of action are available to you when you spot errors or omissions in your credit report. The third part of this section explains how time and three special circumstances affect your credit report, and when you can ask that negative information be removed.

How To Correct Errors

Your credit file may contain errors that can affect your chances of obtaining credit in the future. Under the Fair Credit Reporting Act, you are entitled to have incomplete or inaccurate information corrected without charge.

If you dispute information in your report, the credit bureau must reinvestigate it within a "reasonable period of time," unless it believes the dispute is "frivolous or irrelevant." To check on the accuracy of a disputed item, the credit bureau will ask the creditor in question what its records show. If the disputed item is on the public record, the credit bureau will check there instead. If a disputed item cannot be verified, the credit bureau must delete it. If an item contains erroneous information, the credit bureau must correct the error. If the item is incomplete, the bureau must complete it. For example, if your file showed accounts that belong to another person, the credit bureau would have to delete them. If it showed that you were late in making payments but failed to show that you are no longer delinquent, the credit bureau would have to add information to show that your payments are now current. Also, at your request, the credit bureau must send a notice of the correction to any creditor who has checked your file in the past six months.

If the reinvestigation does not resolve your dispute, the Fair Credit Reporting Act permits you to file a statement of up to 100 words with the credit bureau explaining your side of the story. A sample of such an explanation is shown on the bottom of the sample credit report. Employees of the credit bureau often are available to help you word your statement. The credit bureau must include this explanation in your report each time it sends it out.

How to Include Omissions

Your credit file may not contain information on all of the accounts you have with creditors. Although most national department store and all-purpose bank credit card accounts will be included in your file, not all creditors supply information to credit bureaus. For example, some travel-and-entertainment and gasoline card companies, local retailers, and credit unions do not report to credit bureaus.

If you have been told that you were denied credit because of an "insufficient credit file" or "no credit file" and you have accounts with creditors that do not appear in your credit file, you can ask the credit bureau to add this information to future reports. Although they are not required to do so, for a fee many credit bureaus will add other accounts, if verifiable, to your credit file.

How Time Affects Your Credit Report

Under the Fair Credit Reporting Act, credit bureaus can report most negative information for no more than seven years. The seven-year period runs from the date of the last regularly scheduled payment that was made before the account became delinquent *unless* the creditor later took action on the account, such as charging it off or obtaining a judgment for the amount due. If a creditor took such an action, the seven years would run from the date of that event. For example, if a retailer turned over your past-due account to a collection agency in 1977, a credit bureau may report this event until 1984. You should be aware that if you made a payment after 1977 on this account, your action would *not* extend the permissible reporting period beyond 1984.

There are exceptions to the seven-year rule. Bankruptcies may be reported for 10 years. Also, any negative credit-history information may be reported indefinitely in three circumstances:

- If you apply for \$50,000 or more in credit;
- If you apply for a life insurance policy with a face amount of \$50,000 or more;
- If you apply for a job paying \$20,000 or more (and the employer requests a credit report in connection with the application).

You can contact the credit bureau if you believe negative information is being reported beyond the permitted period and ask that it be removed.

HOW TO DEAL WITH CREDIT PROBLEMS

This section tells you what you can do if you have been denied credit because of information in your file. It suggests ways you can resolve problems of unpaid bills or late payments. It also discusses the availability of low-cost financial counseling, if you want or need it. In addition, this section tells you what to watch for if you are wondering whether to hire a credit repair company.

What You Can Do If You Have A Poor Credit History

Before creditors will give you credit, they look at how you have paid your bills in the past. Negative information in your credit file may lead creditors to deny you credit. Information that is considered negative includes late payments, repossessions, accounts turned over to a collection agency, charge-offs (accounts viewed as a "loss" by a creditor), judgments, liens, and bankruptcy.

A poor credit history that is accurate cannot be changed. There is nothing that you (or anyone else) can do to require a credit bureau to remove accurate information from your credit report until the reporting period has expired. However, this does not necessarily mean that you will be unable to obtain credit during the period. Because creditors set their own credit-granting standards, not all of them look at your credit history in the same way. Some creditors may look only at more recent years to evaluate you for credit, and they may grant you credit if your bill-paying history has improved. Before applying for credit, it may be useful to contact creditors informally to discuss their credit standards.

If you cannot obtain credit based on your own credit history, you may be able to do so if someone who has a good credit history co-signs a loan for you — this means the co-signer agrees to pay if you do not. Or you may be able to obtain a small loan or a credit card with a low dollar limit by using your savings account as collateral. If you pay promptly and your creditor reports to a credit bureau, this new information will improve your credit history picture.

How To Deal With Mounting Bills

A sudden illness or the loss of your job may make it impossible for you to pay your bills on time. Whatever your situation, if you find that you cannot make your payments, contact your creditors at once. Try to work out a modified payment plan with your creditors that reduces your payments to a more manageable level. If you have paid promptly in the past, they may be willing to work with you. Do not wait until your account is turned over to a debt collector. At that point, the creditor has given up on you.

If you do work out a debt-repayment plan, ask your creditors to report your new, smaller payments to the credit bureau as timely. Otherwise, the credit bureau may report these payments as delinquent because you are paying less than the amount agreed to in your original credit agreement.

Automobile loans may present special problems. Most automobile financing agreements permit your creditor to repossess your car any time that you are in default on your payments. No advance notice is required. If your car is repossessed, you may have to pay the full balance due on the loan, as well as towing and storage costs, to get it back. If you cannot do this, the creditor may sell the car. Do not wait until you are in default. Try to solve the problem with your creditor when you realize you will not be able to meet your payments. It may be better to sell the car yourself and pay off your debt. This would avoid the added costs of repossession and a negative entry on your credit report.

Where To Find Low-Cost Help

If you cannot resolve your credit problems yourself or need additional assistance, you may want to contact a Consumer Credit Counseling Service (CCCS). This is a non-profit organization with more than 280 offices located in 44 states that counsels indebted consumers. CCCS counselors will try to arrange a repayment plan that is acceptable to you and your creditors. They also will help you set up a realistic budget and plan expenditures. These counseling offices, which are funded by contributions from credit-granting institutions, are offered at little or no cost to consumers. You can find the CCCS office nearest you by checking the White Pages of your telephone directory or by sending a self-addressed stamped envelope to:

National Foundation for Consumer Credit
8701 Georgia Avenue, Suite 507
Silver Spring, Maryland 20910
(301) 589-5600

In addition, non-profit counseling programs are sometimes operated by universities, military bases, credit union, and housing authorities. They are likely to charge little or nothing for their assistance. Or, you can check with your local bank or consumer protection office to see if it has a listing of reputable, low-cost financial counseling services.

How To Evaluate Credit Repair Companies

You may have heard of credit repair companies, which offer to help improve or fix your credit history for a fee. Credit repair companies often claim that they can "clean up" or "erase" a bad credit history and help you get credit. Before you pay for their services, which can cost as little as \$50 or more than \$1,000, there are several points that you should consider. First, under the Fair Credit Reporting Act, credit repair companies cannot do anything that you cannot do for yourself at little or no cost. You do not have to pay a credit repair company to learn what is in your file or to correct inaccurate or incomplete information.

Second, credit repair companies cannot magically erase a poor credit history. *Remember:* if the information is accurate, *no one* can require the credit bureau to remove it before the 7 to 10 year reporting period is up. No matter what a credit repair company may say, it cannot change the past. If you hire a credit repair company for this purpose, you may end up paying for empty promises.

Finally, although many credit repair companies "guarantee" results on a money-back basis, remember that a guarantee is only as good as the company that stands behind it. Consumers have found that some credit repair companies refuse to honor their guarantees or go out of business when consumer complaints mount.

Before you hire a credit repair company to help you fix your credit, investigate its reputation and performance. Check with your local Better Business Bureau and your state and local consumer affairs offices. Ask whether they have received any complaints about the company. You can find their telephone numbers in your local telephone directory.

If you already have paid a credit repair company and believe that it made false promises, check with your local consumer affairs office or state attorney general's office to learn whether your state has a law that can help you. A number of states recently have passed laws that strictly regulate credit repair or credit improvement companies. These laws may help consumers who have dealt with a fraudulent credit repair company to get some money refunded.

In addition, consumers may wish to contact the Federal Trade Commission. Although the Commission cannot resolve individual credit problems for consumer, it can act against a company if it sees a pattern of possible law violations. If you believe a company has engaged in credit fraud, send your complaint to:

Correspondence Branch
Federal Trade Commission
Washington, D.C. 20580

WHERE TO GO FOR MORE INFORMATION

The Federal Trade Commission enforces a number of federal credit laws and provides consumers with free information about them:

- *The Equal Credit Opportunity Act* prohibits the denial of credit because of your sex, race, marital status, religion, national origin, age, or because you receive public assistance.
- *The Fair Credit Reporting Act* gives you the right to learn what information is being distributed about you by credit bureaus.
- *The Truth in Lending Act* requires lenders to give you written disclosures of the cost of credit and terms of repayment before you enter into a credit transaction.
- *The Fair Credit Billing Act* establishes procedures for resolving billing errors on your credit-card accounts.
- *The Fair Debt Collection Practices Act* prohibits debt collectors from using unfair or deceptive practices to collect overdue bills that your creditor has forwarded for collection.

For brochures on these laws or related publications, such as "Credit Billing Blues," "Credit and Older Americans," "Scoring for Credit," "Solving Credit Problems," and "Women and Credit Histories," write to:

Public Reference
Federal Trade Commission
Washington, D.C. 20580

HEADQUARTERS

Federal Trade Commission
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(202) 326-2222

FTC REGIONAL OFFICES

1718 Peachtree Street, N.W.
ATLANTA, Georgia 30367
(404) 347-4836

10 Causeway Street
BOSTON, Massachusetts 02222-1073
(617) 565-7240

55 East Monroe Street
CHICAGO, Illinois 60603
(312) 353-4423

118 St. Clair Avenue
CLEVELAND, Ohio 44114
(216) 522-4210

8303 Elmbrook Drive
DALLAS, Texas 75247
(214) 767-7050

1405 Curtis Street
DENVER, Colorado 80202
(303) 844-2271

1100 Wilshire Boulevard
LOS ANGELES, California 90024
(213) 209-7890

26 Federal Plaza
New York, New York 10278
(212) 264-1207

901 Market Street
SAN FRANCISCO, California 94103
(415) 995-5220

915 Second Avenue
SEATTLE, Washington 98174
(206) 422-4655

Employment Law

I INTRODUCTION

Unemployment Compensation Eligibility depends on a claimant meeting two tests:

- A. Financial eligibility (has the claimant earned enough wages in the first through fourth quarters of the last five quarters?)
- B. Substantive eligibility (do the circumstances of the claimant's separation from work or his/her subsequent conduct disqualify him/her from receiving benefits?)

The second test, substantive eligibility is extremely fact specific; there are hundreds and hundreds of reported cases in this area of the law.

II PROCEDURAL ISSUES

A. Levels of appeals

1. application/initial determination by local OES
2. appeal and hearing before referee
3. appeal to Unemployment Compensation Board of Review
4. petition for review (appeal) to Commonwealth Court

B. Deadlines and Hearings come quickly.

1. 15 days to file appeals(except 30 days to file with Commonwealth Court)
2. Hearings get scheduled promptly (1 to 3 weeks is usual)

III MOST COMMON BASES FOR FINDING A CLAIMANT SUBSTANTIVELY INELIGIBLE

1. Able and Available
2. Refusing Suitable Work
3. Voluntary Quit
4. Willful Misconduct (work-related)
5. Off duty/Fault (non work-related culpable conduct)

A. ABLE and AVAILABLE FOR WORK (Claimant bears burden of proof)

1. Claimant must be ready, willing, and able to accept a job.

2. This issues is determined each week claimant seeks benefits.
3. Even claimants with significant physical or mental limitations can be found able and available if they can still perform a reasonable number of jobs. Pregnancy is treated like any other condition, and is only treated as disqualifying if the woman cannot perform job functions.
4. Each case is fact specific (e.g., a restriction to part-time work is not per se disqualifying).
5. The claimant must attempt to overcome problems that keep him/her from working (e.g., lack of adequate transportation, lack of child care)
6. Students are **not** automatically considered to be not Able and Available solely because of their status as students. Just as with other workers, each student/s situation is evaluated to see if he/she is available for a reasonable number of jobs.

B. REFUSING SUITABLE WORK (Claimant bears the burden of proof)

1. A claimant must apply for and accept "suitable work". "Suitable work" is work which the Claimant is "capable" of performing. One uses a common sense test for this.
2. These factors come into play in determining whether a claimant is "capable" of performing proffered employment:
 - (a) physical demands of the job
 - (b) skills involved
 - (c) religious beliefs of the claimant
 - (d) travel distance
 - (e) child care

C. VOLUNTARY QUIT (Claimant bears burden of proof)

1. A claimant who quits his/her job without cause of a "necessitous and compelling nature" will be found ineligible for u/c.
2. The test is one of common sense.
3. The claimant must show that he/she made reasonable efforts to maintain employment (i.e. document steps taken).

4. Examples of necessitous and compelling causes for quitting include: unavailability of child care, lack of transportation, illness (including illness of a family member), danger at work, sexual or racial harassment.
 - (a) Claimant must do everything in his/her power to NOT quit (common sense test).
5. Voluntary Quit non-applicable for voluntary lay-offs.
6. A claimant who quits to avoid imminent firing is not considered to have quit. He/she is treated as having been fired and his/her case is decided under the law pertaining to willful misconduct *infra*.
7. Quitting to avoid the possibility of being fired is treated as a Voluntary Quit. If the claimant cannot show that he/she had cause to quit, he/she will be disqualified.
8. A claimant who quits for physical or mental reasons is not automatically disqualified, but must show he/she took every possible step to preserve his/her employment by e.g. giving the employer notice of the problem and a chance to accommodate the disability.
9. Quitting for domestic reasons is also not always disqualifying; one looks to the claimant's ability to control the situation and the efforts made to preserve employment. Thus, leaving to follow a spouse who has been involuntarily transferred far away may be good cause.
10. A change in work conditions may be cause to quit. The claimant must show it was a unilateral change by employer, that the claimant took reasonable steps to keep job and used common sense in deciding to quit.

KEY: Did Claimant take every reasonable action to avoid quitting?

D. WILLFUL MISCONDUCT (Employer bears the burden of proof)

1. The Employer must prove claimant's behavior was detrimental to Employer's interest or violated a reasonable rule of the Employer.
2. If employer has a progressive discipline policy and fails to follow it, the claimant will not be considered disqualified.
3. A claimant can overcome the employer's case by showing good cause for his actions (e.g. reasonableness of refusing employer's directive.)
4. Claimant should inform employer of reason for non-compliance with work rules.
5. Absenteeism/tardiness are frequent causes of U/C disqualification - a claimant fired for either reason had better have good cause.

6. A claimant who is required to obtain a necessary license or certification, is able to do so but fails to has committed Willful Misconduct.
7. Incompetence can be Willful Misconduct - the determination will depend on whether claimant tried to the best of his/her ability to do the work properly.

E. OFF DUTY BEHAVIOR CAN BE DISQUALIFYING

1. DUI leading to loss of license where license is needed for work, and the claimant is fired is disqualifying because it is considered the claimant's fault.
2. The commission of certain illegal acts can also be disqualifying.

FAIR LABOR STANDARDS ACT

Introduction

The Fair Labor Standards Act (FLSA) was enacted in 1938. It established a "floor" under wages and a "ceiling" over hours. The purpose of the act was to prevent the exploitation of laborers, particularly women and children. The basic concept of the FLSA is to create a "living wage."

I. Coverage

- A. An employee is covered if he or she is engaged either in interstate commerce or in producing goods for transportation in interstate commerce.
 - 1. A worker who prepares goods for shipping across state lines is covered.
 - 2. Large enterprises are covered based on the type of business and on a "dollar volume" test. Ex. laundries and nursing homes.
 - 3. Employees of state and political subdivisions are covered.

II. Exemptions

- A. Numerous categories of employees are wholly or partially exempt from the provisions of the FLSA.
 - 1. Executive, administrative, and professional employees are exempt from the minimum wage and maximum hour provisions of the Act.
 - a. These employees are defined as persons exercising discretion as a manager or on management's behalf or who have advanced, specialized training.

III. Minimum Wage Standards

- A. The FLSA establishes a minimum wage that must be paid to all covered, nonexempt workers.
- B. The figure has increased from 25 cents per hour in 1938 to 75 cents in 1955, \$1.25 in 1965, and \$2.10 in 1975. During President Bush's administration the minimum wage was increased to

\$4.25.

IV. Overtime Standards

- A. The FLSA provides that covered, nonexempt employees must be paid one and one-half times their regular hourly rate for hours worked in excess of 40 per week.
- B. The FLSA does not prohibit employers from assigning overtime work and requiring it as a condition employment.

V. Child Labor

- A. The FLSA protects children from "oppressive child labor."
 - 1. The definition of "oppressive labor" depends upon the nature of the work and the child's age. There are several exemptions. For example, children who deliver newspapers.
 - 2. Hazardous occupations, such as coal mining, cannot employ children under the age of 18.
 - 3. There are also occupations with restrictions for children under 16 and under 14.
 - 4. The employer has an obligation to ascertain the ages of employees.
 - 5. Employers are protected against intentional violations of the Act if they rely on age certificates.

VI. Recordkeeping

- A. It is the employer's duty to compile and preserve records showing an employee's hours of work and earnings, in addition to certain other information concerning the individual worker.
- B. The records must be maintained for a period of three years.
- C. Employers are also required to display a poster informing workers of the minimum wage rate, the overtime requirements, and the right to equal pay regardless of sex.

VII. Enforcement

- A. The Wage and Hour Division of the Department of Labor has broad authority to investigate alleged violations of the statute, including the power to issue subpoenas and to conduct hearings.
- B. The Secretary of Labor may seek injunctive relief in federal courts to restrain future violations of the Act and to collect back pay due employees.
- C. The Wage and Hour Division may request that the Department of Justice commence a criminal prosecution.

VIII. Equal Pay Act

- A. The Equal Pay Act (EPA) of 1963 amends the FLSA.
- B. The EPA prohibits discrimination on the basis of sex in the payment of wages to employees covered under the Act.
- C. Coverage is coextensive with coverage under the minimum wage provisions.
 - 1. Exception: In 1972, Coverage provided for coverage of executive, administrative, and professional employees under the EPA.
 - 2. Males and females must be paid the same wages for equal work, where the job duties involve equal skill, effort, and responsibility and work is performed under similar working conditions.

EMPLOYMENT DISCRIMINATION

I. Background

A. The most comprehensive legislation pertaining to employment discrimination in the United States is Title VII of the Civil Rights Act of 1964 (42 U.S.C. Section 2000e et seq.) It specifically outlaws racial discrimination in private employment. This legislation along with others is a result of remedial steps taken during the Reconstruction-era to afford a judicial remedy for the violation of certain federal rights. As amended by the Equal Employment Opportunity Act of 1972, Title VII also now covers virtually all state and local government employees and previously-exempt employees of educational institutions. The law authorizes the Equal Employment Opportunity Commission (EEOC) to process, investigate and conciliate employment discrimination complaints and, if necessary, to bring suits against respondents in federal court. Between 1972 and 1974, the Attorney General also has authority to bring "pattern and practice" employment suits concurrently with EEOC. After 1974, EEOC assumes exclusive government authority for enforcement of the law. Title VII also creates a cause of action enforceable in federal court by aggrieved persons or classes of persons. The law provides for injunctive and affirmative relief as well as back pay, and the granting of attorneys' fees to a prevailing party.

II. Structure of the Equal Employment Opportunity Commission (EEOC)

- A. a. Section 705 creates the commission.
- b. President appoints 5 members
- c. Five year term.
- d. No more than three members are to be of the same political party.
- B. Section 705 also provides for appointment of a General Counsel, who is responsible for conducting Title VII litigation.

ELEMENTS AND ISSUES OF A TITLE VII CASE

1. Plaintiff prima facie case.
2. The employer/defendant's defenses to that case.
3. The plaintiff's opportunity to overcome the employer's defense;
4. The allocation of various burdens of proof between the parties.

TWO MAJOR TYPES OF DISCRIMINATION

Disparate Treatment -

disparate - markedly distinct in quality or character, containing or made of fundamentally different and often incongruous elements.

In the law, a prima facie disparate treatment case is established by showing that an employer "treats some people less favorably than others because of their race, color, religion, sex or national origin." The challenged treatment must be intentional. However, the required intent can be either proved by direct evidence or inferred from indirect, circumstantial evidence. Proof of actions that, if unexplained, lead to an inference that they were more likely than not based on discrimination prohibited by Title VII is enough.

Example, McDonnell Douglas Corp. V. Green, 411 U.S. 792

Plaintiff established:

1. he belonged to a racial minority
2. he applied and was qualified for a job for which the employer was seeking applicants,
3. he was rejected, and
4. the employer continued to seek applications from persons of plaintiff's qualifications.

The Court held that this fact situation gave rise to the inference of intentional discriminatory treatment that was necessary to establish a prima facie case.

The employer may rebut a prima facie case of disparate treatment by disproving any element of plaintiff's prima facie case or by proving that plaintiff's statistical proof, if any, is "inaccurate or insignificant." If the parties stipulate or the court finds that a prima facie case exists, the employer can rebut it by "articulating a nondiscriminatory reason for the treatment.

Plaintiff must then prove by a preponderance of the evidence that the reason articulated by the employer is a "pretext" and the employer's action is actually motivated by intentional discrimination. However, the employer does not have to prove the nondiscriminatory reason. The employer is required only to produce clear, admissible evidence that raises a "genuine issue of fact" as to whether it discriminated against the plaintiff.

DISPARATE IMPACT AS ESTABLISHING DISCRIMINATION

In addition to covering overtly discriminatory employment practices, Title VII also prohibits facially neutral employment policies that are not necessarily purposefully discriminatory but do have a discriminatory impact on minority groups, women or other groups protected by the ACT. Unlike

disparate treatment cases, the prima facie disparate impact case does not require proof of intent.

The case of Griggs v. Duke Power Co., 401 U.S. 424 (1971), is the first case in which the Supreme Court defined this type of discrimination. The Court struck down diploma and testing requirements that the employer applied to all applicants for certain jobs but that resulted in the exclusion from hiring of a disproportionate number of black applicants. In Griggs, the court recognized that the broad remedial language of Title VII prohibits "not only overt discrimination, but also practices that are fair in form but discriminatory in operation."

Plaintiff's have the burden of proving that a facially neutral employment practice impacts more harshly on the protected group of which they are members. The prima facie disparate impact case does not require proof of intent. However, it is possible that in this case Plaintiff's burden is heavier because she must actually prove impact, not just raise an inference of it.

Employer defense - A prima facie impact case can be defeated by challenging the elements of the case. If the parties stipulate or the courts find a prima facie case, the defendant can overcome it by proving that the challenged policy is a "business necessity. If the defendant does this, the burden of production and persuasion shifts back to the plaintiff, who can still win the case by proving the availability of a "less discriminatory alternative" than the policy the employer has defended.

42 U.S.C. Section 1981, enacted in 1966

...provides generally that all persons within the jurisdiction of the United States shall have the same right to make contracts and be protected by law "as is enjoyed by white citizens. . ."

Affords both a public and private right of action.

Compensatory damages - to pay the equivalent of the loss.

Punitive damages - damages awarded in excess of normal compensation to the plaintiff to punish a defendant for a serious wrong.

Section 1983 of the Civil Rights Act of 1871:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Section 1983 only prohibits conduct which arises "under color of" some official

policy or law.

Fourteenth Amendment

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Ratified July 9, 1868.

CIVIL RIGHTS ACT OF 1991

The Civil Rights Act of 1991 was signed into law on November 21, 1991, by President Bush. The Act expressed the clear intent of Congress to undo the harm done by seven Supreme court decisions. Both Section 1981 and Title VII were amended by the Civil Rights Act of 1991.

- I. Postformation of a contract is clearly governed by Section 1981. A previous Supreme Court decision had excluded postformation conduct from the protection of 1981. The Supreme Court had ruled that only the making and enforcement of contracts was enforceable.
- II. The Act extends Section compensatory and punitive damages to actions brought under Title VII where there is intentional discrimination.
- III. In the case of Wards Cove Packing Co. v. Atonio, the Supreme Court rejected the long established principles of Griggs v. Duke Power Company which require the employer to defend the challenged policy by asserting a business necessity.
 - A. The Civil Rights Act of 1991 reversed Wards Cove by amending Title VII to insert a provision which requires that an employer demonstrate that the challenged practice is job related for the position in question and consistent with business necessity.
- IV. In the case of Price Waterhouse v. Hopkins, the Supreme Court held that once a plaintiff in a Title VII case demonstrates that gender played a motivating part in an employment decision, the employer may avoid a finding of liability only by proving that it would have amend the same decision even if it had not allowed gender to be a motivating factor.
 - A. The Civil Rights of 1991 amended Title VII to establish that if a prohibited factor, such as those based upon race, sex religion, and national origin, motivated an employment decision, the plaintiff will have established an unlawful employment practice, even if

other lawful factors also motivate the decision.

- V. Title VII was amended to provide that expert fees may be included as part of the attorney's fee.
- VI. A seniority system which intentionally discriminates may be challenged when the seniority system is adopted, when an individual becomes subject to it, or when a person is actually injured by it.
- VII. Challenges to consent decrees by persons who had actual notice of the proposed decree and a reasonable opportunity to object, and by those whose interests were adequately represented by those who did object, will be barred.
- VIII. American citizens employed outside the territorial jurisdiction of the United States for U.S. owned or controlled companies are protected by Title VII, unless compliance would cause the company to violate the law of the country in which it was located.
- IX. The time for filing a Title VII lawsuit against the federal government is increased from 30 days to 90 days after receipt of a right to sue letter.
- X. Establishment of a Glass Ceiling Commission to conduct a study of the barriers which impede advancement of women and minorities and to prepare recommendations to increase opportunities for women and minorities to reach management and decisionmaking positions in business.

**EMPLOYMENT AND THE AMERICANS WITH
DISABILITIES ACT**

I. What does the law prohibit/require?

Under the ADA, an employer may not discriminate against an otherwise qualified handicapped individual in any of the terms of employment, including the proffer of employment. The employer is required to reasonably accommodate known handicaps of employees or applicants.

II. Who is a handicapped individual under the Act?

Someone who:

- a. has a physical or mental impairment which substantially limits one or more major life activities;
- b. has a record of such an impairment; or
- c. is perceived as having such an impairment.
- d. Contagious or infectious diseases are considered covered impairments under the Act.
- e. A history of addiction to alcohol or illegal drugs is a covered impairment; the **current** use of illegal drugs is **not** a covered impairment. While alcoholism is a covered impairment, alcoholics can be held to the same performance standards as other employees, even if their failure to perform is due to their addiction.

III. Who is an "otherwise qualified individual with a disability" under the Act?

If a disabled person can perform the "essential functions" of the job, with or without reasonable accommodation, he or she is qualified.

IV. What is a reasonable accommodation?

This is a case by case decision. Things such as job restructuring, eliminating certain examinations, modifying physical facilities, and providing readers or interpreters may be required accommodations. To show an accommodation is not

reasonable, an employer must show that providing it would cause the employer undue hardship. Factors to be considered include the size of the employer, the cost of the accommodation, and the effect on the employer's operation.

v. Can A Job Applicant Be Asked If He/She Has A Disability?

No. The Act prohibits pre-employment inquiries as to disability and also prohibits pre-employment medical examinations. An employer may require a medical examination after an employment offer is made, but only subject to certain conditions.

Keystone Legal Services, Inc., is providing the information and forms which are currently appropriate for use with the Pennsylvania Higher Education Assistance Agency, Guaranteed Student Loans. Keystone Legal Services in providing the information, forms and instructions is in no way agreeing or implying that it will represent individuals who use the enclosed information, nor is Keystone Legal Services responsible for misuse of the forms or errors which may be made in completing the forms. This information is accurate at the time of preparation. Keystone Legal Services assumes no responsibility for the total accuracy of this information and these forms other than on the date of preparation.

January, 1993

PHEAA FACT SHEET - GUARANTEED STUDENT LOANS -

The Pennsylvania Higher Education Assistance Agency (PHEAA) is a state agency of the Commonwealth of Pennsylvania. One of its main purposes is to help Pennsylvania citizens access federal government money set aside for student loans. It does this in cooperation with the U.S. Department of Education. The loans can be for college or for education at a technical or trade school. PHEAA also has loan and grant programs which use Pennsylvania money but this fact sheet does not deal with these. This fact sheet covers only federally Guaranteed Student Loans (GSL's). GSL's are also called Stafford Loans.

PHEAA is a GUARANTEE AGENCY in the GSL Program. A guarantee agency encourages banks to lend money to students by paying the bank the amount due on the loan if the student doesn't make payment. This takes the element of risk out of lending for the bank. PHEAA, in turn, is repaid by the U.S. government for claims it pays to banks when there is a student default. When PHEAA says "default" they mean the borrower has either not made a payment when due or has otherwise breached the contract. Both the banks and PHEAA, however, must properly administer the loans by complying with federal and state guidelines or they will not be reimbursed on the defaulted loans. This helps make sure that the law is followed and that the student borrower is treated fairly.

GRACE PERIOD AND REPAYMENT PERIOD

Ordinarily, a student does not have to repay the principal or interest on the loan while he or she is still attending school at least on a half-time basis.

When the student is no longer going to school at least half-time, a "grace period" begins. The grace period for federally guaranteed loans is from six to nine months long. Most loans guaranteed only by Pennsylvania have a grace period of six months. The loan document will indicate the length of the grace period.

Repayment of GSL Program loans for correspondence schools must usually begin upon completion of the correspondence program.

During the grace period you are not required to make any payments. After the grace period has expired the "repayment period" begins and the borrower must begin making regular monthly payments according to the repayment schedule. The repayment schedule will be explained on the loan document in brief and then in greater detail in the repayment documents that the lender will send during the grace period.

Interest generally begins to build on a GSL from the time the money is lent but the borrower can apply for a federal interest payment allowance which will pay the interest until the loan becomes payable. That is usually after the student is out of school. The borrower should be sure to apply for this benefit at the same time that he or she applies for the loan.

DELINQUENCY AND DEFAULT

If the borrower does not make a payment when due he or she is "delinquent" on the loan. If the failure to repay monthly payments, when the payments are due, persists for 180 days then the loan can be placed in "default" status. After the loan is placed in default status, the lender can "accelerate" the loan. Acceleration means that the whole amount of the loan becomes due and payable immediately. The lender is not allowed to accelerate the loan during the delinquency stage but must wait until the correct amount of time has passed and the loan has been found to be in default. During the delinquency period the lender is required to contact the borrower to try to get him or her to make payments on the loan and to warn the borrower of the consequences of having the loan declared to be in default.

Loans which are non-federal loans may be declared to be in default after a payment is 120 days late.

Please note that your loan must be repaid regardless of the fact that you did not get a job in the same field for which you went to school.

COLLECTION AGENCIES

After the loan is placed in default status, the lender has the right to ask PHEAA to pay the loan. PHEAA then has the right to sue the borrower. PHEAA will usually send letters and make phone calls to the borrower before any lawsuit is started in hopes of making some type of repayment arrangement with the borrower. Very often the lenders and PHEAA will employ a collection agent to make these contacts with the borrower. One large collection agency is called the Student Loan Servicing Center. Two main offices for it are located in Harrisburg and in Wilkes-Barre. The collection agency will handle most collection efforts short of actually filing a suit against the borrower. PHEAA is ultimately responsible for the collection efforts undertaken by the collection agency and for any violations of the law committed by the collection agency.

Borrowers need to be aware that they will seldom be contacted by the same person twice from the collection agency. Dealings with the agency are likely to be confusing. It is very important to get the name of the person spoken to and to keep accurate notes of conversations; document any "run around" that you seem to get as it may be helpful to testify concerning it in any hearing involving the loans. Always be sure to keep copies of each and every document sent by you to PHEAA, the U.S. Department of Education, or any collection agent.

RELIEF FROM THE DEBT

There are several reasons for which the lender, PHEAA, or any collection agent may be asked to postpone collection of the loan. These are when the borrower is qualified for a deferment or is granted a forbearance on the loan. Under certain circumstances, the loan may be cancelled and the borrower is then permanently relieved from the obligation to repay. As a last resort, bankruptcy is available under limited circumstances.

DEFERMENT

Deferment means that the lender or guarantor will delay the requirement that the borrower repay the principal of the loan for a specified period of time; payment of the interest, however, is generally required unless the borrower had qualified to be relieved from that portion of the payment as well. Qualification is determined at the time the borrower applied for the loan. Be sure to ask to apply for this interest benefit.

To receive a deferment on a GSL the borrower must request it and provide the lender or guarantor with all the documentation needed to show

entitlement to the deferment. PHEAA provides forms for these requests and it is advisable to learn how they may be obtained at the time the loan is taken out. Most lenders and, of course, PHEAA can provide them.

A lender may not deny a deferment when a borrower has met the guidelines for eligibility for it if the borrower is only delinquent in his or her payments but not yet in default. Even a borrower who is in default can be given a deferral if satisfactory repayment arrangements on the loan are made.

Reasons for which a deferment is allowable include continued full time study, participation in a graduate fellowship program, active duty in the armed forces or Peace Corps, inability to find a job and temporary, total disability. There are others as well. Each type of deferment has a time limit for which it can be granted. After the condition for which the deferral was given ends, there is an additional six month grace period during which repayment need not be made but this extra grace period only applies to loans made before October 1, 1981.

PHEAA forms listing the type, duration and the very specific qualifications for each deferral are attached to this fact sheet as Attachments A and B.

FORBEARANCE

Forbearance means permitting loan repayment to temporarily cease, granting extra time within which to make payments or accepting smaller payments than required by the loan documents. The lender or collector does not have to grant a forbearance but the borrower should ask for it if he or she can't pay a loan and is not eligible for a deferral.

Most GSL's must be paid within a maximum of 10 or 15 years and there is always a minimum amount that must be paid on each loan in any year. Forbearance can be granted for any time period as long as the maximum repayment period is not exceeded and the minimum amount for each year is paid. If the above requirements can't be met by the borrower, the lender may still grant a forbearance but it can only be for one year at a time.

CANCELLATION

All obligation to repay a loan can be cancelled if the borrower dies or becomes totally and permanently disabled. Total and permanent disability means that the borrower has become unable to work and earn money because of an impairment that is expected to continue indefinitely or result in death. The condition causing disability cannot have existed prior to the loan

application unless the disability results because the condition has deteriorated since that time.

When the lender is notified of disability, it must request the borrower, or the borrower's representative, to submit medical proof of the disability on a form provided by the lender. A copy of such a form is attached to this fact sheet as Attachment C. The lender may continue collection efforts on the loan until the medical certification is received or until a letter indicating that the physician needs more time to complete the certification is received from the physician. If adequate proof to show total and permanent disability is submitted, the lender must cancel the loan.

The request for any of these forms of relief should be made just as soon as the borrower knows that conditions are going to make him or her eligible for it. Complete and accurate notes of contact with the lender or collector and copies of all documents submitted must be kept. It is also a good idea to send documents by certified mail with a return receipt requested. These steps will insure that a borrower can prove that he or she complied with all requirements for relief.

BANKRUPTCY

This form of relief will eliminate student loan obligations only if the first payment on the loan had first become due more than seven years before the filing of a petition in bankruptcy. Any deferrals or forbearances which had been granted during the seven year period will be held to have stopped the running of the seven year period during the time that they were in effect. This means that a bankruptcy will not be sure to take away the student loan debt unless seven years has passed without counting the periods of time during which a deferral or forbearance were in effect. Similarly, any agreements to reduce or suspend payments on the loan may be held to have stopped the running of the seven year period. Also, any consolidation of student loans may be held to start the running of the seven year period over again.

A bankruptcy discharge may eliminate student loan obligations, regardless of when the first payment became due if the bankruptcy judge finds that not wiping out the loan will create an undue hardship to the borrower. There are many factors that the court will consider and this relief is not lightly granted by the bankruptcy court.

OTHER RELIEF - DEFENDING AGAINST REPAYMENT WHERE THERE HAS BEEN ABUSE

If a borrower can show that there was some fraud or unfairness

committed against him or her by a school or lender then the debt may be cancelled. Examples of such fraud or unfairness include the falsification of loan documents by a school or lender so that a student (who has not known of or participated in the fraud) can be granted a loan or the closing of a school before the borrower can attend or finish the course of study. If the lender or guarantee agency can't be convinced to cancel the loan a lawsuit may be needed. The borrower should seek legal advice as soon as he or she realizes that such a situation may exist.

LOAN COLLECTION BY PHEAA

PHEAA does have the right to proceed in court against a borrower. If such a suit is started, the borrower should seek legal advice right away. As with any lawsuit, there are important deadlines that must be met. An answer to a complaint must be filed within twenty days of service of the complaint upon the borrower; if legal help is not available, the borrower should file his or her own written response to the complaint. The response should raise any defense that the borrower feels may be available. This will help insure that the borrower is at least given an opportunity to appear in court to present his or her case. This also will keep the option of approaching PHEAA with a settlement proposal open to the borrower.

The written response to the complaint should identify each attempt to obtain a deferment or cancellation. If the court finds that PHEAA or the lender wrongfully denied such a request, it has the power to grant the deferral or cancellation.

PHEAA also has the right to proceed against the borrower by filing a "Statement of Claim" before a PHEAA hearing officer. There are specific procedural rights given to the borrower and there is a right to appeal the agency decision to the Court of Common Pleas in the county where the borrower resides. If you feel that the administrative decision is wrong or that you were not given a fair hearing at which your point of view was considered it is important to file an appeal with the Court of Common Pleas in your county.

A copy of the state regulation setting forth the specific procedures to be used in administrative proceedings and giving the appeal procedures is attached to this fact sheet. Of course, it is of extreme importance to meet all time deadlines given.

The most important thing to remember if served with any court paper - whether from a Court of Common Pleas or from an administrative agency - is that a written response must be filed by the borrower within the time limits

provided or there will be a judgment by default entered against the borrower. To be sure to get your "day in Court" you must file the written response.

SOME FINAL POINTS

A borrower should fully familiarize himself or herself with the loan documents used and should ask the lender or PHEAA any questions that there are about them. It is always best to try to anticipate problems and seek their solutions beforehand.

Many times payment problems can be taken care of by contacting the lender immediately after a problem arises. If payment is not made and nothing is heard from the borrower, most lenders will aggressively pursue collection efforts including the passing along of the loan to a collector. It is almost always more difficult to repair the problem after that point.

This fact sheet covers only loans under the GSL Program. Other programs may have very different rules. Also, rules for the GSLP do change from time to time. The federal regulations for the GSLP, and other federal loan programs, are published in Title 34 of the United States Code of Federal Regulations. It is available in law libraries or in the Federal Depository Library nearest you.

The laws and regulations governing PHEAA loan programs are available in your county's law library.

GUIDE TO ATTACHMENTS TO THIS FACT SHEET

ATTACHMENT A: This attachment looks like the one you need to request as soon as you think that you will not be able to pay your loan back because you either have lost your job, can't find a job or have had your wages reduced. Please note that any unemployment deferment only lasts for three months and you have to make a new request if you still are unable to pay.

ATTACHMENT B: This attachment is a PHEAA form which looks like the one you will ask for as soon as you determine that some situation, other than unemployment, is going to come up which will prevent you from being able to pay back your loan. You will note that each reason for deferment is quite specific. Be sure to fully complete the forms you use and give as much detail

as is possible. It is a good idea to send copies of any supporting documentation you can get as well. Remember, keep copies of all completed forms or other documents that you send in!

ATTACHMENT C: This attachment is like the one you will request if it appears that you will not be able to repay the loan because you have become totally and permanently disabled.

ATTACHMENT D: This attachment is a copy of the Pennsylvania regulation which tells you about the procedure that PHEAA must use if there is a court case or administrative case brought against you for not paying a loan. It also tells you of your appeal rights and of the time deadlines which must be followed. Please remember that laws do change and that it is important to find out if there have been any changes that must be followed.

STUDENT LOAN SERVICING CENTER REQUEST FOR DEFERMENT OF REPAYMENT DUE TO UNEMPLOYMENT STAFFORD LOAN (FORMERLY GUARANTEED STUDENT LOAN), PLUS, SLS, AND CONSOLIDATION LOAN PROGRAMS

For loans guaranteed under the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.)

WARNING: Federal Penalties: Any person who knowingly makes a false statement or misrepresentation on this form shall be subject to a fine of not more than \$10,000 or imprisonment for not more than five years or both, under the provisions of 20 U.S.C. 1097. **State Penalties:** The penalty for submission of fraudulent information on this form may be repayment of in part any amount of money received plus a fine and/or imprisonment.

TO BE COMPLETED BY BORROWER

BORROWER NAME _____
 STREET ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 SOCIAL SECURITY NUMBER []-[]-[]-[]-[]-[]
 ()
 (AREA CODE) TELEPHONE NUMBER _____

Deferment requested for: ____/____/____ TO ____/____/____
 MM OO YY MM OO YY
 I became unemployed on: ____/____/____
 MM OO YY
 BORROWER'S LENDER _____
 STREET ADDRESS _____
 CITY _____ STATE _____ ZIP _____

PLEASE READ CAREFULLY

To be eligible for this deferment, you must be (1) unemployed or employed less-than-full-time (as described below), (2) seeking employment in the United States and willing to accept full-time employment in any field or at any salary or responsibility level, and (3) registered with a public or private employment agency, if one is accessible. For purposes of this deferment, full-time employment means at least 30 hours of work per week on a job that is expected to last at least three months. An unemployment deferment can only be granted for up to three months at a time. An unemployment deferment period begins on the date your unemployment begins but not more than 60 days before the lender receives this form. (If your account is past due, please see part f.) To continue this deferment for more than three months, you must complete an additional request. THE MAXIMUM LENGTH OF ELIGIBILITY IS 24 MONTHS.

- (a) I certify that I am currently not employed on a full-time basis and am eligible for deferment of repayment because I am conscientiously seeking but unable to find full-time employment in the United States in any field or at any salary or responsibility level.
- (b) I claim exemption from payment of the principal on my guaranteed loan(s) starting on the date requested above or 60 days prior to submitting this form to the SLSC, whichever is later.
- (c) I agree to notify the SLSC immediately upon finding full-time employment. I further agree to provide documentation on an unemployment deferment form to my lender every three months to support my continued deferment status. I understand that the maximum length of eligibility for this type of deferment is a cumulative 24 months.
- (d) I have applied at the three places (minimum) listed below for full-time employment within the past three months:

NAME OF FIRM	ADDRESS	PHONE NO.	CONTACT PERSON
1. _____	_____	() _____	_____
2. _____	_____	() _____	_____
3. _____	_____	() _____	_____

- (e) Check the appropriate box below and complete the requested information:
 I certify that I registered with the following employment agency on _____ MM/00/YY

NAME OF EMPLOYMENT AGENCY _____ EMPLOYMENT AGENCY'S PHONE NO. _____
 ADDRESS _____ CITY _____ STATE _____ ZIP _____

- I certify that I am not registered with an employment agency because there is not one within 50 miles of my residence.

LOCATION OF NEAREST AGENCY (City and State) _____ NUMBER OF MILES FROM RESIDENCE _____

(Continued on Reverse Side)

(n) PAYMENT OF INTEREST

1. **Past Due Amounts** — If my loan(s) is(are) past due at the beginning of my deferment period, my account will remain delinquent during the deferment period unless I bring my account to a current status by paying the past due amount. If I am unable to pay the past due amount, I request the SLSC to grant me a forbearance in accordance with guidelines established by the guarantor(s) of my loans up to the beginning of my deferment and to add any delinquent accrued interest to the principal of my loan. The SLSC will notify me in writing of the action taken on this request for forbearance.
2. **Interest That May Accrue During the Deferment Period** — If my loan(s) is(are) not eligible for Federal interest benefits, I understand that I am responsible for the payment of interest that accrues during the deferment. I understand that I have the option of making interest payments monthly or quarterly during the deferment period. If I do not choose to make interest payments, I agree that the SLSC may add accrued interest to my principal balance in accordance with guidelines established by the guarantor.
3. **Post-Deferment Grace Period for Borrowers Having GSLP Loans Made Prior to 10/01/81** — I understand that I am allowed a 6-month post-deferment grace period before I begin or resume repayment of my loan(s) disbursed prior to October 1, 1981. If I am eligible for a post-deferment grace period, I can only receive one such grace period for the unemployment deferment regardless of how many times I receive this deferment. I request that the SLSC postpone repayment of my loan(s) disbursed after October 1, 1981 to coincide with the end of the 6-month post deferment grace period for which I am eligible. For loans on which payment is postponed, accrued interest will be added to the outstanding principal balance(s) at the end of the 6-month period.

- (g) I authorize the release of information to support certification of this deferment to the SLSC and the guarantor of my loan(s). I agree to begin or resume repayment of all amounts outstanding (including interest) on my loan(s) which are unpaid as of the date my deferment condition ends or the date on which the maximum amount of time allowed for the deferment is reached, whichever is earlier. All of the terms of my promissory note(s) remain in effect except that repayment is deferred as provided herein.

I CERTIFY THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGN
HERE



Signature of Borrower

Today's Date

SEND COMPLETED FORM TO THE:
STUDENT LOAN SERVICING CENTER
P.O. BOX 2461
HARRISBURG, PA 17105-2461

Student Loan Servicing Center
Request for Deferment of Repayment
Stafford Loan (formerly Guaranteed Student Loan),
PLUS, SLS (formerly ALAS), and Consolidation Loan Programs

For loans guaranteed under the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.)

WARNING: Federal Penalties: Any person who knowingly makes a false statement or misrepresentation on this form will be subject to a fine of no more than \$10,000 or imprisonment for not more than five years or both, under the provisions of Sec. 20 U.S.C. 109
State Penalties: The penalty for submission of fraudulent information on this form may be repayment of triple any amount of money received plus a fine and/or imprisonment.

<p>1 Complete Section I of this form using a ball-point pen. Indicate your name, address, telephone number, Social Security Number, and period for which the deferment is requested.</p>	<p>3 Carefully read Part B of Section I.</p>	<p>6 Return the completed form to: Student Loan Servicing Center P.O. Box 2461 Harrisburg, PA 17105-2461</p>
<p>2 Check only ONE of the deferments for which you may be eligible, based upon the type of loan(s) you borrowed and when you borrowed. Read the guidelines below for determining which category of borrower you are. If you do not know, consult the Student Loan Servicing Center.</p>	<p>4 Read the "Borrower Certification" in Part C of Section I and sign and date the form.</p>	
	<p>5 Your eligibility for the deferment must be certified by the appropriate official or organization as described on the form. The official(s) must complete and sign Section II, and return the form to you.</p>	

WHO IS ELIGIBLE:

- All borrowers (Stafford Loan (GSL), PLUS, SLS, and Consolidation Loan borrower(s)) may request deferments numbered 1, 2, 3, or 4.
- All Stafford Loan (GSL) or SLS borrowers may request deferments numbered 5, 6, 7, or 8. Parent PLUS borrowers with PLUS loans disbursed prior to August 15, 1983 may also request deferments from this group. Consolidation Loan borrowers as well as Parent PLUS borrowers with PLUS loans disbursed on or after August 15, 1983 are not eligible for any deferments in this group.
- All Stafford Loan (GSL) or SLS borrowers may request deferment number 9. PLUS and Consolidation Loan borrowers are not eligible for this deferment.
- Only new Stafford Loan (GSL) or new SLS borrowers may request deferments numbered 10, 11, or 12. A "new borrower" is one who had no outstanding balance on a Stafford Loan (GSL), PLUS, SLS, or Consolidation Loan on the date he or she signed the promissory note for a Stafford Loan (GSL) or SLS loan to cover an enrollment period beginning on or after July 1, 1987 or for a Stafford Loan (GSL) or SLS loan disbursed on or after July 1, 1987. All other categories of borrowers are not eligible for any deferment in this group.
- Only new Stafford Loan (GSL), new SLS, new PLUS, or Consolidation Loan borrowers may request deferment number 13.
- Only parent PLUS borrowers may request deferment number 14. All other categories of borrowers are not eligible for this deferment.

NO ACTION ON YOUR DEFERMENT REQUEST IS POSSIBLE UNTIL THIS FORM REACHES THE SLSC.

Note: If you are applying for the unemployment deferment, complete only the enclosed yellow form and return it to the SLSC.

If you do not qualify for any deferments on this form you may want to ask the SLSC about a forbearance arrangement and obtain the necessary forbearance form from the SLSC. Ordinarily, a borrower is granted a forbearance at the discretion of the SLSC. A forbearance is: the temporary acceptance of payments of principal and interest from a borrower that are smaller than were previously specified; the temporary acceptance of interest only payments during periods when payment towards both principal and interest would normally be required; or the temporary cessation of all payments but interest continues to accrue on the loan.

B. PAYMENT OF INTEREST

1. **Past Due Amounts** — If my loan(s) is(are) past due at the beginning of my deferment period, my account will remain delinquent during the deferment period unless I bring my account to a current status by paying the past due amount. If I am unable to pay the past due amount, I request the SLSC to grant me a forbearance in accordance with guidelines established by the guarantor(s) of my loans up to the beginning of my deferment and to add any delinquent accrued interest to the principal of my loan. The SLSC will notify me in writing of the action taken on this request for forbearance.
2. **Interest That May Accrue During the Deferment Period** — If my loan(s) is(are) not eligible for Federal interest benefits, I understand that I am responsible for the payment of interest that accrues during the deferment. I understand that I have the option of making interest payments monthly or quarterly during the deferment period. If I do not choose to make interest payments, I agree that the SLSC may add accrued interest to my principal balance in accordance with guidelines established by the guarantor.
3. **Post-Deferment Grace Period for Borrowers Having GSLP Loans Made Prior to 10/01/81** — I understand that I am allowed a 6-month post-deferment grace period before I begin or resume repayment of my loan(s) disbursed prior to October 1, 1981. I request that the SLSC postpone repayment of my loan(s) disbursed after October 1, 1981 to coincide with the end of the 6-month post-deferment grace period for which I am eligible. For loans on which payment is postponed, accrued interest will be added to the outstanding principal balance(s) at the end of the 6-month period.

C. Borrower Certification — I claim exemption from the payment of the principal of my guaranteed loan(s) during the period indicated above. I understand the deferment can only be granted from the date of when my eligibility became effective or 6-months prior to the date this form is received by the SLSC, whichever is less. I agree to notify the SLSC immediately upon termination of my claimed status. I further agree to provide documentation as required to support my continued deferment status. I also agree to begin or resume repayment of all amounts outstanding (including interest) on my loan(s) which are unpaid as of the date my deferment condition ends or the date on which the maximum amount of time allowed for the deferment is reached, whichever is earlier. All of the terms of my promissory note(s) remain in effect except that repayment is deferred as provided herein.

I CERTIFY THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

 Signature of Borrower _____
 Today's Date

BORROWER: THE APPROPRIATE OFFICIAL(S), AS DESCRIBED ABOVE, MUST COMPLETE SECTION II BELOW.

SECTION II — To Be Completed by the Certifying Official (as described in Section IV)

I certify that this borrower is eligible for the deferment checked in Section I for the period of

	:		:		:
MM	/	DD	/	YY	

 to

	:		:		:
MM	/	DD	/	YY	

 and any additional requirements as set forth in Section III have been met. I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.

 Name of Organization Telephone Number ED School Code
(if applicable)

 Address City State Zip

 Signature of Official Print Name and Title Today's Date

For Internship/Residency Deferment if borrower is not serving in an institution of higher education, a hospital, or a health care facility; or
 For Teacher Shortage Area Deferment if list of shortage areas has not been provided to affected schools.
 I certify the information stated above is true and correct to the best of my knowledge.

 Name of State Agency Telephone Number

 Address City State Zip

 Signature of Official Print Name and Title Today's Date

SECTION III: DEFERMENT REQUISITES:

DEFERMENT #2: PURSUING A REHABILITATION TRAINING PROGRAM — In order to be eligible to receive this deferment, Federal regulations require that the rehabilitation training program must:

- (1) Be recognized by a state agency or the Veteran's Administration with specific responsibilities for rehabilitation programs in the borrower's area;
- (2) Provide services under a written, individualized plan for the borrower's rehabilitation that are specific as to the date services are expected to end;
- (3) Be structured in a way that requires a substantial commitment by the borrower to his or her rehabilitation ("substantial commitment" means a commitment of time and effort that would normally prevent a person from being employed 30 or more hours per week); and
- (4) Furnish a statement from the provider of the rehabilitation services certifying that the borrower is either receiving or is scheduled to receive these services.

DEFERMENT #3: PARTICIPATING IN A GRADUATE FELLOWSHIP PROGRAM — In order to be eligible to receive this deferment, Federal regulations require that:

- 1) The fellowship program:
 - (a) Provides sufficient financial support to graduate fellows to allow for full-time study for at least six months;
 - (b) Requires, prior to award of that financial support, a written statement from each applicant which explains the applicant's objectives;
 - (c) Requires a graduate fellow to submit periodic reports, projects, or other evidence of the graduate fellow's progress; and
- (2) The borrower:
 - (a) Holds at least a Baccalaureate Degree conferred by an institution of higher education;
 - (b) Is engaged in full-time study, that may be independent of an educational or cultural institution, in an academic or professional subject area for which the borrower has shown an interest and ability;
 - (c) Has been recommended by an institution of higher education for acceptance into the graduate fellowship program.

DEFERMENT #4: TEMPORARILY TOTALLY DISABLED — In order to be eligible to receive this deferment, Federal regulations require that:

- (1) The borrower cannot be expected to attend school or to work and earn money for at least 60 days in order to recover from an injury or illness that did not exist when he/she applied for his/her loan or that has substantially deteriorated since the time of application; or
- (2) The borrower's spouse or other dependent cannot be expected to attend school or to work and earn money for at least 90 days due to an injury or illness that requires continuous nursing or similar services from the borrower.

DEFERMENT #7: SERVING AS A VOLUNTEER IN A TAX-EXEMPT ORGANIZATION — In order to be eligible to receive this deferment, Federal regulations require that:

- (1) The borrower serves in an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986;
- (2) The borrower provides services to low-income persons and their communities in order to assist them in eliminating poverty and poverty-related, human, social, and environmental conditions;
- (3) Borrower's compensation does not exceed the compensation received by a full-time volunteer in the Peace Corps or in a program administered by the ACTION agency. Compensation includes a subsistence allowance, necessary travel expenses, and stipends;
- (4) The borrower, as part of his or her duties, does not give religious instruction, conduct worship services, engage in religious proselytizing, or engage in fund raising to support religious activities;
- (5) The borrower has agreed to serve on a full-time basis for a term of at least one (1) year.

DEFERMENT #8: SERVING IN AN INTERNSHIP OR RESIDENCY PROGRAM — In order to be eligible to receive this deferment:

- (1) Federal law requires the borrower to be in an internship/residency program conducted by an institution of higher education, a hospital, or a health care facility that offers postgraduate training. The Internship/Residency Program must certify that:
 - (a) The program offers an internship or residency program leading to a degree or certificate;
 - (b) The program requires the borrower to hold at least a baccalaureate degree; and
 - (c) The borrower has been accepted into the internship program.
- (2) If the borrower is in any other Internship Program, Federal regulations require:
 - (a) A State Licensing Agency to certify that:
 - (i) It requires completion of the program before certifying the borrower for professional practice or service; and
 - (ii) The program requires the borrower to hold at least a baccalaureate degree before beginning the program.
 - (b) The Internship Program to certify:
 - (i) That the borrower has been accepted into the internship program; and
 - (ii) The anticipated dates on which the borrower will begin and end the program.

DEFERMENT #9: PREGNANT OR CARING FOR A NEWBORN OR NEWLY ADOPTED CHILD — In order to be eligible to receive this deferment, Federal law requires that:

- (1) The borrower must attach a notarized statement signed and dated to the holder(s) of the loan(s); and
- (2) The statement must contain:
 - (a) A description of the circumstances prompting this request;
 - (b) The borrower's certification that he/she is not in attendance at an eligible school or gainfully employed and that he/she has been enrolled at least half-time at an eligible school within the six months immediately preceding the period for which this deferment is sought.

DEFERMENT #11: TEACHING IN TEACHER SHORTAGE AREA — In order to be eligible to receive this deferment, Federal regulations require that:

- (1) The borrower is employed as a full-time teacher in a public or non-profit, private elementary or secondary school; and
- (2) The borrower is teaching in a designated teacher shortage area as certified by:
 - (a) the chief administrative officer at the school if the Chief State School Officer has provided a list of teacher shortage areas to all affected schools; or
 - (b) the Chief State School Officer if a list of teacher shortage areas has not been provided to all affected schools.

DEFERMENT #12: ENTERING OR RE-ENTERING THE WORK FORCE — In order to be eligible to receive this deferment, Federal law requires that:

- (1) The borrower be a mother of a child not yet enrolled in first grade and be entering the work force for the first time or re-entering after an absence; and
- (2) The borrower's compensation from the employer is at a rate not exceeding \$1.00 per hour over the minimum hourly wage as prescribed by the Fair Labor Standards Act.

DEFERMENT #13: PURSUING AT LEAST A HALF-TIME COURSE OF STUDY — In order to be eligible to receive this deferment, Federal law requires that:

- (1) The borrower be enrolled on at least a half-time basis in an eligible school; and
- (2) The borrower has received a Stafford Loan (GSL) or SLS loan for the enrollment period.

SECTION IV: AUTHORIZED CERTIFYING OFFICIAL OR ORGANIZATION FOR SECTION II. —

For deferments numbered:

- 1, 13, 14a, 14d . . . Registrar or Other Authorized Official at School of Attendance.
- 2, 14b Any agency licensed, certified, or approved for rehabilitation training for disabled individuals by one of the following:
 - (a) A state agency with responsibility for vocational rehabilitation programs;
 - (b) A state agency with responsibility for drug abuse treatment programs;
 - (c) A state agency with responsibility for mental health service programs;
 - (d) A state agency with responsibility for alcohol abuse treatment programs, or
 - (e) The Veterans' Administration.
- 3, 14c Fellowship program official.
- 4 Doctor of medicine or osteopathy who is legally authorized to practice.
- 5, 10 Commanding Officer or Personnel Officer (for armed forces), borrower's employer (for Public Health Services), or Chief of Commissioned Personnel (for NOAA).
- 6 Peace Corps or ACTION agency official.
- 7 Tax-exempt organization official.
- 8 Internship program official (also requires signature by an official of the appropriate State licensing agency or attachment of the licensing agency's letter of certification if the program does not lead to a degree or certificate but is required by a State licensing agency).
- 11 Superintendent, principal, or other administrative official of the public or non-profit, private elementary or secondary school which has been determined by the U.S. Secretary of Education to be in a teacher shortage area (also requires signature by Chief State School Officer if list of teacher shortage areas has not been provided to affected schools).
- 2 Authorized signature of employer.



PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY
 680 BOAS STREET
 HARRISBURG, PENNSYLVANIA 17102-1398

**PHYSICIAN'S CERTIFICATION OF
 BORROWER'S TOTAL & PERMANENT DISABILITY**

WARNING: ANY PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT OR MISREPRESENTATION ON THIS FORM MAY BE SUBJECT TO FINE OR IMPRISONMENT UNDER SECTION 1001 OF THE UNITED STATES CRIMINAL CODE.

SECTION I — TO BE COMPLETED BY BORROWER OR BORROWER'S REPRESENTATIVE (See Instructions and Privacy Act Notice)

CONSENT FOR RELEASE OF INFORMATION — I HEREBY AUTHORIZE ANY PHYSICIAN, HOSPITAL OR OTHER INSTITUTION HAVING RECORDS PERTAINING TO THE DISABILITY FOR WHICH I AM REQUESTING CANCELLATION OF MY LOAN(S) TO MAKE INFORMATION FROM SUCH RECORDS AVAILABLE TO THE U.S. DEPARTMENT OF EDUCATION OR TO THE HOLDER OF MY LOAN(S).

1. NAME OF BORROWER _____ <small>First Name M.I. Last Name</small>	2. BORROWER'S SOCIAL SECURITY NO. _____ <small>SSN</small>
3. NAME AND ADDRESS OF BORROWER OR BORROWER'S REPRESENTATIVE _____ <small>First Name M.I. Last Name</small> _____ <small>Permanent Street Address, Box Number, or Apartment Number</small> _____ <small>City or Town State Zip Code</small>	4. PHEAA USE ONLY _____ 5. SIGNATURE OF BORROWER OR REPRESENTATIVE Month Day Year

SECTION II — TO BE COMPLETED BY CERTIFYING PHYSICIAN (See Instructions and Privacy Act Notice).

1. WHEN DID THE BORROWER'S PRESENT ILLNESS OR INJURY START? _____ <small>Month Day Year </small>	2. DATE BORROWER BECAME UNABLE TO WORK AND EARN MONEY? _____ <small>Month Day Year </small>
--	---

3. DIAGNOSIS OF BORROWER'S PRESENT MEDICAL CONDITION — (Please Print or Type)

4. BORROWER IS: Ambulatory Bed Confined House Confined Hospital Confined
 Other _____ Please Print or Type

5. PROGNOSIS — IS CONDITION STABLE? Yes No — If no, what outcome improvement can be expected?

6. PHYSICIAN CERTIFICATION — Place an "X" in the appropriate item as it applies to this borrower.

I certify that in my best professional judgement (enter borrower's name) _____ is:

_____ Temporarily totally disabled as a result of illness or injury and is unable to attend school or to be gainfully employed. The temporary total disability began on (enter date) _____ I anticipate that this borrower will recover from this disability to the extent that he/she will be able to either attend school or to be gainfully employed by approximately (enter date) _____

_____ Permanently totally disabled and so is unable to work and earn money because of an impairment that is expected to continue indefinitely or result in death.

I am legally authorized to practice medicine/osteopathy in the State of _____

7. NAME & ADDRESS OF PHYSICIAN

_____	_____	_____	_____	_____	_____
<small>First Name</small>	<small>M.I.</small>	<small>Last Name</small>	<small>Permanent Street Address, Box Number, or Apartment Number</small>		
_____	_____	_____	_____	_____	_____
<small>City or Town</small>	<small>State</small>	<small>Zip Code</small>	<small>Area Code</small>	<small>Telephone</small>	

8. SIGNATURE OF PHYSICIAN (M.D. or D.O.) (Circle one) _____
Month | Day | Year | I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

PHYSICIAN'S CERTIFICATION OF BORROWER'S TOTAL AND PERMANENT DISABILITY

GENERAL INSTRUCTIONS:

This form is used for obtaining a physician's certification of a borrower's total and permanent disability for the purpose of cancellation of the borrower's obligation to repay his or her loan(s) obtained under the Stafford Loan Program (GSLP), PLUS/SLS Programs, or the Consolidation loan program.

NOTE: Borrowers who owe Stafford (GSL), PLUS/SLS, or Consolidation loans who are only partially or temporarily disabled may be eligible for a loan deferment if the borrower is enrolled in an approved rehabilitation program. To determine which rehabilitation programs can be approved, the borrower should contact his/her lender.

DEFINITION OF TOTAL AND PERMANENT DISABILITY

TO BE TOTALLY AND PERMANENTLY DISABLED THE BORROWER MUST BE UNABLE TO WORK AND EARN MONEY BECAUSE OF A IMPAIRMENT THAT IS EXPECTED TO CONTINUE INDEFINITELY OR RESULT IN DEATH.

This definition calls for a judgement decision as to the borrower's ability to earn income despite his or her disability. The physician is to assess the impact of the borrower's disability on his or her ability to earn income in light of what the borrower would normally be able to earn if he or she were not disabled. If the disability appears to have a significant adverse effect on the borrower's earning potential, not only in the type of work performed before the impairment but for any substantial gainful employment, and the disability is expected to last indefinitely, then the borrower shall be considered permanently disabled under this definition.

NOTE: The standard for determining disability for cancellation of the borrower's loan obligation may be different from standards used under other public and private programs in connection with occupational disability or eligibility for Social Security benefits.

INSTRUCTIONS FOR SECTION I — BORROWER

1. A representative of the borrower may complete this section and sign the form on the borrower's behalf if the borrower is unable to do so because of his or her disability.
2. Have Section II of the form completed and signed by either a doctor of medicine or a doctor of osteopathy. A form completed by a physician other than a M.D. or a D.O. will not be eligible for review.
3. Return completed form to PHEAA.

INSTRUCTIONS FOR SECTION II — PHYSICIAN

1. You are being asked to complete and sign this form to certify that a borrower is totally and permanently disabled.
2. You may complete this form for the borrower only if you are a doctor of medicine or doctor of osteopathy legally authorized to practice in your state.
3. Certify the appropriate item in question 6 as it applies to this borrower case.
4. Please make your report complete as to the nature, duration, and severity of the borrower's present and future impairment. You may attach additional pages if necessary.

Privacy Act Notice — The Privacy Act of 1974 (5 U.S.C. 552a) requires that an agency provide the following notice to each individual whom it asks to supply information:

1. The authority for collecting the information requested on this form is found in 20 U.S.C. 1087, 1087hh, 42 U.S.C. 2000d-1 and 22 U.S.C. 2395.
2. The principal purposes of this information are to verify the identity of the borrower; determine eligibility for loan cancellation; and in the event necessary, to locate the borrower's representative or certifying physician. The SSN is used as a loan account number (identifier) in order to accurately record necessary information.
3. The routine uses of this information include its disclosure to Federal, State or local agencies; to guarantee agencies; to educational and financial institutions and to agency contractors for the purpose of: verifying the identity of the borrower and the borrower's physician; determining the borrower's eligibility for loan cancellation; investigating possible fraud and verifying compliance with program regulations; Failure to provide the requested information may cause the U.S. Department of Education or PHEAA to deny the borrower's request for loan cancellation.
4. This information is necessary to process requests for loan cancellation.

Authority

The provisions of this § 121.8 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); and section 3 and 4 of the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)).

Source

The provisions of this § 121.8 adopted March 24, 1972, effective March 25, 1972, 2 Pa.B. 506; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended August 25, 1978, effective August 26, 1978, 8 Pa.B. 2338; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended February 22, 1985, effective February 23, 1985, 15 Pa.B. 670. Immediately preceding text appears at serial pages (69447) to (69448), and (81018).

Cross References

This section cited in 22 Pa. Code § 121.4 (relating to denial of eligibility to loan defaulters); 22 Pa. Code § 121.53 (relating to forfeiture of award); and 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

§ 121.9. Administrative loan collection review procedures.

(a) This section implements the administrative loan collection review process authorized by the act of April 29, 1982 (P. L. 365, No. 102) (24 P. S. § 5104.3).

(b) A borrower served with a statement of claim shall file a response thereto within 30 days of receipt of the statement of claim. The statement of claim shall inform the borrower of the nature and the amount of the indebtedness, the intention of the Agency to initiate proceedings to collect the debt through garnishment and an explanation of the rights of the borrower under the law. The response shall set forth all defenses and objections which the borrower has to the statement of claim and any objections or defenses not so presented will be deemed to have been waived. The response shall admit or deny all averments contained in the statement of claim. An averment in a statement of claim will be deemed to be denied only if proof thereof is demanded and the borrower states either:

(1) That after reasonable investigation the borrower is without knowledge or information sufficient to form a belief as to the truth of the averment.

(2) That the borrower is without such knowledge or information because the means of proof are within the exclusive control of an adverse party or hostile person.

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(c) When a borrower files a response to a statement of claim filed in the records of the Agency, the borrower will be afforded an opportunity to enter into a written agreement with the Agency, under terms agreeable to the head of the Agency or a designee, to establish a repayment schedule. The borrower will be afforded a hearing if he does not want to enter into a repayment schedule.

(d) All hearings will be conducted by a hearing examiner appointed by the Chairman of the Board of Directors of the Agency or, in the event of the unavailability of the Chairman, by the Vice Chairman of the Board of Directors of the Agency from a list maintained by the Executive Director and will be held at the offices of the Agency in Harrisburg, Pennsylvania. The time of the hearing will be fixed by the Agency within a reasonable time, as soon as convenient, after the receipt of the borrower's response, allowing at least 15 days' notice to be given to the borrower and the borrower's attorney, if an attorney has entered an appearance on behalf of the borrower. Notice of the hearing will be sent to the borrower by the hearing examiner, specifying the time and place for hearing. If a borrower wishes to request postponement of a hearing, the borrower shall contact the hearing examiner and provide the hearing examiner with valid reasons for the request. The hearing examiner may approve or disapprove the request in the examiner's discretion.

(e) The borrower shall have the following rights during the hearing:

(1) To present testimony and arguments in person.

(2) To be represented by an attorney.

(3) To confront and cross-examine adverse witnesses.

(4) To examine all documents and records used by the Agency at the hearing. Copies of materials from the files of the Agency relevant to the hearing shall be provided at a reasonable time prior to the day of the hearing upon request without charge to the borrower.

(5) To have the Agency prove its claim by a preponderance of the evidence.

(f) A request for a hearing may be dismissed by the hearing examiner when it is withdrawn by a borrower in a writing submitted to the hearing examiner. If a borrower fails to appear at a scheduled hearing without good cause as determined by the hearing examiner, the request for a hearing will be considered abandoned and will be dismissed with prejudice by the hearing examiner.

(g) The hearing examiner will have the following powers and duties:

(1) To administer oaths.

(2) To question witnesses presented by the Agency or the borrower.

(3) To hear the evidence submitted, review the documents presented, consider the arguments, and prepare a report.

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(4) To recommend in the report a proposed adjudication and order, supported by findings of fact and conclusions of law.

(5) To provide copies of the report to the Executive Director of the Agency and to the borrower or the borrower's attorney of record within 60 days of the hearing.

(h) The proceedings of a hearing will be conducted in the following order:

(1) The hearing examiner will state the purpose of the hearing, the procedure to be followed, and the manner in which the report will be transmitted to the parties.

(2) The Agency will present its case.

(3) The borrower or the borrower's attorney may cross-examine each witness.

(4) The borrower or the borrower's attorney will present the borrower's case.

(5) The Agency may cross-examine each witness presented by the borrower.

(6) The hearing examiner may question any witness at any time.

(i) The borrower and the Executive Director of the Agency shall each have the right to file exceptions to the hearing examiner's report within 15 days after the service of a copy of the report. Failure to file exceptions within the time allowed shall constitute a waiver of all objections to the report.

(j) Upon consideration of the record, the hearing examiner's report, and any exceptions and briefs filed by the borrower and the Executive Director of the Agency, the Board of Directors will enter a final order.

(k) Any form of written communication to the Agency that may be reasonably construed as exceptions, advising that the borrower is aggrieved and desires a review of the hearing examiner's report, will be deemed exceptions to the proposed report sufficient to initiate and constitute an appeal to the Board of Directors.

(l) When the Board of Directors receives notice of an appeal, it will place the appeal on the meeting agenda of the Board at such time in the future as the Board has received a stenographic record of the hearing before the hearing examiner and has had an opportunity to review such record. The Board of Directors may delegate to the review committee, comprised of three or more Board members designated by the Chairman of the Board, the responsibility to review the record and hearing examiner's report to the Board and to make a recommendation for action

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by the Board. The review committee will provide an opportunity for the borrower and the Agency to present oral argument, when requested, before rendering a recommendation for action by the Board. The Board of Directors will make such final order as shall appear to it just and proper.

(m) Notice of the entry of a final order by the Board of Directors will be mailed promptly to the borrower at the borrower's last known post office address. The Executive Director may transfer the record and the order of default to the court of common pleas of the district in which the borrower resides or, when residence within this Commonwealth cannot be ascertained, to the Court of Common Pleas of Dauphin County, to be entered as a judgment.

(n) Within 30 days of the mailing date set forth in the notice of the final order by the Board of Directors, the borrower who is aggrieved by the final order may appeal the order to the court of common pleas of the district in which the borrower resides or the Court of Common Pleas of Dauphin County. Within 20 days after entry of judgment, the borrower may apply to the court in which the judgment is entered to set aside the judgment.

(o) If no appeal is filed, the Agency may execute upon the wages, salaries or commissions in the hands of an employer or other person including the borrower when self-employed by serving a notice of its intent on the borrower and a notice of execution on the employer. The notice of execution shall include the following:

(1) The total amount to be collected from the borrower.

(2) That the amount to be remitted to the Agency for a given pay period shall be limited to 10% of the borrower's disposable pay, that being any pay remaining after the deduction of any amounts required by law to be withheld.

(3) That the employer is not required to vary its normal pay and disbursement cycles in order to comply with paragraph (2).

(4) That the employer will be held liable for a civil penalty equivalent to the amount of the notice of execution for wages not properly withheld after receipt of the notice of execution.

(p) This section affects 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) as follows:

(1) Subsection (b) supersedes 1 Pa. Code § 35.14 (relating to orders to show cause).

(2) Subsection (d) supersedes 1 Pa. Code §§ 35.105 and 35.185 (relating to notice of nonrulemaking proceedings; and designation of presiding officers). Subsection (d) supplements 1 Pa. Code § 31.26 (relating to service on attorneys).

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(3) Subsection (e)(1)—(3) supplements 1 Pa. Code § 35.126 (relating to presentation by the parties); subsection (e)(4) supersedes 1 Pa. Code § 35.169 (relating to copies to parties and agency).

(4) Subsection (g)(1)—(3) supplements 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers); subsection (g)(4) supersedes 1 Pa. Code § 35.205 (relating to contents of proposed reports); subsection (g)(5) supersedes 1 Pa. Code § 35.207 (relating to service of proposed reports).

(5) Subsection (h) supplements 1 Pa. Code § 35.125 (relating to order of procedure).

(6) Subsection (i) supersedes 1 Pa. Code § 35.211 (relating to procedure to except to proposed report).

(7) Subsection (j) supplements 1 Pa. Code § 35.226 (relating to final orders).

(8) Subsection (l) supersedes 1 Pa. Code § 35.214 (relating to oral argument on exceptions).

Authority

The provisions of this § 121.9 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); and section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151).

Source

The provisions of this § 121.9 adopted February 11, 1983, effective February 12, 1983, 13 Pa.B. 704; amended February 22, 1985, effective February 23, 1985, 15 Pa.B. 670; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial pages (138272) and (154039) to (154041).

§ 121.11. [Reserved].

Source

The provisions of this § 121.11 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325. Immediately preceding text appears at serial page (3237).

§ 121.12. [Reserved].

Source

The provisions of this § 121.12 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325. Immediately preceding text appears at serial page (3237).

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Student Workshop Materials

Benefits: Public Assistance,
UC, SSI

TRANSITIONAL CHILD CARE (TCC)

TCC is a subsidized child care program for families who received Aid to Families with Dependant Children (AFDC) for at least 3 of the past 6 months and are no longer eligible for AFDC due to increased wages. In other words, the family is now over the income limit for AFDC.

Other eligibility criteria are that child care is necessary for a parent(s) to continue employment, and there is a child under the age of 13. TCC is available for children over the age of 13 if the child is disabled or under court ordered adult supervision.

TCC is available for up to 12 months after losing AFDC eligibility. The income limit for TCC is 185% of the federal poverty level:

Household of 2: \$1416 gross/month
Household of 3: \$1783 gross/month
Household of 4: \$2150 gross/month
Household of 5: \$2517 gross/month
Household of 6: \$2884 gross/month

A TCC recipient must fill out a Monthly Reporting Form (MRF) to determine if the 185% limit is met.

Resources are not counted.

Since TCC is a subsidized program, the family must pay part of the child care cost. The amount of TCC you are eligible for is determined by looking at charts which show the family's contribution, the age of the child, the type of child care and the maximum amount of the TCC payment.

Attached is a copy of the chart showing the maximum daily allowance for child care and the current sliding fee schedule.



Cash Assistance Handbook

TRANSITIONAL CHILD CARE

SLIDING FEE SCALE

FAMILY SIZE	GROSS MONTHLY INCOME	FAMILY MONTHLY FEE		FAMILY SIZE	GROSS MONTHLY INCOME	FAMILY MONTHLY FEE
2	\$ 0 - 25	\$ 1		8	\$ 0 - 25	\$ 1
	26 - 656	20			26 - 1331	20
	657 - 787	28			1332 - 1597	28
	788 - 918	40			1598 - 1863	40
	919 - 1049	60			1864 - 2129	60
	1050 - 1180	80			2130 - 2395	80
1181 - 1415*	100	2396 - 3617*		100		
3	\$ 0 - 25	\$ 1		9	\$ 0 - 25	\$ 1
	26 - 810	20			26 - 1360	20
	811 - 972	28			1361 - 1631	28
	973 - 1134	40			1632 - 1903	40
	1135 - 1296	60			1904 - 2175	60
	1297 - 1458	80	2176 - 2447		80	
1459 - 1782*	100	2448 - 3983*	100			
4	\$ 0 - 25	\$ 1	10	\$ 0 - 25	\$ 1	
	26 - 964	20		26 - 1389	20	
	965 - 1157	28		1390 - 1666	28	
	1158 - 1350	40		1667 - 1934	40	
	1351 - 1542	60		1935 - 2222	60	
	1543 - 1735	80		2223 - 2499	80	
1736 - 2149*	100	2500 - 4349*	100			
5	\$ 0 - 25	\$ 1	11	\$ 0 - 25	\$ 1	
	26 - 1119	20		26 - 1417	20	
	1120 - 1342	28		1418 - 1699	28	
	1343 - 1566	40		1700 - 1981	40	
	1567 - 1790	60		1982 - 2263	60	
	1791 - 2013	80		2264 - 2551	80	
2014 - 2516*	100	2552 - 4715*	100			
6	\$ 0 - 25	\$ 1	12	\$ 0 - 25	\$ 1	
	26 - 1273	20		26 - 1446	20	
	1274 - 1528	28		1447 - 1734	28	
	1529 - 1782	40		1735 - 2022	40	
	1783 - 2037	60		2023 - 2310	60	
	2038 - 2291	80		2311 - 2603	80	
2292 - 2883*	100	2604 - 5081*	100			
7	\$ 0 - 25	\$ 1	<p>*INCOME ABOVE THIS LEVEL EQUALS 185% OF FEDERAL POVERTY GUIDELINE 1992 AND THE FEE IS THE TOTAL COST OF CARE. (NO TCC PAYMENT ISSUED)</p>			
	26 - 1302	20				
	1303 - 1562	28				
	1563 - 1822	40				
	1823 - 2082	60				
	2083 - 2343	80				
2344 - 3250*	100					



Juniata Child Care Maximum Allowance

Type of Child Care Provider	Infant		Toddler		Pre-school		School Age	
	0 to 18 months		18 to 36 months		36 months to 1st grade		1st grade and up	
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time
Unregulated	9.00	7.50	9.00	7.00	8.00	7.00	8.00	6.00
Day Care Center	19.00	9.50	14.00	7.00	14.00	7.00	12.00	6.00
Group Day Care Home	14.50	10.50	13.50	10.00	12.50	9.00	12.00	8.00
Family Day Care Home	12.00	7.50	12.00	7.50	12.00	7.50	12.00	7.50

Handicapped / Special Needs and Non-traditional Hours of Care } Add 10 percent to the appropriate type of child care provider and age group of child and round up to next \$0.50 to determine the maximum allowance for these levels of care.

The maximum allowances found at 138, Appendices F & G, will continue to be used for a client receiving a child care allowance exceeding the new limits if the Employment Development Plan (EDP) was approved prior to 7/1/92 OR who receives or is eligible to receive Transitional Child Care prior to 7/1/92 AND the client continues to use the same provider. **NOTE:** A client receiving a child care allowance at actual reasonable cost because she was participating in the Employment & Training Program and had an EDP approved prior to implementation of the Family Support Act on 10/1/90, continues to be eligible for child care allowances based on actual reasonable cost.

Mifflin Child Care Maximum Allowance

Type of Child Care Provider	Infant		Toddler		Pre-school		School Age	
	0 to 18 months		18 to 36 months		36 months to 1st grade		1st grade and up	
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time
Unregulated	9.50	9.00	9.50	9.00	9.50	8.00	9.50	8.00
Day Care Center	15.50	11.50	15.00	10.50	13.50	10.00	13.50	8.00
Group Day Care Home	13.00	10.50	13.00	10.00	13.00	9.00	12.00	8.00
Family Day Care Home	14.50	12.50	14.50	12.50	14.50	12.50	14.50	12.50

Handicapped / Special Needs and Non-traditional Hours of Care } Add 10 percent to the appropriate type of child care provider and age group of child and round up to next \$0.50 to determine the maximum allowance for these levels of care.

The maximum allowances found at 138, Appendices F & G, will continue to be used for a client receiving a child care allowance exceeding the new limits if the Employment Development Plan (EDP) was approved prior to 7/1/92 OR who receives or is eligible to receive Transitional Child Care prior to 7/1/92 AND the client continues to use the same provider. **NOTE:** A client receiving a child care allowance at actual reasonable cost because she was participating in the Employment & Training Program and had an EDP approved prior to implementation of the Family Support Act on 10/1/90, continues to be eligible for child care allowances based on actual reasonable cost.

I. INTRODUCTION

Unemployment Compensation Eligibility depends on a claimant meeting two tests:

- A. Financial eligibility (has the claimant earned enough wages in the first through fourth quarters of the last five quarters?)
- B. Substantive eligibility (do the circumstances of the claimant's separation from work or his/her subsequent conduct disqualify him/her from receiving benefits?)

The second test, substantive eligibility is extremely fact specific; there are hundreds and hundreds of reported cases in this area of the law.

II. PROCEDURAL ISSUES

- A. Levels of appeals
 - 1. application/initial determination by local OES
 - 2. appeal and hearing before referee
 - 3. appeal to Unemployment Compensation Board of Review
 - 4. petition for review (appeal) to Commonwealth Court
- B. Deadlines and Hearings come quickly.
 - 1. 15 days to file appeals(except 30 days to file with Commonwealth Court)
 - 2. Hearings get scheduled promptly (1 to 3 weeks is usual)

III. MOST COMMON BASES FOR FINDING A CLAIMANT SUBSTANTIVELY INELIGIBLE

- 1. Able and Available
 - 2. Refusing Suitable Work
 - 3. Voluntary Quit
 - 4. Willful Misconduct (work-related)
 - 5. Off duty/Fault (non work-related culpable conduct)
- A. ABLE and AVAILABLE FOR WORK (Claimant bears burden of proof)
 - 1. Claimant must be ready, willing, and able to accept a job.

2. This issues is determined each week claimant seeks benefits.
3. Even claimants with significant physical or mental limitations can be found able and available if they can still perform a reasonable number of jobs. Pregnancy is treated like any other condition, and is only treated as disqualifying if the woman cannot perform job functions.
4. Each case is fact specific (e.g., a restriction to part-time work is not per se disqualifying).
5. The claimant must attempt to overcome problems that keep him/her from working (e.g., lack of adequate transportation, lack of child care)
6. Students are **not** automatically considered to be not Able and Available solely because of their status as students. Just as with other workers, each student/s situation is evaluated to see if he/she is available for a reasonable number of jobs.

B. REFUSING SUITABLE WORK (Claimant bears the burden of proof)

1. A claimant must apply for and accept "suitable work". "Suitable work" is work which the Claimant is "capable" of performing. One uses a common sense test for this.
2. These factors come into play in determining whether a claimant is "capable" of performing proffered employment:
 - (a) physical demands of the job
 - (b) skills involved
 - (c) religious beliefs of the claimant
 - (d) travel distance
 - (e) child care

C. VOLUNTARY QUIT (Claimant bears burden of proof)

1. A claimant who quits his/her job without cause of a "necessitous and compelling nature" will be found ineligible for u/c.
2. The test is one of common sense.
3. The claimant must show that he/she made reasonable efforts to maintain employment (i.e. document steps taken).

4. Examples of necessitous and compelling causes for quitting include: unavailability of child care, lack of transportation, illness (including illness of a family member), danger at work, sexual or racial harassment.
 - (a) Claimant must do everything in his/her power to **NOT** quit (common sense test).
5. Voluntary Quit non-applicable for voluntary lay-offs.
6. A claimant who quits to avoid imminent firing is not considered to have quit. He/she is treated as having been fired and his/her case is decided under the law pertaining to willful misconduct **infra**.
7. Quitting to avoid the possibility of being fired is treated as a Voluntary Quit. If the claimant cannot show that he/she had cause to quit, he/she will be disqualified.
8. A claimant who quits for physical or mental reasons is not automatically disqualified, but must show he/she took every possible step to preserve his/her employment by e.g. giving the employer notice of the problem and a chance to accommodate the disability.
9. Quitting for domestic reasons is also not always disqualifying; one looks to the claimant's ability to control the situation and the efforts made to preserve employment. Thus, leaving to follow a spouse who has been involuntarily transferred far away may be good cause.
10. A change in work conditions may be cause to quit. The claimant must show it was a unilateral change by employer, that the claimant took reasonable steps to keep job and used common sense in deciding to quit.

KEY: Did Claimant take every reasonable action to avoid quitting?

D. WILLFUL MISCONDUCT (Employer bears the burden of proof)

1. The Employer must prove claimant's behavior was detrimental to Employer's interest or violated a reasonable rule of the Employer.
2. If employer has a progressive discipline policy and fails to follow it, the claimant will not be considered disqualified.
3. A claimant can overcome the employer's case by showing good cause for his actions (e.g. reasonableness of refusing employer's directive.)
4. Claimant should inform employer of reason for non-compliance with work rules.
5. Absenteeism/tardiness are frequent causes of U/C disqualification - a claimant fired for either reason had better have good cause.

6. A claimant who is required to obtain a necessary license or certification, is able to do so but fails to has committed Willful Misconduct.
7. Incompetence can be Willful Misconduct - the determination will depend on whether claimant tried to the best of his/her ability to do the work properly.

E. OFF DUTY BEHAVIOR CAN BE DISQUALIFYING

1. DUI leading to loss of license where license is needed for work, and the claimant is fired is disqualifying because it is considered the claimant's fault.
2. The commission of certain illegal acts can also be disqualifying.

HOW TO APPLY FOR SSI AND SOCIAL SECURITY

- 1) You apply at the Social Security office. They will ask you to fill out a long application asking about your financial situation and your medical problems. **MAKE SURE TO TELL THEM ALL THE PROBLEMS YOU HAVE DOING THINGS.**
- 2) It will take about two months to get a decision on this application. If you are denied benefits, you have 60 days to file an appeal. This appeal is called a Request for Reconsideration.
- 3) This appeal will probably also be turned down. **DON'T GIVE UP. MOST PEOPLE DON'T GET BENEFITS UNTIL THE NEXT STAGE.**
- 4) Once you get the denial of your Request for Reconsideration, you will have another 60 days to file the next appeal. This is called a Request for A Hearing Before an Administrative Law Judge. This stage is where most people get benefits.
- 5) At this point, you should think about getting a lawyer to help you. If you are receiving cash or medical assistance, you can talk to the Disability Advocate at the welfare department and ask for a referral to Keystone. If you are not getting any welfare or MA benefits, and are over Keystone's income guidelines, you can get a private attorney who will charge you 25% of your back benefits if he or she wins your case. You won't have to pay anything if you lose.
- 6) If you lose at your hearing, you have 60 days to file a request for review by the Appeal Council of the Social Security Administration.
- 7) If you lose there, you have 60 days to file a court action in federal district court. Most people would need a lawyer to do this for them.

FACTS ABOUT SSI

WHAT IS SSI?

SSI is a federal program which pays benefits to people who are either disabled or 65 years old and over.

ARE THERE OTHER QUALIFICATIONS?

Yes. To get SSI, disabled and elderly people must also have income and resources (property and cash) below the SSI limits. The resource limits for SSI are \$2,000 for one person and \$3,000 for a family.

WHAT COUNTS AS A RESOURCE?

SSI rules do not count a house, a car, household goods, property you use to support yourself (for example, a truck you use in your business), certain kinds of life insurance, and a burial plot. Most other kinds of property (bank accounts, IRAs, real estate you own but don't live in), count as a resource.

HOW MUCH ARE THE MONTHLY SSI BENEFITS?

One person is entitled to \$466 per month; a couple is entitled to \$700 per month. If you get money from another source, that reduces your SSI benefit.

WHAT DOES IT MEAN TO BE DISABLED?

To be considered disabled, a person must have physical or mental problems which keep him or her from doing his or her old job or any other kind of non-sheltered work. The test is whether you are physically and mentally able to do the things like sit, stand, walk, lift, concentrate, and keep to a schedule which are required in most jobs.

CAN CHILDREN GET SSI?

Yes! Because of a recent court case, it has gotten much easier to get SSI benefits for disabled kids. If you think your child may be disabled, you should file an application for him or her.

KEYSTONE LEGAL SERVICES, INC.

2054 East College Avenue

State College, Pennsylvania 16801

(814) 238-4958

(800) 326-9177

Keystone Legal Services provides free legal representation for low-income clients in a wide variety of civil matters, including loss, reduction, or denial of government benefits, evictions, mortgage foreclosures, creditor problems, public utility terminations, certain child custody cases, spouse abuse, adequacy of health care, termination of parental rights, and no-fault divorces.

A person or family may qualify for legal services if the source of income into the household is Public Assistance, Supplemental Security Income, or limited income.

LOW INCOME GUIDELINES

<u>Number in Family</u>	<u>Title XX Mo. Income</u>	<u>Legal Services Corporation Mo. Income</u>	<u>Legal Services Corporation Yr. Income</u>	<u>Title XX Yr. Income</u>
1	709	709	8,513	8,513
2	957	957	11,488	11,488
3	1,205	1,205	14,463	14,463
4	1,453	1,453	17,438	17,438
5	1,701	1,701	20,413	20,413
6	1,949	1,949	23,388	23,388
7	2,197	2,197	26,363	26,363
8	2,445	2,445	29,338	29,338
Each Add'l	248	248	2,975	2,975

PROBLEMS WHICH ARE NOT ELIGIBLE FOR KLS REPRESENTATION

Conflict of Interest: Representation cannot be provided for both sides of the same legal matter even where both parties qualify for legal services. The first "low-income" person who qualifies will be provided legal aid. The opposite party, who is also "low-income," will be given the toll free number of the PA Lawyer Referral Listing or referred to the Court Administrator's Office in the appropriate county.

Contingent Fee Matters: Representation cannot be provided for matters which may result in a recovery of money which could be used to pay for an attorney. These include property damage claims, collection of debts, real estate sales, worker's compensation, large estates, partition, business-related matters, and other such claims.

Criminal Matters: Representation cannot be provided for criminal matters such as summary offenses, traffic fines, or harassment charges.

Small Claims: Claims for less than \$4,000 may be handled by your District Magistrate. You may file a lawsuit with the Magistrate, and an attorney is not required.

Black Lung Claims: This is considered to be a contingent fee matter.

Support/Non-Support: Counsel is not provided for conferences at the County Domestic Relations (Probation) Office or in the Domestic Relations Court.

	<u>HH=1</u>	<u>HH=2</u>	<u>HH=4</u>	<u>HH=6</u>
Federal Poverty Level	567	765	1162	1559
KLS eligibility	709	957	1453	2197
Mifflin Gross limit	525	821	1291	1745
Mifflin Net limit	284	444	698	943
Mifflin cash grant	195	305	479	647
Juniata Gross limit	468	751	1225	1654
Juniata Net limit	253	406	662	894
Juniata cash grant	174	279	454	614
Food Stamp Gross limit	738	996	1512	2027
Food Stamp Net limit	568	766	1163	1560

PUBLIC ASSISTANCE: IMPORTANT DEADLINES

At Application

--screen for expedited food stamp eligibility; if eligible, food stamps must be delivered to recipient within 5 days.

--an application interview must be conducted within 13 days after an application is filed.

--162E: a notice of eligibility must be sent to the applicant within 15 days of the application interview (cash) and within 30 days of the application interview (medical assistance and food stamps).

Changes in Benefits

--162A: a notice stating what change will occur, when it will occur and why it will occur must be sent to the recipient at least 10 days before the change occurs.

--162C: a notice confirming that a change has occurred must be sent to the recipient. A 162C is also sent to recipients if the change is due to information reported in the Monthly Reporting Form.

--162VR: a notice stating that the CAO has information which conflicts with information the applicant/recipient gave and gives the applicant/recipient 10 days to respond to the CAO's information. If the recipient does not resolve the conflict within the 10 day period, a 162A stating benefits will be discontinued is then sent.

Appeals

--initial eligibility: 30 days to appeal cash and medical assistance denials, 90 days to appeal food stamp denial.

--decrease or discontinuance: upon receipt of 162A, 10 days to keep benefits at current rate (cash, medical assistance, food stamps), 30 days (cash, medical assistance) and 90 days (food stamps) but benefits will decrease or be discontinued. If an appeal is made within 10 days of the 162A, benefits will remain at the same rate until a hearing decision is made.

--any action or inaction made by the CAO may be appealed.

Reporting Changes

--if recipient is not on monthly reporting: 7 days (cash, medical assistance), 10 days (food stamps).

--if recipient is on monthly reporting: use the monthly reporting form (MRF) to report changes. No need to report aside from the MRF unless the change is not addressed on the MRF.

EMPLOYMENT AND TRAINING (ETP)

ETP, also known as SPOC and New Directions, is a program that provides training and education for recipients of AFDC or GA (cash assistance).

Tell your caseworker you want to enroll in ETP. Once enrolled, you will create an Employment Development Plan (EDP) which sets out your goals and ways to meet the goals. You are not limited to types of training your caseworker thinks is "good for you." Use the EDP and change your EDP to maximize your strengths and interests. You have the right to appeal the EDP.

There are limited "spaces" in the SPOC program. You are still able to enroll in ETP even if there are no openings in the SPOC program. You must be enrolled in ETP to be eligible for "supportive services."

Once enrolled in the ETP, you are eligible for "supportive services" that are necessary for you to attend the training course you designed. For instance, child care, transportation, clothing, tools, equipment, tests fees, vehicle repairs or purchase, books and school supplies are the most common supportive services available.

You have a right to be informed of all available supportive services, apply for them and receive a written decision on your eligibility within 15 days of applying for them. The notice you receive should state the amount you are eligible for and the period of eligibility.

You have a right to receive the supportive services in advance. This means that your child care payments should be made to the child care provider in a timely manner. Likewise, your books should be paid for in advance of the class starting.

You have the right to receive child care and medical assistance for up to one year if you lose eligibility for cash assistance because of wages.

KEYNOTES

Vol. 3 No. 3

A Quarterly Publication by Keystone Legal Services, Inc

October 1992

You Have A Right To Apply for Public Assistance

By Susan M. Michalik
KLS Staff Attorney

Mary Jones lived in a small apartment with her two children. Mary recently lost her job and was receiving unemployment compensation. After a month, Mary found that her income was just not enough to cover all her expenses. Not wanting her kids to go hungry, Mary went to the county assistance office (CAO) in her county to find out if she could get some type of assistance.

Mary told the man at the front

desk, Mr. Grime, that she lost her job, had very little money, and that she needed help until she could find another job. She asked Mr. Grime if she could get any benefits. Mr. Grime said, "You probably won't be eligible so you might as well not apply." Brokenhearted, Mary left the CAO not knowing where to turn next. On her way back home, she stopped at the local food bank, and her spirits were lifted when the volunteer handed her two bags of groceries. "At least my kids won't go hungry," she told the volunteer.

Mary called Keystone Legal Services and told them about what had happened to her. Keystone told her that she has a right to fill out an application, and then the CAO will interview her to get her income, names of the children and other information. Depending on how much unemployment compensation Mary was getting, she could be eligible for cash assistance, medical assistance and food stamps. If Mary's income was extremely low, she could be eligible for "expedited" (emergency) assistance and would receive the assistance within 5 days.

Mary went back to the CAO and told Mr. Grime that she has a right to apply. Mr. Grime threw an application for foodstamps at Mary. Ms. Starr, a caseworker, then took Mary to her desk for an interview. Ms. Starr computed Mary's income and expenses and found that Mary and the kids were eligible for medical cards, \$278 in foodstamps and \$185 in cash assistance. Mary said, "But I only applied for foodstamps." Ms. Starr responded, "It doesn't matter. My job is to see if you are eligible for all types of assistance. By the way, let me tell you about the Single Point of Contact (SPOC) program. With your work background and interests I think this program may be for you."

A few days later, Mary received a notice from the CAO stating that Mary's family was eligible for foodstamps and medical and cash assistance. Mary saw a box in the lower right hand corner of the notice which told her about appealing the decision. She was confused so she called Ms. Starr and asked about appealing. Ms. Starr explained

...Continued on Page Four....

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YOUR RIGHT TO EMERGENCY HEALTH CARE

By Roberta L. Mueller
KLS Staff Attorney

There is a federal law called the Anti-Dumping Act. If you go to the hospital and have a medical condition which must be treated right away, this law makes it illegal for the hospital to refuse to treat you or to send you to another hospital. The hospital must treat you even if you have no way of paying the bill. This article will tell you what your rights are and what the hospital must do if you go to the emergency room.

When you go to the emergency room, the hospital staff must examine you to see if there is something seriously wrong with you. For example, if you were having an asthma attack that made you unable to breathe, you would need treatment right away to keep you from getting sicker. This

is called an emergency medical condition. Being in active labor is also considered an emergency medical condition.

If, after examining you, the

...If you need emergency medical treatment, it is illegal for the hospital to refuse to treat you...

hospital finds that you do not have an emergency medical condition, the hospital does not have to do anything more for you.

If you do have an emergency medical condition, the hospital must treat you to keep your condition from getting worse.

If the hospital wants to send

you to another hospital, they can only do it if that is what you want or if they do not have the medical services you need.

If you are denied emergency medical care you can: (1) sue the hospital in either federal or state court, and/or, (2) file a complaint against them with the Health Care Financing Administration, a part of the federal Department of Health and Human Services.

If the Department of Health and Human Services finds that the hospital refused to treat you, it can fine the hospital and the doctor. The fine can be up to \$25,000.

If you have questions about emergency care, contact Keystone Legal Services, Inc.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

If you have any suggestions or issues you would like to see in Keynotes, please send us a letter addressed to: Keynotes, Keystone Legal Services, Inc., 2054 E. College Ave., State College, PA 16801.

Editor: Roberta Mueller, Esq.

Publisher: Linda Lovett

LOCAL BAR ASSOCIATION FUNDING

By Susan J. Lucas

KLS Program Administrator

KEY EVENTS



*By Elizabeth Hamilton
KLS Office Manager*

PHILIPSBURG OUTREACH:

Keystone Legal Services, Inc., recently opened an outreach office in Philipsburg. The Community Action Center has donated space for Keystone staff to conduct client interviews. The outreach office provides service to Philipsburg area residents. Please call 1-800-326-9177 or (814)238-4958 (M-F, 9:00 a.m. to 5:00 p.m.) to have your eligibility determined for a consultation with a Keystone caseworker.

AGENCY TRAINING:

Keystone will be conducting trainings for staffs of Human Service Organizations on October 13, 20 and 27, 1992. The topic will be Legal Issues in the Low Income Community. If you are interested in attending a training, please contact Beth Hamilton at (814)234-6231.

WELCOME TO OUR NEW STAFF:

Gwen Washington is the new receptionist in the Centre County office.

Vickie Page is the newest legal secretary in the Centre County office. Vickie had been working at Keystone Legal Services through the JTPA Program.

Keystone Legal Services receives local funding from the Centre County Bar Foundation and the bar associations of Clearfield and Huntingdon counties. This funding is called "Local Option IOLTA Funding." IOLTA refers to Interest on Lawyers' Trust Accounts. This is a source of funding available to legal services programs in Pennsylvania.

Some of the IOLTA funds can be kept by local bar associations so the money can be returned to the legal

services program in the bar association's area. The funding that actually comes from a county is used to provide legal services to the county's residents.

Keystone Legal Services will receive \$8,400 from the Centre County Bar Foundation. The Clearfield County Bar Association will award \$1,800 to the program, and the Huntingdon County Bar Association will award \$1,100. All of these funds will be used for the delivery of general legal services.



WINTER REMINDERS

Remember all utility companies that are regulated by the Public Utility Commission (PUC) cannot shut off utilities from December 1 to March 31. Most utility companies such as electric, gas and water companies are regulated by the PUC. There are some utility companies that are not covered by the PUC. Check with your company to be sure.

Remember to apply early for the Low Income Energy Assistance program (LIHEAP). For more information and an application, contact your local public assistance agency:

- Centre: 814-355-6000
- Clearfield: 814-765-7591
- Huntingdon: 814-643-1170
- Juniata: 717-436-2158
- Mifflin: 717-248-6746

IF YOUR UTILITY IS BEING SHUT-OFF OR YOU ARE DENIED BENEFITS CONTACT, KEYSTONE LEGAL SERVICES.

**...You Have A Right To Apply,
Continued from Page One...**

that if Mary thought the amount of benefits was wrong, she had the right to appeal the notice. Ms. Starr also said, "If your income goes up in the future, you may receive a similar notice stating that you are no longer eligible or your assistance will be reduced. The notice will also say why the reduction or termination is being done. If you disagree with the notice, be sure to appeal by filling out the section on the back of the notice. You may want to call Keystone if you ever get such a notice, as they will be able to see if, perhaps, I made a mistake and then be able to help you with your appeal."

The next week, Mary received her assistance check, foodstamps and medical cards in the mail. With the information Mary got from Ms. Starr and Keystone, Mary knew her kids would not be going hungry, and she was thankful for the help she received.

DID YOU KNOW:

Keystone Legal Services, Inc., was incorporated in 1973.

Prior to the federal budget cuts of 1980, Keystone had a staff of 34. Keystone now has a staff of 19.

Keystone serves a five county area, consisting of Centre, Clearfield, Juniata, Mifflin and Huntingdon Counties. These counties cover about 3,000 square miles. According to the 1990 census there are 312,869 residents in this area. The poverty population is 43,854.

Ninety-six private attorneys have volunteered their time to Keystone's Pro Bono Project this year.

Riverside/BiLo Total Commitment Program

Please save your Riverside/BiLo register tapes. Riverside/BiLo grocery stores are helping non-profit organizations raise money. For every \$200.00 in register tapes that Keystone submits, it receives \$1.00 through the Total Commitment Program. Keystone has a collection bin in the BiLo store at the Hills Plaza, State College. You can also drop your tapes off at our State College or Clearfield offices or mail them to us. Thanks for your contributions!!



KEYSTONE LEGAL SERVICES, INC. OFFICE DIRECTORY



Centre County*
2054 E. College Ave.
State College, PA 16801
(814)238-4958

Clearfield County*
213 N. Second St.
Clearfield, PA 16830
(814)785-9646

Mifflin, Juniata and Huntingdon Counties
2054 E. College Ave.
State College, PA 16801
(800)326-9177

***Phillipsburg area residents: (800)326-9177**

For information on the Disability Advocacy Project-Institutional Law Project-Pro Bono Project, contact: Keystone Legal Services, Inc., 2054 E. College Ave., State College, PA 16801, (814)238-4958.

KEYNOTES

Vol. 3 No. 4

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HOSPITAL DISCHARGE RIGHTS

*By Roberta Mueller
KLS Staff Attorney*

This article will give you information about what to do if you are a patient in a hospital that tells you that you "have" to leave the hospital (be "discharged") before you think you are well enough. You may be told by hospital staff that Medicare, insurance or medical assistance "says" that you are only allowed to stay a certain number of days, and since that time is up, you have to leave. You or your family might even be told that you will be sent home if you do not go home right away. If you think you need to stay longer, or if the hospital has not made plans for how you will be taken care of after you leave the hospital, it may be illegal for them to discharge you.

CAUSES OF THE PROBLEM

Hospitals are paid under a system which pays them a set amount depending on your diagnosis. This amount is set by figuring out the average length of stay for patients with that diagnosis on admission. What this means is that hospitals make money if they get you out faster than average

and lose money if they get you out slower than average. This gives them a reason to discharge people early.

This practice is called "quicker and sicker." You need to know that **what they get paid has nothing to do with how long the law says you can stay. You are to be kept in the hospital as long as your medical needs require it.**

YOUR RIGHTS

If **Medicare** is paying for your stay and the hospital tries to force you to leave, you have to be given a notice called a PRO notice. It gives you the right to an immediate (within 72 hours) hearing to appeal the decision telling you to leave. If you ask for a hearing, the hospital cannot discharge you until after your hearing has been held; it also cannot charge you for the days you are in the hospital between the time you are given the notice and the time you have your hearing.

Even if you are **not** a Medicare recipient, Pennsylvania law

requires that the hospital have an adequate discharge plan for you before it discharges you. This means that, if you need home health care or a visiting nurse, the hospital must make sure those services are in place before they send you home. If your medical needs cannot be taken care of at home, they must keep you until they can find you a suitable placement such as a personal care home or a nursing home.

Do not be scared into leaving the hospital before you can do so safely.

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YOUR PAYCHECK AND YOUR RIGHTS

By Dennis Kenny, KLS Staff Attorney

This article explains your rights under a Pennsylvania law called the Wage Payment and Collection Law and the Federal Fair Labor Standards Act.

You have a right to be paid for the work you do. Under PA law, it is illegal for your employer to withhold or unfairly reduce your pay. Even if you quit or are fired, the employer must pay you wages you have earned for the hours you have worked.

Your employer cannot withhold deductions from your paycheck without your specific written permission. For example, if your employer accuses you of damaging his/her property and you agree in writing that you caused the damage, but do not

agree to any specific wage reduction, your employer is still required to pay you the full amount of your paycheck.

The law requires that you specifically agree in writing to any reduction in your pay. If you agree in writing to a pay reduction, your employer still cannot reduce your paycheck to less than the minimum wage for any job covered by the minimum wage standard. The minimum hourly wage is based on a 40 hour work week.

If you are paid overtime hours, (over 40 hours/week), it is calculated on a weekly basis. For example, if you are paid every two weeks, and you work 45 hours one week and 30 hours the next,

you would be entitled to 5 hours overtime pay. This is important. Employers may argue that because you worked 75 hours for the pay period you have not worked over 40 hours a week. Be sure that your pay accurately reflects your hours.

If you are denied payment, contact:

(1) The District Office of Labor and Industry, 1101 Green Avenue, Altoona, PA. They will contact your employer and may bring a lawsuit at the Commonwealth's expense; or,

(2) The U. S. Department of Labor, Wage and Hour Division, in Altoona, PA, 814-942-4125. They will bring litigation, if necessary.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

Editor: *Roberta Mueller, Esq.*

Publisher: *Linda Lovett*

If you have any suggestions or issues you would like to see in Keynotes, please send us a letter addressed to:

Keynotes
Keystone Legal Services, Inc.
2054 E. College Ave.
College, PA 16801.

Julie Moore's daughter, Dot, has muscular dystrophy. Julie found it difficult to pay for Dot's medical treatment.

She applied for SSI (disability) on behalf of Dot.

While she awaited the decision, Julie applied for medical assistance at the county assistance office. Julie was issued a blue medical card and given information on what the card covers. Julie told the caseworker about Dot's medical problems and the high costs involved, especially for a wheelchair and ramp. The caseworker said, "There is a special program for children called EPSDT (Early and Periodic

Screening, Diagnosis and Treatment). Under EPSDT, medical assistance will pay for any treatment or service which is medically necessary, including a wheelchair and ramp, as long as Dot's doctor says she needs it."

"There is no co-payment or deductible."

"EPSDT is for children up to the age of 21 as

long as they have a medical card. Under EPSDT, medical assistance will pay for any medical service, treatment or equipment which is medically necessary."

To enroll in EPSDT and get more information call: 800/543-7633.

EPSDT

By Susan Michalik
KLS Staff Attorney

KEY EVENTS

By Beth Hamilton
KLS Office Manager



MILLHEIM OUTREACH:

Keystone recently opened an outreach office in Millheim, Centre County. The outreach office provides service to Millheim area residents. Call 800-326-9177 or (814)238-4958 (M-F, 9:00 a.m. to 5:00 p.m.) to determine your eligibility for a consultation.

PRO SE CUSTODY CLINICS:

Keystone does not have the resources to directly represent all the persons who need our help. We can, however, help some people to conduct their own legal actions. Some clients have cases that can go "pro se." What is pro se? Pro se means "on your own." Pro se means you are representing yourself.

Pro se custody clinics have been scheduled for the end of January. Current clients have been notified of the date, time and place. If you are interested in filing a pro se custody and you think you are financially eligible for Keystone's services, please use the office directory on page 4.

NEED HELP MEETING YOUR HEATING BILLS? CONTACT YOUR COUNTY ASSISTANCE OFFICE AND ASK ABOUT PENNSYLVANIA'S LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).

CENTRE: 814/355-6000
CLEARFIELD: 814/765-7591
HUNTINGDON: 814/643-1170
JUNIATA: 717/436-2158
MIFFLIN: 717/248-6746

INSTALLMENT SALES

By Robin J. Foor
KLS Staff Attorney

Installment sales contracts provide that the buyer can make payments over a period of time. In exchange, the buyer pays interest. This means that the buyer pays more than he/she would pay if he/she paid in cash.

Furniture, cars and appliances are commonly bought by installments. There is a law which says what must be in an installment sales contract. A buyer should carefully read an installment sales contract. There is valuable information in the contract that the buyer should know. A buyer should never sign a contract that does not have all the information completed.

At the top of the agreement, there is a series of blocks. The information in those blocks tells the buyer exactly what he/she is paying for the item. The first block is the annual percentage rate. This is the percentage of interest the buyer pays each year he/she makes payments. Another block has the finance charge. This is the amount the buyer pays in addition to the price of the item. The amount financed is the price of the item less any down payments plus any insurance costs. The total of payments is the total amount in dollars and cents the item is going to cost the buyer. At the top of the contract, it will say how many payments, the amount of the payments and when the payments would start.

Example: A buyer buys a car for \$1000 at 15% annual percentage rate. He/she intends to make payments for 24 months. He/she will

pay a \$198.43 finance charge or a total of \$1198.43 for the car. The payment will be \$49.93 a month. (The interest rate is 15%. The amount of interest you pay is \$198.43).

The contract will specify if there is collateral. Collateral is an item which can be sold if the buyer defaults. A buyer defaults when he/she does not make the regular payments. If the collateral is a vehicle the seller will hold the title until all payments are made.

Charges for life and disability insurance are usually on the contract. Life insurance pays the debt if the buyer dies. Disability insurance pays if the buyer is hurt or becomes disabled. The policy has provisions which govern when the policy is activated, when it will pay and how much it will pay. The buyer has a choice as to whether or not he/she wishes to purchase insurance. The buyer should ask questions about the policy provisions before agreeing to buy insurance.

DOOR TO DOOR SALES

If a seller comes to the buyer's home, the buyer has 3 days after signing the contract to change his/her mind. You must cancel in writing. This is because when a seller is in a buyer's home, the buyer may feel pressure to buy the product. Once the seller has left and the buyer is no longer under pressure, he/she can decide to cancel the contract. Every door to door contract should have a written notice of your right to cancel and how to do it.



**READ BEFORE
YOU SIGN!**

BRIDGING THE GAP

□□□ 1992 Pro Bono Project □□□

*By Beth Hamilton
Pro Bono Coordinator*

Keystone Legal Services, Inc., recognized 92 attorneys who volunteered their services in 1992 to the Keystone Pro Bono Project. Keystone's staff and Board of Directors would like to thank the following attorneys:

CENTRE COUNTY ATTORNEYS

Rodney A. Beard, John Becker, Tracey Benson, Denise Bierly-McDermott, Bill Bispels, Jeffrey Bower, James Bryant, Richard Campbell, Andrea Commaker, Allan Crider, William Donovan, Virginia Eisenstein, Fredrick Farber, R. Mark Faulkner, Grant Fleming, William T. Fleming, Ronald Freidman, Stephen Furst, Anthony Gerace, James L. Green, H. Amos Goodall, Kimberly Hamilton, Gary Heim, Alfred Jones, Winifred Jones-Wenger, Richard Kalin, Rosadele Kauffman, Karen Keeney, Claire Kimmel, Thomas K. Kistler, Donald Lee, Brad Lunsford, David Mason, H. Denning Mason, Paul Mazza, Ronald McGlaughlin, Delbert McQuaide, Sonja Napier, Lee Nollau, Kent O'Neil, James Rayback, Lillian Raycroft, Robert Rayman, Dennis Reiter, Robert Richards, Jeffrey Rosenfeld, Pamela Ruest, Betsy Sanders, Charles Schneider, Robert Storch, Charles Tauber, Jose Texidor, W.

David Todd, Kenneth Walsh, Jeffrey Warren, David Weixel and Leslie Zuck.

CLEARFIELD COUNTY ATTORNEYS

David Ammerman, Ronald Archer, F. Cortez Bell, Jr., Richard Bell, Benjamin S. Blakely, III, Joseph Colavecchi, Andrew Gates, R. Denning Gearhart, Scott V. Jones, Kim Kesner, Dwight Koerber, Jr., Kimberly Kubista, Thomas Morgan, John Ryan, Barbara Schickling, Laurance Seaman, John Sughrue and Ann Wood.

HUNTINGDON COUNTY ATTORNEYS

Barbara Baxter, Charles Bierbach, Robert Covell, Frederick Gutshall, Thomas McDowell, Peter McManamon, William Myers, Charles Swigart and Helen P. Woolley.

JUNIATA COUNTY ATTORNEYS

Michael Johnston and Donald Zagurskie.

MIFFLIN COUNTY ATTORNEYS

Stuart A. Cilo, Robert Ferguson, David Goldman, Richard Mohler, Timothy Searer and Stephen Snook.

The Pro Bono Project helps to "bridge the gap" by providing legal representation to low income persons in the Centre Region by seeking the support and assistance of members of the private bar and others in the legal community. Each attorney participating in the Pro Bono Project has four options for providing assistance to the poor: accepting cases referred through the legal services office, participating in the Legal Advice Clinic, providing community education or making a financial contribution to Keystone Legal Services, Inc.

This year the Pro Bono Project made 116 direct referrals and 131 other clients were served by attorney participants in the Legal Advice Clinic.

Projects accomplished this year through community education included an attorney who donated time to assist Keystone staff attorneys with legal research projects.

Two other attorneys specializing in environmental law and military/veterans issues provided assistance to Keystone's staff attorneys working on issues in these areas.

KEYSTONE LEGAL SERVICES' OFFICE DIRECTORY

Centre County: 2054 E. College Ave., State College, PA 16801, (814)238-4958

Clearfield County: 213 N. Second St., Clearfield, PA 16830, (814)765-9646

Mifflin, Juniata and Huntingdon Counties: 2054 E. College Ave., State College, PA 16801, (800)326-9177

Phillipsburg-Millheim Areas: 2054 E. College Ave., State College, PA 16801, (800)326-9177

For information on the Disability Advocacy Project, Institutional Law Project, Pro Bono Project call: (814)238-4958.

Family Law

CUSTODY: GENERAL INFORMATION ON PROCEDURAL ISSUES

I. INTRODUCTION

A. Generally, the parents of a child have a right to have a relationship with their child and the child has a right to have a relationship with his/her parents.

B. Some parents are unable or unwilling to work out a custody agreement and therefore ask the court to decide the specific rights of parents such as who gets the child when. Most parents and children are better if they can work out an agreement themselves.

C. Once the decision to go to court is made, the procedural rules must be followed because the law specifies where the Complaint must be filed, what the name of the Complaint is, and who may ask the court for what.

II. TERMS

- A. Plaintiff: the person who starts (files) a lawsuit
- B. Defendant: the person being sued
- C. Party: a Plaintiff or Defendant
- D. Jurisdiction: the state or county which is able to hear a case because, generally, it is the home state or home county of the child
- E. Venue: the proper county to hear the case
- F. Third Party: a non-parent
- G. Standing: the ability to file a lawsuit and assert a right
- H. Custodial parent: the parent with whom the child lives
- I. In loco parentis: the relationship between a third party and a child wherein the non-parent assumes the duties, responsibilities and rights of a parent
- J. Joint custody: shared legal rights and duties to the child, including sharing the physical presence of the child
- K. Legal custody: the legal right to make major decisions affecting the child (e.g., medical treatment, educational placement, religious affiliation)
- L. Physical custody: the right to have possession of the child
- M. Partial or temporary custody: the right of a person to take possession of the child for an agreed upon or court ordered amount of time
- N. Visitation: the right of a person to visit with the child but not to take actual possession of the child
- O. Supervised visitation: the right of a person to have visitation only when the visit is supervised (e.g., supervised visitation at CYS)

III. VENUE (where an action should be filed)

- A. Generally, a Complaint for custody must be filed in the county where the child resides or where the child resided in the past six (6) months if the child is no longer there but a parent/parent-figure still lives in that county.
- B. If there is a previous custody Order regarding the child issued from another jurisdiction, the court which issued that previous Order (court #1) retains jurisdiction. Court #1 may relinquish jurisdiction or court #2 may assume jurisdiction if the child has resided in court #2's jurisdiction for some time or if it is more convenient for the parties. If the latter, court #1 no longer has jurisdiction or declines jurisdiction to modify its original order and court #2 has jurisdiction.

IV. PARTIES

- A. Required parties: any parent whose parental rights have not been terminated and any person who has physical custody (de facto or court ordered) of the child must be named as a party.
- B. Standing--the legal concept of having the right to file a lawsuit to assert a right. If the Plaintiff does not have standing, the Complaint must be dismissed or amended to conform with law.

Who has standing to bring a custody action:

1. a parent whose parental rights to the child have not been terminated
2. a third party who has stood in loco parentis to the child (a non-parent who has cared for the child for an extended period of time and has psychologically become a parent). Factors to consider: has the third party assumed the rights, duties and responsibilities of the parent or has the child lived with the third party for an extended period of time. Grandparents are third parties.
3. grandparents can seek temporary custody in only limited situations (see attached, 23 Pa.C.S.A. 5311-5314)

V. THE PROCESS

- A. What is filed
 1. Complaint for Custody/Partial Custody or Visitation (when there is no previous Order)
 2. Petition for Modification of Custody Order
 3. Petition for Contempt
 4. A Divorce Complaint with a Custody count

- B. Complaint/Petition is filed and served on all defendants/parties. Attached to the Complaint will be an Order advising the Defendant(s) that the action has been filed, when and where the conference/hearing will take place, and advising the Defendant(s) to seek legal advice. Unless the Order specifically states that the Defendant(s) must bring the child to the conference/hearing, there is no need to bring the child to court.
- C. Special Relief: the custody law allows a party to seek an "emergency" Order. Regaining physical custody after a "child snatch" is a common use of this provision in the law. With the Petition for Special Relief, a judge may hear the case ex parte (with only one side present even if the other side has no notice of the hearing) and issue an Order requiring the "snatcher" to return the child and not to have contact with the Petitioner or the child until further court Order.

The court may decide to use this provision on its own and order just about anything.

VI. HOW A CUSTODY CASE IS DECIDED BY A COURT

- A. The court will always be concerned with what is in the best interests of the child. There is no special preference for the mother. Fathers may also obtain custody if it is proven that that is in the best interests of the child. Absent a court order setting out which parent is to have primary custody, each parent has an equal right to the custody of the child.
- B. Some factors considered by the Court
 1. Which parent has been the primary caretaker of the child?
 2. Where has the child spent most of the time before the case was taken to court?
 3. Should the siblings live together rather than being separated?
 4. Does any parent have a history of being violent or abusive or of conviction of serious crime?
 5. What are the physical conditions and surroundings that the parent will provide for the child?
 6. Which parent will best insure that the child has frequent and continuing contact with the other parent and other family members? This factor is very important.

7. Where does the child want to live? This factor will be more important as the child becomes more mature.
 8. If there has been past misconduct by a parent, is it likely that such conduct will continue and harm the child?
 9. Home Studies - the court may order representatives of the county's children and Youth Services agency to visit each parents home and interview each parent and the child. The agency representative will then report his or her findings to the court.
 10. Psychological Evaluations - the court may order that the parents and the child be examined by a psychiatrist or psychologist. That expert will then report his or her findings to the court and will probably make a recommendation as to which parent would be the better custodial parent. The recommendation is not binding. The ultimate decision in a custody case is always up the judge.
- VII. KLS has developed and distributed pro se custody forms and information to our clients. If a person is eligible for our services, s/he becomes a client for advice and is informed of the pro se option if the situation does not fall within KLS emergency custody guidelines. The pro se packet is specifically designed to comply with the local rules of each county in our service area. KLS holds pro se custody clinics every three (3) months in four (4) of our counties and clients who are given the pro se materials are strongly urged to attend before filing a custody Complaint.

§ 5311. When parent deceased

If a parent of an unmarried child is deceased, the parents or grandparents of the deceased parent may be granted reasonable partial custody or visitation rights, or both, to the unmarried child by the court upon a finding that partial custody or visitation rights, or both, would be in the best interest of the child and would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the deceased parent and the child prior to the application.

§ 5312. When parent's marriage is dissolved or parents are separated

In all proceedings for dissolution, subsequent to the commencement of the proceeding and continuing thereafter or when parents have been separated for six months or more, the court may, upon application of the parent or grandparent of a party, grant reasonable partial custody or visitation rights, or both, to the unmarried child if it finds that visitation rights or partial custody, or both, would be in the best interest of the child and would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the party and the child prior to the application.

§ 5313. When child has resided with grandparents

If an unmarried child has resided with his grandparents or great-grandparents for a period of 12 months or more and is subsequently removed from the home by his parents, the grandparents or great-grandparents may petition the court for an order granting them reasonable partial custody or visitation rights, or both, to the child. The court shall grant the petition if it finds that visitation rights would be in the best interest of the child and would not interfere with the parent-child relationship.

IN THE COURT OF COMMON PLEAS OF HUNTINGDON COUNTY, PENNSYLVANIA
CIVIL DIVISION -LAW

ANNIE R. HOME, : NO: 92-666
Plaintiff :
v. :
BRENDA B. SMART, :
Defendant : CUSTODY

COMPLAINT FOR CUSTODY

1. The Plaintiff is ANNIE R. HOME, residing at 12 Shady Lane, Huntingdon, Huntingdon County, PA 16652.
2. The Defendant is BRENDA B. SMART, residing at 00 Wright St., Lewistown, Mifflin County, PA 17044.
3. Plaintiff seeks custody of the following child:

<u>Name</u>	<u>Present Residence</u>	<u>Age</u>
Alec B. Smart	00 Fifth St. Lewistown, PA 17044	4

The child was born out of wedlock.

The child is presently in the custody of BRENDA B. SMART, who resides at 00 Wright St., Lewistown, Mifflin County, PA 17044.

During the last five years, the child has resided with the following persons and at the following addresses:

List all Persons

List all Addresses

Dates

BRENDA B. SMART

00 Wright St.
Lewistown, PA 17044

birth-present

The mother of the child is BRENDA B. SMART residing at 00 Wright St., Lewistown, Mifflin County, PA 17044.

She is single.

The father of the child is GOTTUP N. LEFT residing at the State Correctional Institute in Huntingdon.

He is single.

4. The relationship of the Plaintiff to the child is that of paternal grandmother. The Plaintiff currently resides with the following persons:

Name

Relationship

N/A

5. The relationship of the Defendant to the child is that of natural mother. The Defendant is currently residing with the following persons:

Name

Relationship

Alec B. Smart

son

6. Plaintiff has not participated as a party or witness, or in another capacity, in other litigation concerning the custody of the child in this or another court.

Plaintiff does not know of a person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

7. The best interest and permanent welfare of the child will be served by granting the relief requested because:

- a) Alec B. Smart has never had the opportunity to live with me and I think he may enjoy my boar constrictor;
- b) even though my son ended up in prison, I think I deserve a second chance at raising a boy.

8. Each parent whose parental rights to the child have not been terminated and the person who has physical custody of the child have been named as parties to this action. All other persons, named below who are known to have or claim a right to custody or visitation of the child have been given notice of the pendency of this action and the right to intervene. NONE

WHEREFORE, the Plaintiff requests the Court to grant custody of the child.

Respectfully submitted:

CHEATEM & BLEEDEM, P.C.
241 Blue Avenue
Huntingdon, PA 16652
814/555-6666

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 19 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Annie R. Home

SPOUSAL AND CHILD SUPPORT

Support is determined by considering the income, earnings capacity, needs and assets of each spouse or parent, as well as the ability of each spouse or parent seeking support to contribute to his or her own support. Both parents are required to contribute to the support of children to the extent of their incomes and earning capacities. This obligation exists even if the parents are not married, and it continues even after divorce. Spouses have the duty to support each other until the marriage is ended by divorce.

Defenses

A spouse may not be entitled to spousal support if he or she has engaged in conduct which would constitute grounds for a fault divorce or has separated without reasonable cause. As for child support, if it is proven that the person who is being asked for support is not the child's parent then no support order may be entered against that person. This is a defense to an order for child support but it can be lost if it isn't asserted before an order of support (or custody) is made.

Determination of Amount

In determining the amount of child or spousal support, a court will take into account the income or earning capacity of both parents. Support for either a dependent spouse or dependent children can be arranged through a separation agreement. Failing that, an action may be started by filing for support in the county where the spouse who seeks support resides. The domestic relations offices in each county are charged with handling support matters where no agreement has been reached.

The support case is begun by the filing of a Complaint for Support with the domestic relations office. Each party also must provide detailed information about their income, assets and expenses. There will then be a conference set at which both parties may appear. If either person raises a defense to the request for support the hearing officer will stop the conference and notify the parties that a hearing before a judge will be scheduled to hear the defense. After the issues raised as a defense are settled, assuming that the defense has not had merit, there will be another office conference scheduled. At this conference the hearing officer will consider all the evidence and arrive at amount of support that should be paid. He or she will ask the parties to agree with the amount. If they do not, and depending upon the procedure used in the county, the case will proceed to a hearing before the hearing officer or the judge. If the hearing officer holds the hearing and makes an order, he or she will submit this recommended order to the judge who will ordinarily approve it.

Duration of the Order

Once a child reaches 18 years of age, the parents are generally no longer required to support the child. However, there are exceptions including an incapacitated or handicapped child, or a child in college or trade school. As stated above, an order for spousal support ends when the marriage ends.

What if an Order is Violated?

If either spouse or parent wilfully fails to support his/her family, this may be a crime punishable by imprisonment. Failure to obey a court's support order may constitute contempt of court for which either spouse may be imprisoned until he/she complies with the order.

Public Assistance

Those clients who have filed for public assistance will be notified that their support claim will be assigned to the DPW while receiving welfare benefits. They also will be informed that they must file support actions in order to maintain and continue their public assistance benefits. Generally, the first \$50 of each month's support payment will go to the welfare recipient; the rest will go to the welfare department and will be applied against the amount of assistance provided.

If there is a problem or concern with violence of a spouse over the filing of a support action, there is a procedure to waive the filing of a support action. This matter should be checked with an attorney for further advice.

Interstate Orders

Each state has a law that requires it to enforce support orders entered by another state. If the whereabouts of the parent who is paying support is unknown, the federal government provides assistance to state courts in locating parents.

Modification of the Order

A support order can be changed. Either parent may seek an increase or decrease of a support order if there was a material or substantial change in circumstances since the order was made. Children get older and require more support; this may be a change in circumstance, as well as any other ongoing material change in expenses that have occurred since the filing of the original support order.

Other Important Points:

1. Medical care and expenses and child care are issues which can be addressed through a support proceeding. Support can also include payments directly to vendors of services. Such payments are usually not counted as income to the welfare recipient and this can help the recipient better meet basic needs.
2. Often a parent disappears. Domestic relations offices have access to both state and federal parental locators which can be accessed after the initial filing for support or if the defendant has failed to pay support. This service can also be used to locate a parent who has kidnapped a child.

3. Nonpayment of support is addressed through the court's contempt power. Domestic relations offices are required to pursue nonpaying defendants after 30 days.

4. Nonpaying defendants can defend against contempt actions by proving that they have paid money directly to the plaintiff or that they did not have the ability to pay. Defendants who seek to use the defense that they did/do not have the ability to pay should file for a modification of the support order as soon as possible.

5. The state and federal governments have indicated that the collection and enforcement of support orders is a high priority.

SIMPLE DEFINITIONS OF TERMS USED IN A DIVORCE

"Plaintiff" -- the person who starts a lawsuit.

"Defendant" -- the person who is being sued.

"party" -- a person named in a Complaint (the Plaintiff or Defendant).

"No-Fault Divorce" -- a divorce in which one spouse does not have to prove that the other spouse did something wrong.

"No-Fault Consent Divorce" -- a divorce where both parties agree to a divorce.

"irretrievably broken" -- the term which means that the marriage has little or no chance of reconciliation.

"spousal support" -- support received by a spouse prior to the filing of a divorce.

"alimony pendente lite"-- support which either party can ask the court to order after the divorce is filed. Alimony pendente lite ends when the divorce decree is entered.

"alimony" -- support which either party can ask the court to order which is paid after a divorce decree is entered. The court may order alimony if the party seeking alimony cannot support himself or herself, or if that party does not have enough money or property to provide for his/her reasonable needs.

"marital property" -- generally, all property that is acquired during the marriage no matter whose "name it is in."

"counseling" -- a court can order sessions with a marriage counselor if either party requests it.

"attorney's fees" -- charges by an attorney for handling a case.

"Docket Number" -- the number assigned to the original Complaint. This number must be used on any document either party files with the court which relates to the divorce.

"file" -- presenting your Complaint and other necessary forms to the Prothonotary to be date-stamped. The Prothonotary will keep the original of all forms and return all other copies to you.

EXPLANATION OF FORMS IN A DIVORCE ACTION

"Divorce Complaint" -- a legal document which sets out specific information about the Plaintiff, Defendant and the marriage. It also asks the court to grant a divorce. Your Complaint will be assigned a "docket number." This number must be used on any document either party files with the court which relates to the divorce.

"Notice to Defend and Claim Rights" -- a form that tells the Defendant that he/she is being sued for divorce and may lose rights if they do not respond to the Complaint. It also advises the Defendant of the right to request counseling.

"Petition to Proceed In Forma Pauperis" (IFP) -- a form which lists information of your income, assets and expenses. This form is completed so the court can determine if you will have to pay the filing fee or any other court expenses which may be part of a divorce.

"Order" (IFP) -- an Order signed by the court which states that you do not have to pay any court costs in the divorce.

"Affidavit of Service" -- a form which must be filed with the court indicating the Plaintiff has made sure the Defendant was served with the Complaint and Notice to Defend and Claim Rights in the proper manner.

"Affidavit of Non-Military Service" -- a form indicating that your spouse is not in the military service. A person in the military service has a right, under law, to have the divorce action stayed (postponed). This form is needed to let the court know your spouse is not entitled to this right.

"Vital Statistics form" -- a form required by the Commonwealth of Pennsylvania, Department of Health, that reports the divorce to the Department of Vital Statistics.

"Affidavit of Consent" -- a document which must be signed and filed with the court no earlier than 90 days after a Complaint is filed. The affidavit states that the marriage is irretrievably broken and the party signing the affidavit wants a divorce. **BOTH PARTIES MUST SIGN AND FILE AN AFFIDAVIT OF CONSENT.**

"Praecipe to Transmit" -- a form that asks the Prothonotary to send all the proper papers to the Judge for entry of a divorce decree.

"Decree" -- an Order from the court granting the divorce.

GENERAL INFORMATION ON DIVORCE

In 1980, the Pennsylvania divorce law changed to make it easier and less expensive to obtain a divorce. The law also allows for alimony and a fair division of marital property.

The law now provides for No-Fault Divorces. Couples can now get a divorce without having to prove that their spouse did something wrong. You need only show that the marriage is "irretrievably broken" -- which means that there are problems in the marriage and it is not likely that the couple will get back together. In some cases, both parties must sign a written consent to the divorce.

The Types of Divorce Available

1. No-Fault Consent Divorce -- A divorce which requires the consent of both husband and wife.
2. Irretrievable breakdown -- You can get a divorce without your spouse consenting if you have lived separate and apart for 2 years or more.
3. Fault -- With this type of divorce, you need to prove that your spouse did something wrong. Grounds for a fault divorce are: desertion for a year or more; bigamy; adultery; imprisonment for 2 years or more upon conviction of any crime; indignities (continuing conduct by the Defendant that makes Plaintiff's life unbearable); and, endangering the life or health of the Plaintiff.
4. Institutionalization -- You can get this type of divorce if your spouse is insane or has a serious mental disorder and has been confined to a mental institution for at least 18 months before you filed for this type of divorce and is expected to remain in the institution for at least 18 months after you file for divorce.

Residency

In order for a divorce to be filed in Pennsylvania one of the parties must have been a resident of the state for at least six months before the action is filed in court. It does not matter where the parties were married or where they had lived when they got married.

Alimony

A No-Fault Consent Divorce allows a spouse to ask for alimony if the spouse cannot support himself or herself or does not have enough money or property to provide for his or her reasonable needs. Alimony is usually ordered for a limited time -- long enough for the person asking for alimony to get a suitable job or develop a suitable job

skill. Alimony can be ordered for a longer period of time if a person cannot work or develop a skill because of age, disability, or the need to care for children. A person asking for alimony must request it as part of a divorce action before the court grants the divorce. **IF YOU DO NOT, YOU CAN NEVER COME BACK AGAIN AND ASK THE COURT TO ORDER ALIMONY.**

Equitable Distribution

A No-Fault Consent Divorce also allows either spouse to ask the court for an equitable distribution of marital property (see the Definition of Terms page in these instructions). The court will consider the length of the marriage, the ages, health, needs and sources of income of each party, and several other factors when deciding how to distribute marital property. A person asking for the marital property to be distributed must request it as part of a divorce action before the court grants the divorce. **IF YOU DO NOT, YOU CAN NEVER COME BACK AGAIN AND ASK THE COURT TO ORDER AN EQUITABLE DISTRIBUTION OF MARITAL PROPERTY.** If neither party asks the court to distribute marital property, both parties will be able to use or dispose of their separate property, even if it was obtained during the marriage, once a divorce decree is entered.

Marriage Counseling

Either party in a divorce has a right to request marriage counseling. The Prothonotary will provide a list of marriage counselors upon request. Counseling will not generally delay or prevent the divorce.

Custody

Either party in a divorce action has the right to request that a child custody Order be entered in regard to children born to the parties.

TIMETABLE AND LIST OF FORMS

1. Complaint, Notice to Defend And Claim Rights, IFP Petition and IFP Order should all be taken to the Prothonotary together for filing (this will start the divorce action). The address of the Prothonotary is listed on the Notice to Defend And Claim Rights.
2. Affidavit of Service: to be filed when service has been made.
3. Forms to be filed together:
 - Affidavit of Non-Military Service (you must sign this form in the presence of a notary public)
 - Praeipice to Transmit
 - Vital Statistics Form
 - Decree
 - Affidavit of Consent: each spouse must sign an Affidavit of Consent no earlier than 90 days after the Complaint is filed. Both Affidavits must be filed within 30 days after they are signed by the spouses.

SEPARATION ISSUES

Legal Separation

There is no such thing as "legal separation" in Pennsylvania but many people do refer to themselves as legally separated if they and their husband or wife live apart and they have made an oral or written agreement about how they will handle such things as the property that they own, where the children will live, who will pay support and how much, and who will be responsible for debts.

Separation Agreements

Such contracts, even if they are not made in writing, are enforceable by a court. It is important to remember this and to be sure not to agree to a contract that you are not sure that you want to be held to. If the parties can't reach any agreement about their property, etc., then either party may ask the court to make the decisions as a part of a divorce case.

Other issues that a separation agreement can deal with include health and life insurance arrangements and how the tax refund for the year in which the separation took place is to be divided.

KEYNOTES

1.4 No. 1

A Quarterly Publication by Keystone Legal Services, Inc.

April, 1993

MEDICAL ASSISTANCE CUTBACKS: What You Should Know

By Susan Michalik, KLS Staff Attorney

On January 1, 1993 Medical Assistance (MA) benefits were reduced for all MA recipients who are 21 or older. All MA recipients should have received a notice of the cutbacks with their MA card. Not everyone will be facing the same cutbacks:

CUTBACKS AFFECTING ALL MA RECIPIENTS AGED 21 OR OVER:

- MA will no longer cover medications that are prescribed only to treat a cough or cold. However, if the medicine is prescribed to treat a condition and happens to treat a cold or cough, then it is covered by MA;

- All non-emergency and non-surgical dental services are no longer covered by MA.

CUTBACKS AFFECTING ONLY MA RECIPIENTS ON GENERAL ASSISTANCE: (PARTIAL LIST)

- MA will no longer pay for non-emergency treatment in emergency rooms;
- MA will only pay for a maximum of 18 doctor visits per year;
- MA will only pay for 3 prescriptions (including re-fills) per month;
- Several prescription drugs will no longer be covered by MA--ask your pharmacist;
- Co-payments on MA covered services, such as prescription drugs and all medical services, have increased.

Every MA recipient should have already received notice of the MA cutbacks. The notice informs you of your right to appeal. You must appeal within 10 days from when the cutback notice was mailed to continue receiving benefits at the same rate. You can appeal within 30 days but the cutbacks will affect

you unless you appeal within the first 10 days. If you are: under 21 years old; pregnant; a refugee; or have a severe chronic disease or impairment and have applied for SSI or have been referred to the DAP (Disability Advocate Program) unit, you are exempt from the cutbacks. If your 30 day appeal deadline has expired and you fit into one or more of the exempt categories, contact your caseworker at the county assistance office and/or Keystone Legal Services immediately.

There is a procedure, known as the "exception process," for MA recipients who need more than 18 doctor visits per year or more than 3 prescriptions per month or who need home health care.

As a result of a lawsuit filed on December 31, 1992 (*Felix v. Casey*), not all of the changes listed above went into effect. Among the terms of a temporary settlement of the lawsuit, some prescription drugs on the list of excluded drugs will be covered by MA without the recipient having to go through the "exception" process. MA will cover any dental work which was begun before January 1, 1993.

The terms of the temporary settlement will expire by April 26, 1993. Every MA recipient should have received notice of the settlement terms.

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CENTRE COUNTY COMMUNITY FOUNDATION GRANT Family Law Training

Keystone Legal Services, Inc., recently received a grant from the Centre County Community Foundation. The Centre County Community Foundation is a first-time provider of legal services activities.

The grant has been provided to assist Keystone in presenting a day-long family law training for the personnel of human services agencies that deal with the low-income community. The training is planned for early June, 1993. The need for and usefulness of such training is well-established. Some problems of family members such as problems with the educational system or lack of access to needed

FROM THE DIRECTOR
Michelle DeBord, Esq.
KLS Executive Director

health care are not readily understood as possible legal problems or problems that use of the law can help to solve. The goal of the training is to alert human services personnel to these issues as well as providing in depth information in the areas

traditionally viewed as family law, such as support, custody and divorce. This training is part of a comprehensive educational effort on the part of Keystone aimed at assisting the low income community to more fully understand a citizen's rights, responsibilities and the possible uses of the law and the legal system to assist them to achieve self-sufficiency.

Consumer Corner

With the **Blizzard of '93**, spring and summer will be and with them, will come unscrupulous persons with promises too good to be true. One group will be door-to-door salespeople offering to do various home improvements. They will offer to fix roofs, pave driveways and many more things.

When considering these improvements, you should look at several factors. First, check if this is a local business with an address and telephone number. Second, ask around to see if others have had work done by this business or individual and if they were satisfied with the work. You should also check with the Better Business Bureau to see if it has received complaints concerning this business or individual. Third, you should make sure you know the **TRUE** cost of the project and if you can really afford it.

TIPS:

NEVER allow a person who comes door-to-door to enter your home unless he/she has clearly identified him/herself preferably with a photo identification. It is appropriate for legitimate salespeople to make an appointment before coming to a consumer's home. You always have the right to refuse to allow a salesperson in to your home.

You always have the right to tell a salesperson to leave your home immediately. If a salesperson does not

Robin J. Foor, KLS Staff Attorney

leave when asked, you can and should call the police.

- ❑ If you sign an agreement with a door-to-door salesperson, you may **CANCEL** the agreement within 3 working days. This should be done in writing. The agreement should have instructions on how to cancel. If it does not, you should send a letter to the company saying you are canceling the contract. Also, you should contact the local Legal Services office.
- ❑ **NEVER** sign a document that does not have all the information completed.
- ❑ **ALWAYS** read a document completely before signing.
- ❑ **ASK** questions. Make sure you understand what you will be paying. Be careful of prices quoted as so much per day or week.
- ❑ **NEVER** agree to a contract the same day it is presented to you. Take your time, think about it and figure your finances. An offer good only for today is not a good deal.
- ❑ **BE CAREFUL** of home equity loans for improvements. This means that you are giving a mortgage. If you are not able to make the payments, you will lose your home.

BE SMART AND HAVE A GOOD SUMMER!



PHEEA AND GUARANTEED STUDENT LOANS

By Carl Mollica, KLS Staff Attorney

The PA Higher Education Assistance Agency (PHEAA) is a guarantee agency in the Guaranteed Student Loan Program (GSL). A guarantee agency encourages banks to lend money to students by paying the bank the amount due on the loan if the student fails to make the payment.

Repayment

A student who is no longer going to school at least half-time, needs to be aware that it will soon be time to begin to pay the loan back. There is a "grace period" during which no money needs to be sent. The loan document will indicate the length of the grace period. It is usually 6 to 9 months long.

If the loan was to pay for a correspondence school, the borrower usually has no grace period. S/he must start to repay the loan at the time the course is completed.

Keynotes is a quarterly publication of Keystone Legal Services, Inc. The information in Keynotes is general information and not specific legal advice. If you have a specific legal problem you should consult an attorney.

Editor: Roberta Mueller, Esq.

Publisher: Linda A. Lovett

If you have any suggestions or issues you would like to see in Keynotes, please send us a letter addressed to: Keynotes, Keystone Legal Services, Inc., 2054 East College Ave., State College, PA 16801.

The "repayment period" begins after the grace period. The borrower must begin making regular monthly payments according to the repayment schedule. The repayment schedule will be set out in the repayment documents. The lender will send these during the grace period.

Your loan must be repaid even if you did not get a job in the same field for which you went to school.

Delinquency and Default

If the borrower does not make a payment when it is due s/he is "delinquent" on the loan. If



the failure to repay monthly payments, when the payments are due, lasts for 180 days the loan can be placed in "default." The lender can then "accelerate" the loan. That means the whole amount of the loan becomes due and payable immediately.

The lender is not allowed to accelerate the loan during the delinquency stage. They must wait until the correct amount of time has passed and the loan has been found to be in default. During the delinquency period, the lender will contact the borrower. The lender will try to get him/her to make payments on the loan and to warn the borrower of the effects of having the loan declared in default.

Collection Agencies

After the loan is placed in default, PHEEA pays the bank. PHEEA then has the right to sue the borrower.

PHEEA will send letters and make phone calls to the borrower before filing a lawsuit. They will try to make repayment arrangements with the borrower.

Dealings with the agency are likely to be confusing. It is important to get the names of the persons you speak to and keep accurate notes of conversations. Be sure to document any "run around" that you seem to get. It may be helpful in any hearing involving the loans.

Always keep copies of every document that you send to any agency that contacts you. It is a good idea to send documents by certified mail with a return receipt requested to prove that you sent them. PHEEA does have the right to sue a borrower if there is a default in payment. If a suit is started, the borrower should seek legal advice right away. The most important thing to remember is that a written response must be filed by the borrower within the time limits provided or there will be a judgment by default entered against the borrower. It is important to seek the advice of a lawyer right away.

NEXT ISSUE: How to be excused from paying the student loan.

MANUFACTURED (Mobile) HOMES

By Carolyn E. Johnson, KLS Staff Attorney

Mobile homes are the choice of many low to moderate income home buyers because they are cheaper than conventional housing. Many low income home buyers cannot get the financing to buy a traditional home.

Mobile homes are now called manufactured housing. Federal and state laws have changed to deal with the more permanent nature of manufactured housing. Manufactured homes are built to federal standards. They are inspected by federally certified agencies.

The Department of Housing and Urban Development (HUD) is responsible for developing safety and health standards for manufactured housing. In PA, the Department of Community Affairs (DCA) enforces the HUD guidelines (National Manufactured Housing Construction and Safety Standards Act). State law provides additional protection for the manufactured homeowner. A manufactured home buyer can refer questions and complaints to the DCA.

Every manufactured home built in the United States must conform to the federal regulations. The regulations preempt local building construction codes. It prevents towns from using local building codes to bar the placement of a home. A local government may not require that a HUD certified manufactured home be subjected to any additional inspection.

The law forces the manufacturer and the dealer to act responsibly toward the buyer or face federal penalties. The dealer must serve as a reporting agency and maintain records of all corrections authorized by the manufacturer.

every complaint and other information that may indicate the existence of a safety hazard, defect, or noncompliance in a home to the manufacturer. Each time a sale is made of a new or used home manufactured under the federal standards, the dealer must send a homeowner's information card to the manufacturer. The dealer and the manufacturer must keep track of the home.

HELPFUL HINTS

- △ Never buy a manufactured home without first finding a place to put it. Make sure that you have a safe, well-equipped site.
- △ Check the reliability of all site owners from whom you are considering renting. Ask questions!
- △ Read the manufactured home's warranty. Make certain that you understand it.
- △ Make sure you know who is responsible for which defects.
- △ Carefully inspect used mobile homes. Check for a HUD approval seal. All homes sold after 1976 must have a seal. The manufacturer may still have some obligation to repair defects that can be related to an error in design.
- △ Get a lease covering as long a period as possible.
- △ Be certain to find out about all fees including garbage disposal, utility, and set-up fees.
- △ The park owner has the right to make rules related to the health, safety, or upkeep of the park. You should make sure that any used manufactured home conforms to the rules.

expense, any safety hazard or serious defect that can be related to error in design or assembly. The law covers everything from cracked ceilings to faulty wiring. Complaints may be made to the manufacturer by the buyer, the DCA or the dealer. The manufacturer must review each complaint within 20 days and make repairs.

A manufactured home buyer should shop very carefully. Finding a reliable, honest dealer is very important. The dealer is the person you will have to talk to if you have a complaint or need service. Even if you are buying a used mobile home, the law may apply. A good dealer will help you to determine if the manufacturer has a duty to repair.

State law protects a buyer after the manufactured home has been placed on a site. PA has enacted the "Mobile Home Park Rights Act" to prevent arbitrary eviction of manufactured homes from the site. A site owner may only evict a tenant for nonpayment of rent or 2 or more violations of the park rules.

OFFICE DIRECTORY

Centre County:
2054 E. College Ave.
State College, PA 16801
814/238-4958

Clearfield County:
213 N. 2nd St.
Clearfield, PA 16801
814/765-9646

Philipsburg, Millheim and Mifflin,
Juniata and Huntingdon County:
2054 E. College Ave.
State College, PA 16801
800/326-9177

For information on the Pro Bono,
Disability Advocacy, and
Institutional Law Projects contact:
Keystone Legal Services, Inc., 2054
E. College Ave., State College, PA
16801, 814/238-4958

Manufacturers must correct, at their

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Housing Law

EVICTION PROCESS

- I. The Eviction Process (Landlord/Tenant Act 68 P.S. 250.101, et. seq.)
 - A. Notice to Quit (68 P.S. 250.501)
 1. Clear and Unequivocal
 2. Written
 3. Three grounds for termination of lease
 - a. The lease term has ended.
 - b. There has been a breach of the lease.
 - c. Non-payment of Rent.
 - B. Length of notice
 1. Lease of less than one year - 30 days
 2. Lease of more than one year - 3 months
 3. Non-payment of rent - 15 days if the notice is given on or after April 1 and before September 1.
 4. The Tenant can agree to a lesser amount of time.
 - C. Service of Notice
 1. Notice may be served personally upon the tenant; or
 2. Notice may be posted the same conspicuously on the leased premises.
- II. Method by which the Landlord may seek possession of the leasehold.
 - A. At the end of the notice period the Landlord may file a Landlord/Tenant complaint with the District Magistrate.
 - B. Tenant may counterclaim by filing a Trespass/Assumpsit complaint anytime before the Landlord/Tenant hearing.
 - C. The District Magistrate may issue subpoenas and grant continuances.
 - D. The District Magistrate may issue a judgement in favor of either party.
 1. There is a 30 day appeal period after judgement is issued on behalf of either party.

- a. The judgement is appealed to the Court of Common Pleas.
2. District Magistrate issues judgement on behalf of the Landlord.
 - a. The Landlord may be given a judgement for possession, back rent and/or damages.
 - (1) The Landlord may request a Writ of Possession at the end of the appeal period.
 - (a) Writ of Possession requires a 15 day notice.
 - (2) The Writ of Possession is served by the constable or sheriff
 - (3) If the eviction is solely for nonpayment of rent, the Tenant may pay all the rent due and costs prior to the execution of the writ of possession.
 - (4) If the Tenant is still in possession 15 days after the Writ of Possession has been issued, the constable or sheriff may break and enter the leasehold to remove the Tenant.
3. The District Magistrate enters judgement on behalf of the Tenant.
 - a. The DJ may order that the Landlord pay damages to the Tenant.

REPAIR AND DEDUCT

- I. Repair and deduct remedy sanctioned by the Pennsylvania Supreme Court in Pugh v. Holmes.
 - A. The Tenant may repair defects impairing the habitability of the leasehold. (Ex. Repairs to the furnace or a broken window.)

- B.
 - 1. The repairs may be financed by deducting their cost from the monthly rental payment.
 - 2. The repairs must be reasonably priced and cannot exceed the amount owed for the lease term.
 - 3. The repairs should be necessary to make the premises habitable.
- C. The Tenant may counterclaim in a Landlord/Tenant action for the cost of repairs.
- D. The Tenant may sue the Landlord to recover the cost of the repairs.
- E. The Tenant may recover rent for any time period during which the premises were uninhabitable.
- F. The Tenant may sue for reasonably related damages. (Ex.: Excessive utility bill due to the uninhabitability of the premises.)

SECURITY DEPOSITS

- I. Security Deposits - 58 P.S. 250.511a - 512
 - A. A Landlord may not request more than the equivalent of 2 months rent for leases under 1 year as a security deposit.
 - B. The Tenant must give the Landlord in writing his/her new address when vacating the premises.
 - 1. Failure to provide the Landlord with a forwarding address will release him/her from their obligation under the statute.
 - C. The Landlord must either return the security deposit or provide the tenant with an itemized list of deductions for repairs in 30 days.
 - 1. Tenant can recover the security deposit by filing an action before the DJ, if the Landlord does not respond within 30 days.

2. The Landlord loses all rights to deduct for repairs from the security deposit, if he does not itemize damages within the 30 day period.
 - a. The Landlord also loses any right to sue the Tenant for damages to the Leasehold.

MOBILE HOME PARK RIGHTS ACT

Pennsylvania developed a special law to protect residents of mobile home parks called the Mobile Home Park Rights Act. This law protects people who are buying or who already own their mobile home, and who rent space in a mobile home park containing at least three (3) mobile homes.

Residents of a mobile home park can only be evicted for the following reasons:

1. Nonpayment of rent;
2. Two or more violations of park rules within a six-month period; or
3. The park is closed or the park land is changed to a different use.

To evict a resident for nonpayment of rent, the park owner must notify the resident by certified mail that an eviction case may be started in court unless the resident pays the unpaid rent within 20 days of getting the notice (30 days if the notice is given from September 1 to March 31).

To evict the resident for breaking park rules or for breaking part of the lease agreement, the park owner must first notify the resident by certified mail of the violation. The owner can bring an eviction case in court only if the resident breaks park rules or breaks the lease again within six months.

WARRANTY OF HABITABILITY

When a person offers an apartment or house for rent, he guarantees that it is safe and sanitary. Also that he will make the necessary repairs to keep it safe and sanitary through the lease term. This is called the warranty of habitability.

If there are problems the tenant should try to work it out with the landlord in a fair manner. However, if it can not be worked out, the tenant must take the following steps.

1. The tenant must inform the landlord of the problem and what actions the tenant intends to take if the problem is not fixed. This should be done in writing. It is a good idea to send the notice by certified mail to have proof of the notice. The tenant should keep a copy of the letter.

2. The tenant should give the landlord a reasonable time to fix the problem. What is reasonable depends on the seriousness of the problem. For example, forty-eight hours is probably a reasonable time to provide heat in the winter time.

3. The tenant must be able to show that the repairs were not made. Photographs and witnesses are helpful, a housing code inspection is good if an inspector is available in the area.

If the landlord does not correct the problem within a reasonable time the tenant has several options.

1. He can move without any further duty to pay rent.

2. He can withhold his rent and keep it until the problem is fixed. It is important to keep the money, as the tenant may be required to pay some or all of it once the problem is resolved. If possible, the money should be placed in an escrow account.

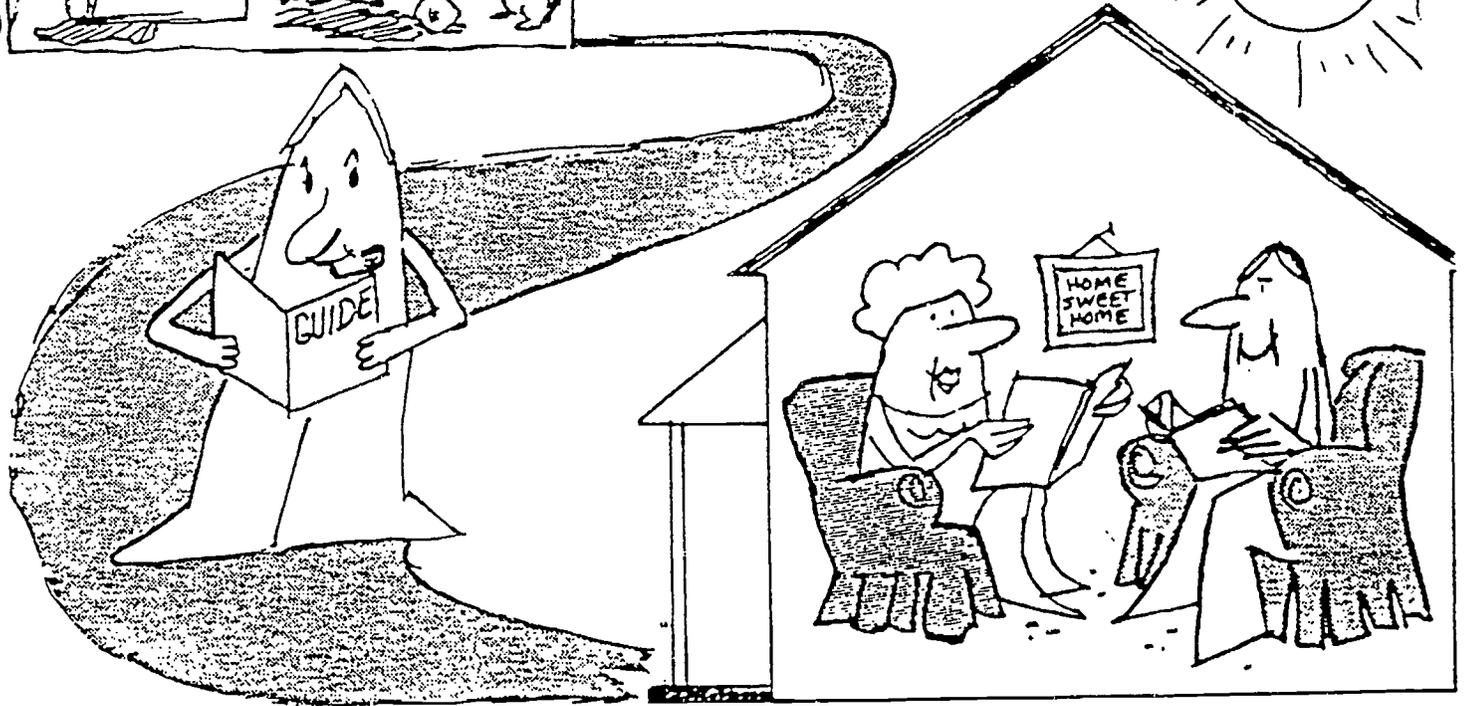
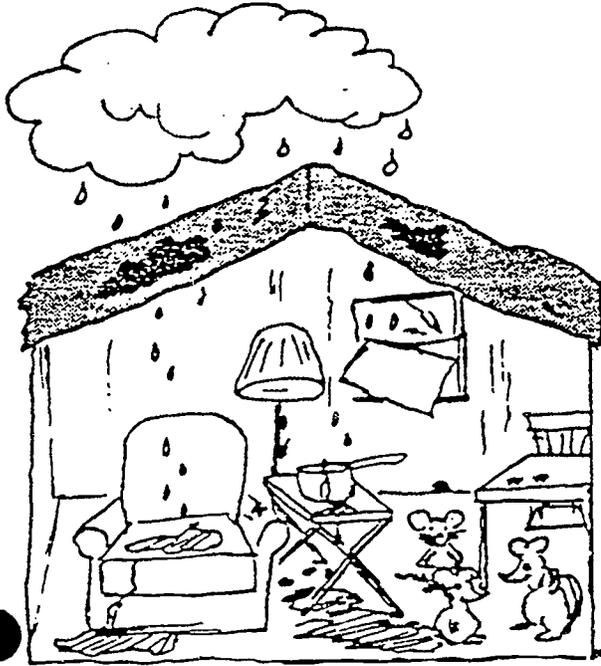
3. He can make the repair and deduct the cost from his rent.

4. He can recover past rent paid by seeking damages in District Justice Court.

5. In some cases he can seek a court order requiring the landlord to do certain things to make the residence safe and sanitary.

Often, if a tenant attempts to deal with the problem in this manner, the landlord will try to evict the tenant. If the tenant has given the landlord notice and kept copies of the notice, the District Justice may agree with the tenant and not give the landlord a judgement for possession. Even if the District Magistrate does give the landlord a money judgement for the amount of rent the landlord has requested.

TENANTS' SELF-HELP GUIDE TO A DECENT HOME



A Public Information Booklet
Published By Legal Services, Inc.
Chambersburg, Pennsylvania

June 1985

Second Printing PLSC

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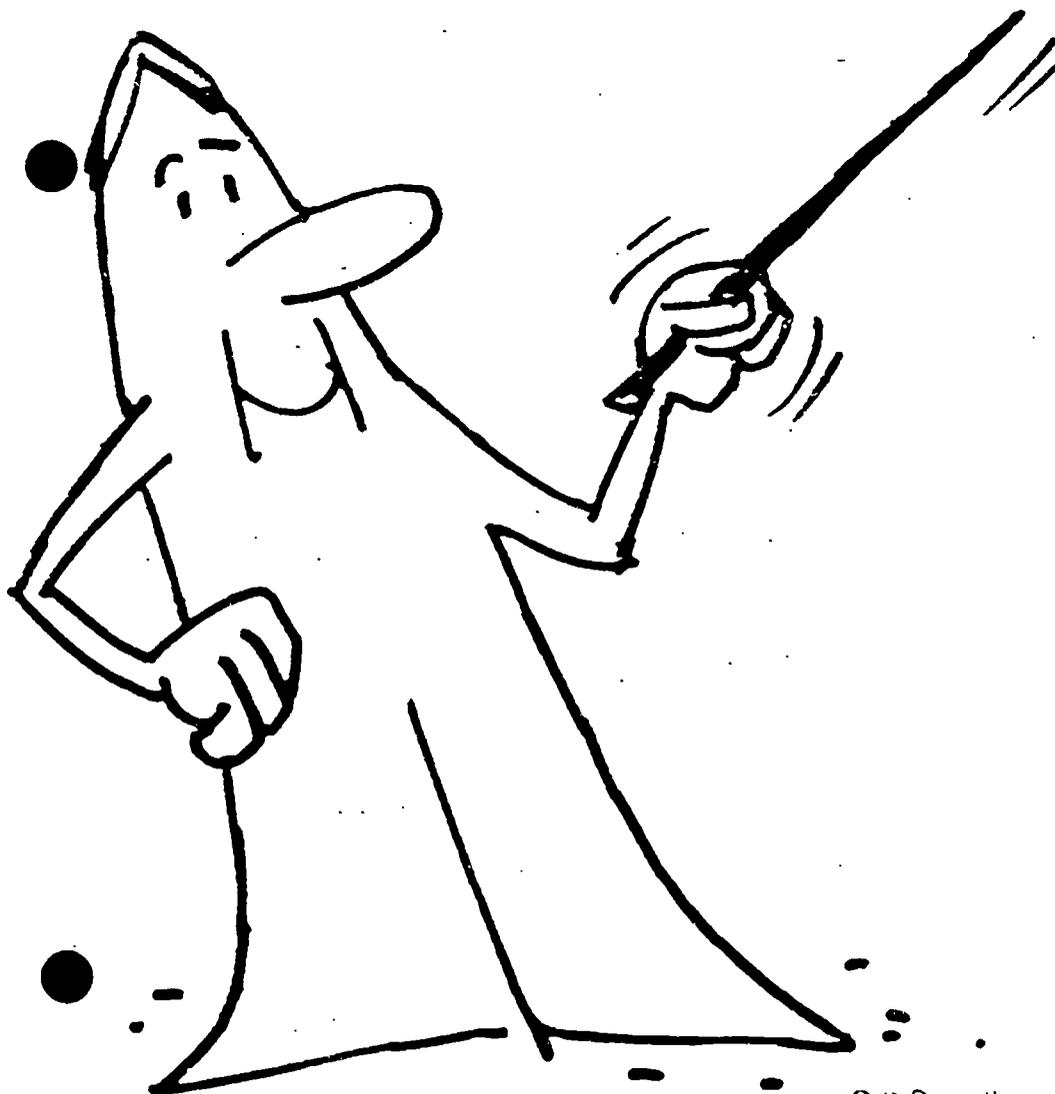
TENANTS' SELF-HELP GUIDE TO A DECENT HOME

Do you live in bad rental housing?
Want to do something about it?

Read this booklet!

Know your rights as a tenant!

Exercise those rights!



ABOUT THIS BOOKLET

This self-help guide is written for you, Pennsylvania tenants. It's intended to inform you of your right to live in a rental home that is safe, sanitary and liveable. It encourages you to protect that right! It gives you a detailed step-by-step explanation of how to exercise your rights on your own.

This guide is not intended to give you specific legal advice about your own specific situation. And it does not address the big problem facing Pennsylvania tenants -- the statewide shortage of decent housing at affordable rents.

The purposes of this booklet are:

- To provide Pennsylvania tenants with basic information about the law that protects their right to a liveable home and how to use that law.
- To help you as a tenant help yourself by using your rights to decent housing and fair treatment.

Now it's up to you! Read on!

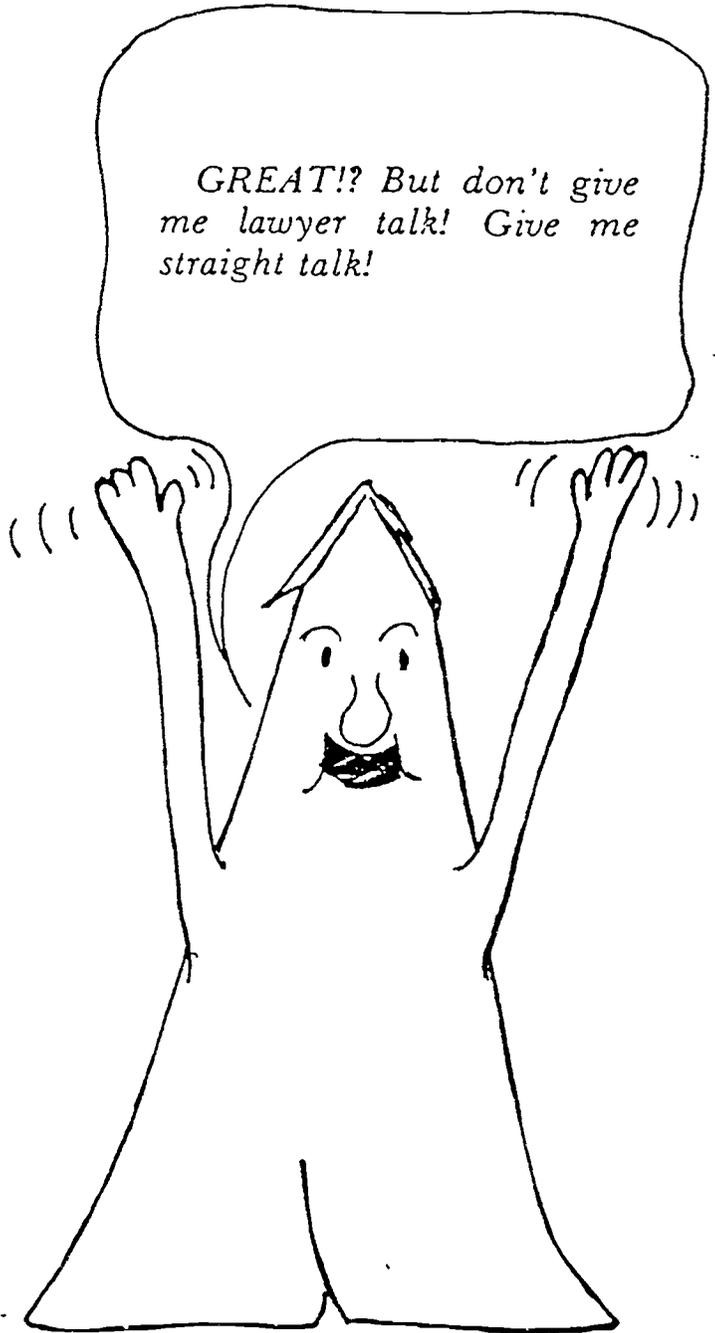


A Law For You

The Pennsylvania Supreme Court has said that you as a tenant have the right to get what you bargained for -- a decent place to live. To protect that right, the Pennsylvania Supreme Court in 1979 adopted a law called the "implied warranty of habitability."

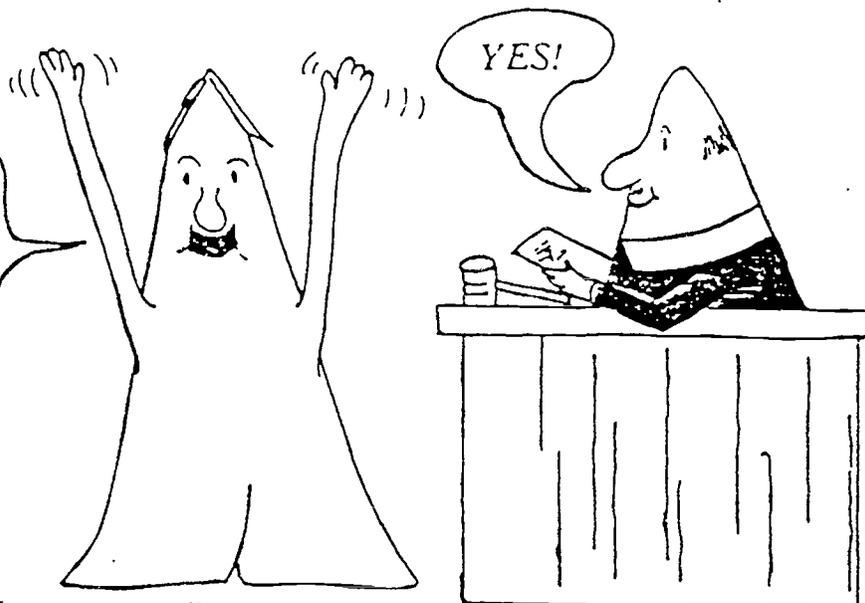
The implied warranty of habitability applies to all residential leases throughout Pennsylvania.

GREAT!? But don't give me lawyer talk! Give me straight talk!



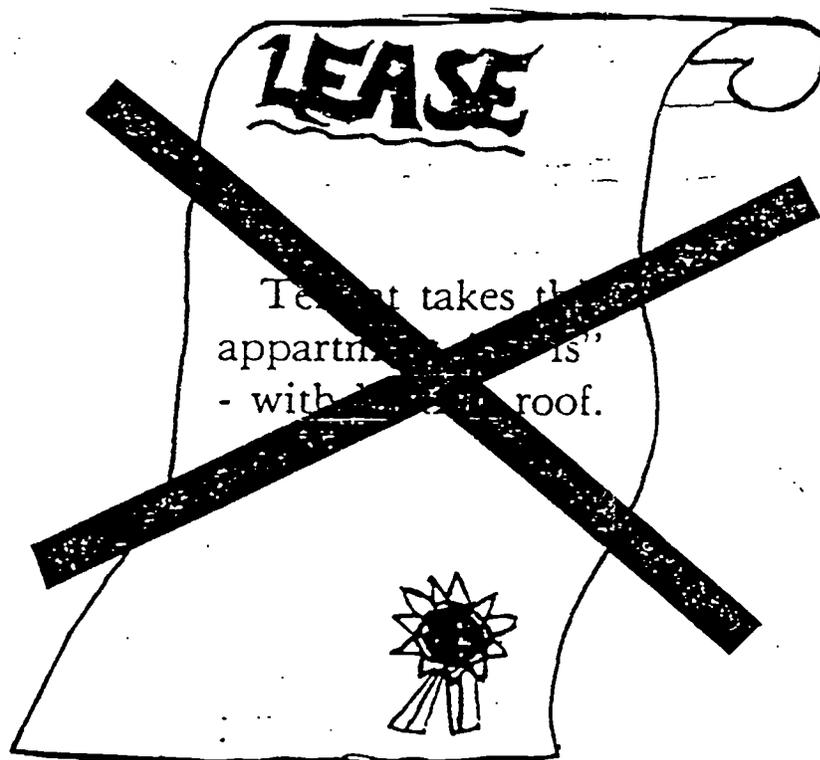
This law means that in every oral or written residential lease in Pennsylvania, there is a promise (warranty) -- whether stated in the lease or not -- that your landlord will provide a rental home that is safe, sanitary and healthy! This means that your rental home must fit for its intended purpose as a place to live. It also means that your landlord must keep it that way throughout your rental period by making necessary repairs.

Does this law always apply?
(And no legal talk - just "yes"
or "no".)

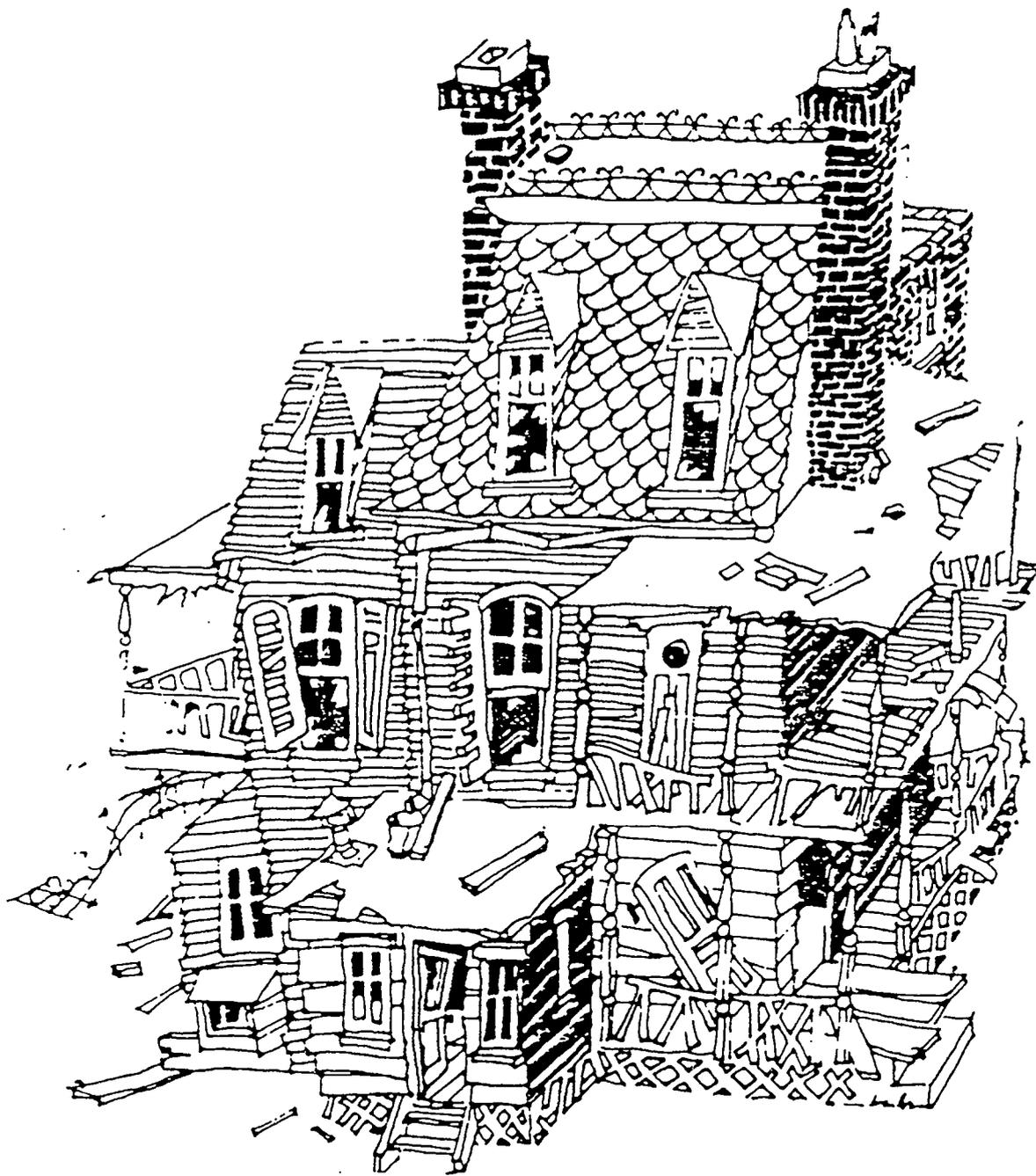


The implied warranty law applies to all residential leases in Pennsylvania -- meaning rental agreements for apartments, houses, mobile homes or other dwelling units used homes.

This law is in effect whether you have an oral or a written lease agreement. And applies even if your lease says that you take the home "as is" or that you otherwise waive (give up) your right to a safe and fit place to live. Courts have said that this right is important that it cannot be given up in the lease even if the lease says you take the rent home as it is.



YOUR RIGHT TO A LIVEABLE HOME CAN'T BE WAIVED IN THE LEASE



What Repairs Must The Landlord Make?

Your landlord must make repairs needed to keep your home in a safe, sanitary and liveable condition. Only serious defects (flaws or problems) are covered under the law. For example, a badly leaking roof, a broken furnace, plumbing that doesn't work, broken floors, dangerous wiring, or lack of water would have to be corrected by your landlord. This is because the law holds your landlord to the guarantee (warranty) that throughout the rental period such basic facilities as these and others actually work and are safe.

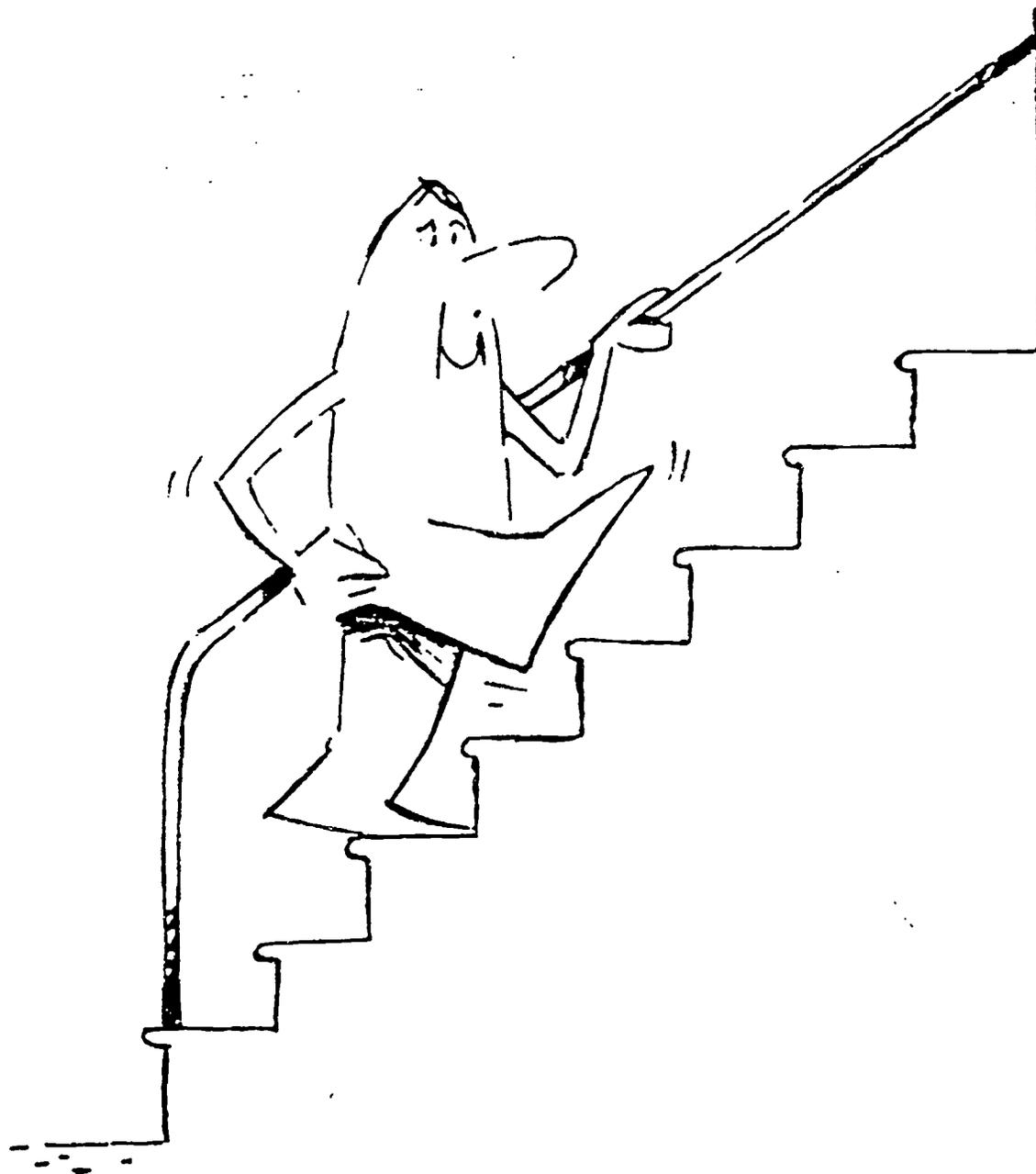
But your landlord is not required to provide you with a perfect dwelling. "Cosmetic" repairs aren't covered by the law. For example, you cannot use this law to beautify your apartment by requiring the landlord to change the color of paint.

Also, the landlord is not required to repair damages caused by the tenant. The tenant must correct or pay for these.

3 EASY BUT IMPORTANT STEPS TO PROTECT YOUR RIGHTS

TO PROTECT YOUR RIGHTS UNDER THE IMPLIED WARRANTY LAW, YOU MUST:

1. NOTIFY YOUR LANDLORD IF A PROBLEM EXISTS.
2. ALLOW YOUR LANDLORD A REASONABLE TIME TO REPAIR.
3. IF THE LANDLORD DOESN'T REPAIR, SHOW THAT HE FAILED TO DO SO



Let's take these steps one at a time.



STEP 1: GIVE YOUR LANDLORD NOTICE

Tell your landlord what the problem is and what you intend to do about it if he does not fix it within a reasonable time.

It's best to notify your landlord in writing. Write a letter telling your landlord about the problem, asking him to make the repairs as soon as possible, and stating what steps you'll take if he doesn't. (A sample checklist to use in inspecting your home for all needed repairs, and a sample notice letter to use as a model in writing your own letter are at the back of this booklet.) Make a copy of your letter. Send the original letter to your landlord by certified mail. Keep your copy plus the receipt you'll get at the post office when you send the letter and the return receipt card you'll get back after the landlord signs for the certified letter.

In emergencies, such as no heat in winter, when you can't take the time to write a letter, speak to the landlord about the problem. Bring a witness along, if possible. Send a follow-up letter to the landlord immediately, reminding him of your conversation and again telling him about the problem and what steps you'll take if he doesn't make repairs within a reasonable time.

STEP 2: ALLOW YOUR LANDLORD A REASONABLE TIME TO REPAIR

The law gives your landlord a "reasonable time" to make the necessary repairs. What reasonable depends on several things. The most important factors are how serious the problem is (whether it is an emergency) and its effect on the tenant's health and safety.

Emergencies such as lack of heat in winter should be attended to quickly -- for example, within 48 or 72 hours, or whatever time is reasonably necessary to prevent danger to the tenant's health and safety.



Non-emergencies such as a broken furnace in summer could be repaired within a longer time -- for example, within 30 days.

But the law does not define what a "reasonable time" for repairs is in all situations. What is a reasonable time in your case will depend on your unique situation.

STEP 3: SHOW THAT YOUR LANDLORD FAILED TO REPAIR

You must be able to prove that your landlord failed to repair within a reasonable time after being told about the problem(s).

(See "How Do I Prove My Case" on page 20.)

WHAT CAN YOU DO IF YOUR LANDLORD FAILS TO MAKE NECESSARY REPAIRS?

You must follow Steps 1 (notice), 2 (allow landlord a reasonable time to repair) and 3 (show landlord didn't repair). Then, depending on your own special situation, you may be able to use any one or more of the following "remedies" (legal steps):

1. **MOVE** without any further duty to pay rent.
2. **WITHHOLD RENT** -- reduce the amount of rent you pay.
3. **REPAIR AND DEDUCT** -- have the defect(s) repaired and deduct the cost from future rental payments.
4. **RECOVER PAST RENT** you paid when your rental home was unfit.
5. **OBTAIN A COURT ORDER** requiring your landlord to repair, if no other step will work in your special case.
6. **RECOVER PAYMENT (DAMAGES) FOR SEVERE EMOTIONAL SUFFERING.**
7. **USE A COMBINATION OF THESE REMEDIES.**



Each of these remedies is discussed on the following pages of this guide.

TENANT REMEDIES:

WHAT YOU CAN DO AFTER STEPS 1, 2 AND 3.

IF . . .

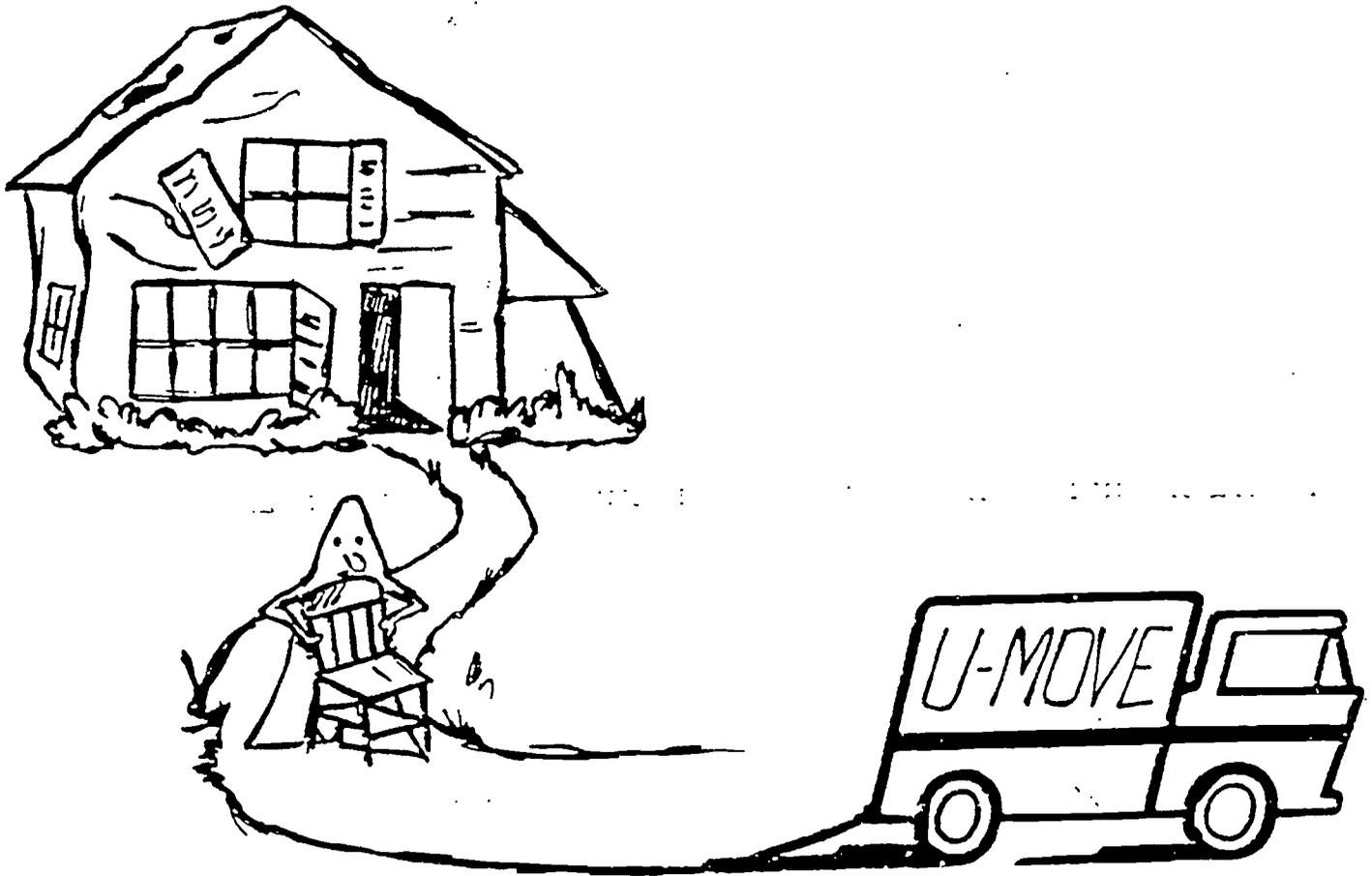
You have notified your landlord of serious defects that make your home unsafe, unhealthy or unliveable . . .

You have allowed your landlord a reasonable time to correct those serious problems and . . .

Your landlord has failed to make the necessary repairs . . .

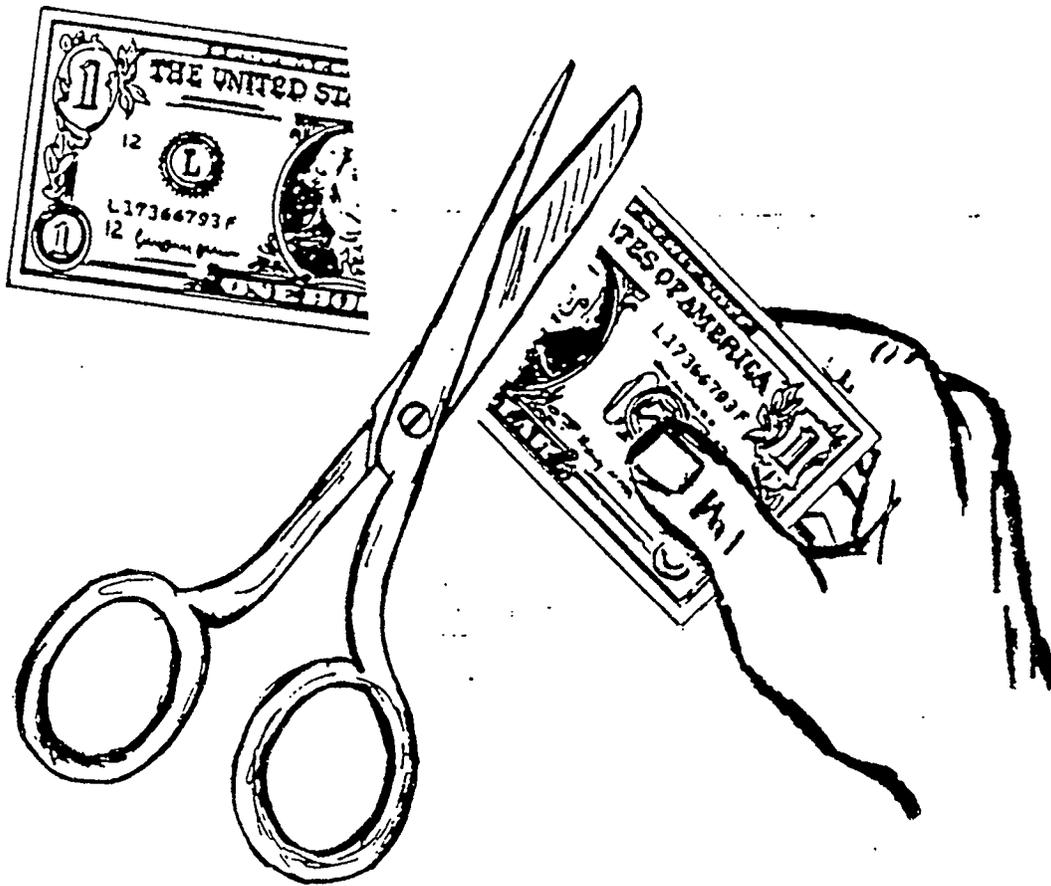
You may be able to choose one or more of the following remedies.

TENANT REMEDY #1: MOVE



If you choose to move out because of bad conditions that make your home unfit to live in, you should again write to your landlord telling him that you have moved or intend to move on a certain date because of the major defects you notified him about before and which he failed to correct.

Once you move out, return the key(s) and give up all rights to use the dwelling, you will no longer have any obligation to pay any future rent.



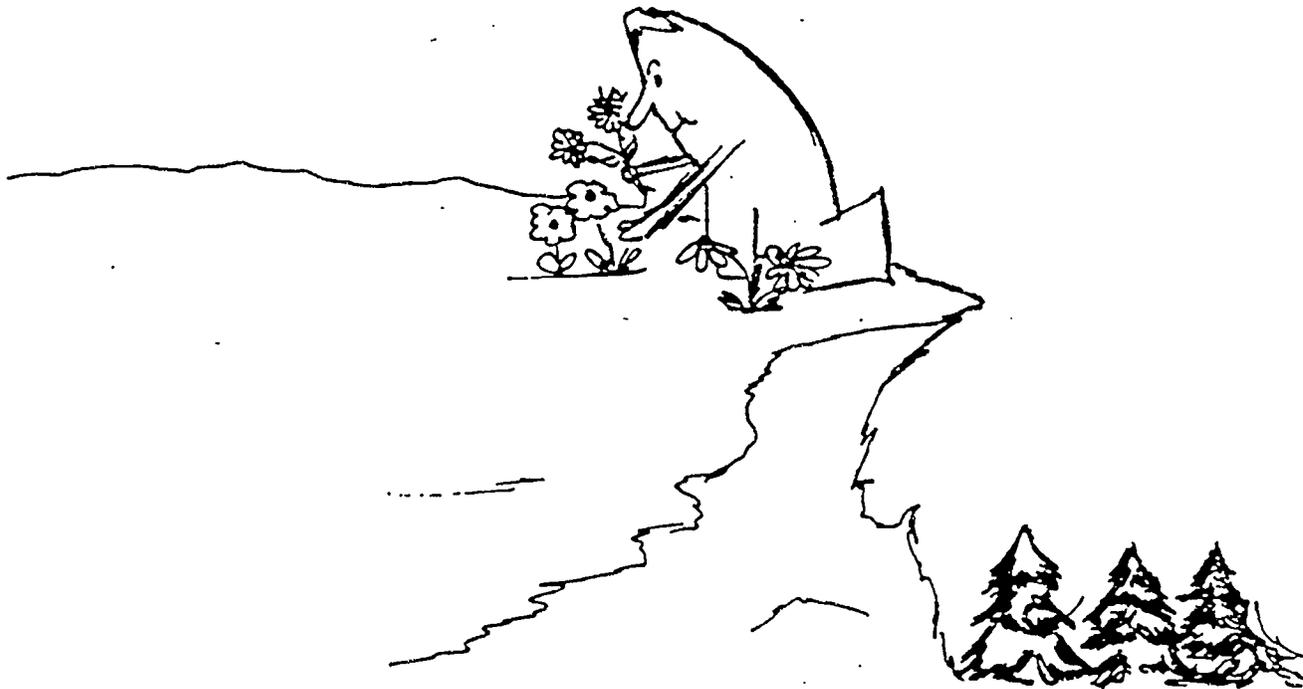
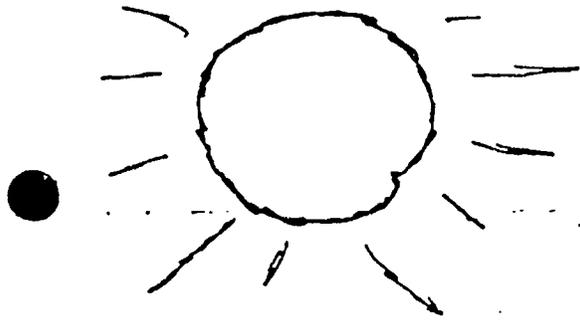
TENANT REMEDY #2: WITHHOLD RENT

You may decide to reduce the amount of rent you pay. How much you reduce your rent by will depend on how serious the defects in your home are and how much they reduce your use of the dwelling as a place to live. For example, if your home is totally uninhabitable (unfit to live in), you may determine that no rent at all should be paid.

On the other hand, if your home is not totally unfit, you may cut your rent by the amount your use and enjoyment of the dwelling has been reduced. This reduction in use can mean that you can't use all the space in your home because of the defects -- for example, you can't use one bedroom because of a large hole in the ceiling. But it can also mean that your use and enjoyment of the entire dwelling is reduced because of the defects -- for example, lack of heat, or dangerous electrical wiring, or any other serious problems that make the dwelling unsafe, unsanitary or otherwise unfit for its purpose as a place to live.

For example, if you believe that your use and enjoyment of your rental home has been cut in half by any serious defects -- for example, because of no heat and water -- you should notify your landlord in writing (see Step 1) that you will withhold 50% of your rent unless he makes the needed repairs within a reasonable time. If he doesn't, you may then deduct 1/2 of the rent from your next rental payment and inform your landlord that you will continue to pay 1/2 of the rent until the repairs are made.

But there are risks. Read on!

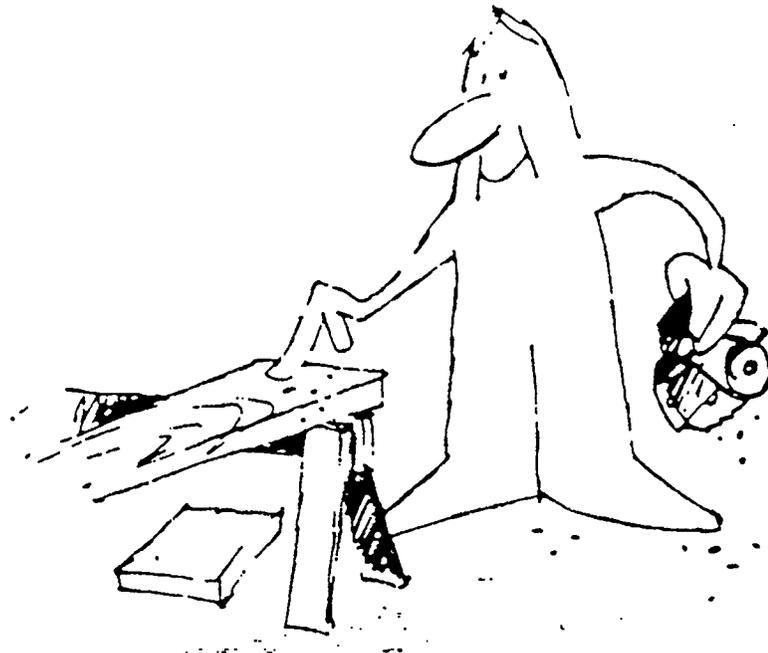


ARE THERE RISKS IN RENT WITHHOLDING?

Yes! If you and your landlord cannot agree about the amount that you have a right to deduct from your rent, then this question may have to be decided in court. This could happen if your landlord sues you to collect the unpaid rent or to evict you for non-payment of rent, or if you sue your landlord to enforce your rights.

If the person who decides the case (a district justice, a panel of arbitrators who are attorneys assigned to hear the case, a judge or a jury) disagrees with you on the correct amount of rent to be deducted, you will have to pay or arrange to pay the amount of rent that is determined that you owe to your landlord. For example, if your landlord sued to evict you for non-payment of 2 month's rent, and it's determined that you were entitled to withhold only 1 month's rent, you can be evicted if you don't pay or arrange to pay the extra month's rent.

TO AVOID THIS RISK, you should set aside any amount of rent you withhold. It's best to deposit it in a separate savings account. That way you'll have it ready in case a court decides later that you owe it, or a part of it, so you can pay it and avoid being evicted.



TENANT REMEDY #3: REPAIR AND DEDUCT

If your landlord fails to correct serious problems within a reasonable time after you notify him about them and tell him what repairs you will make if he doesn't do it (see Step 1), you may have the repairs made yourself and deduct the repair costs from your next rent.

REMEMBER these important points about the repair and deduct remedy:

1. The repairs must be necessary to make your rental home safe and liveable.

For example, you can deduct the costs of replacing a broken window, exterminating rodents or roaches, or repairing an outside door lock. But you may not deduct from your rent the cost of purely cosmetic repairs such as putting in wall-to-wall carpeting.

If after you repair and deduct, a court decides the repairs you made were not needed, you would have to pay the amount you previously deducted from your rent for repairs.

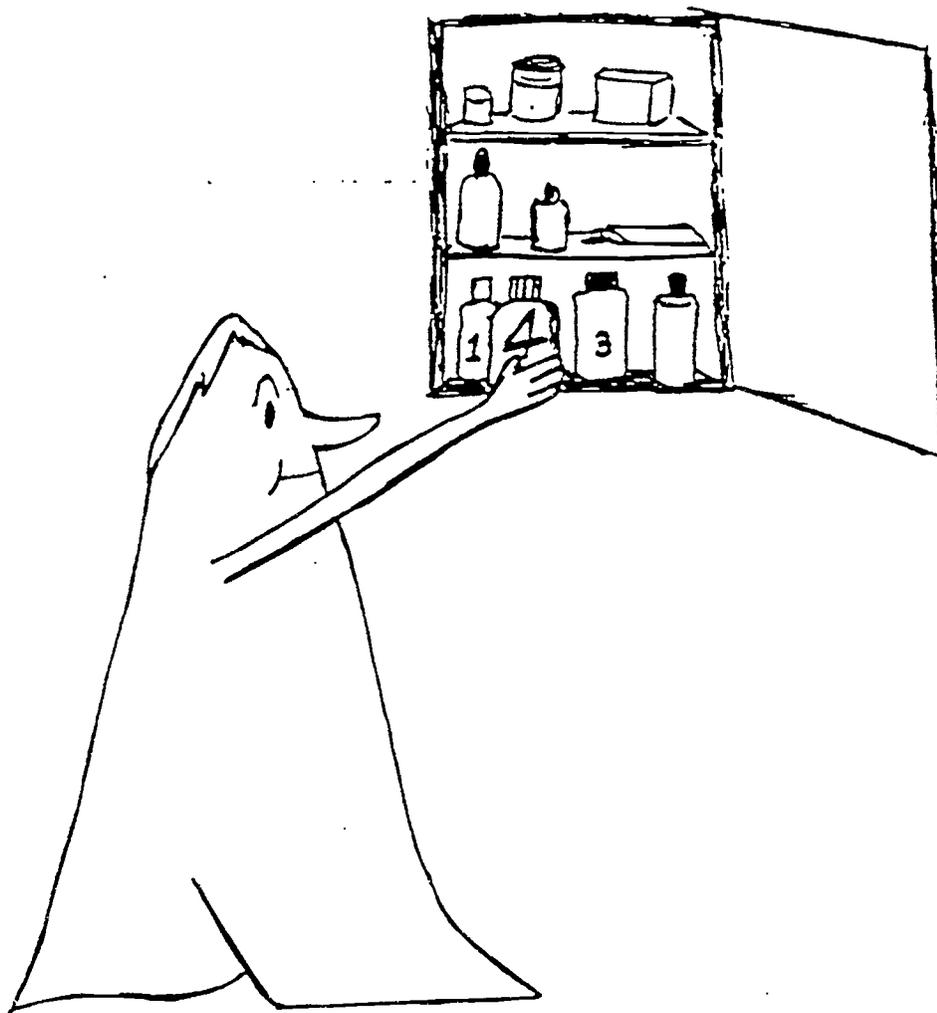
2. The repairs must be **reasonably priced**. You should get at least 2 written estimates, if possible, from qualified repairmen. It is best not to get estimates from friends or relatives. Having the repairs done by reputable businessmen will help prove that you acted fairly.

Choose the most reasonable estimate. If a court later decides that the cost of the repairs was unreasonably high, you will have to pay the difference between the reasonable cost and the higher price you paid for the repairs.

3. The cost of repairs cannot be greater than your rent.

For example, if you rent under a month-to-month lease and your rent is \$300 a month, you cannot deduct more than \$300 as the cost of repairs in any one month.

4. Once the repairs have been made, get a **signed receipt** for the costs from the repairman. When your next rent is due, give the receipt to the landlord and pay the difference between your rent and the cost of the repairs. Keep a copy of the receipt for your records.



TENANT REMEDY #4: RECOVER PAST RENT PAID

If you have been paying rent even though your home is in an unsafe, unsanitary or unliveable condition, you may be able to have some or all of the past rent you paid returned. Again, you must first notify your landlord of the problems and allow him a reasonable time to fix them.

The amount of rent that should be returned to you will depend on several things mainly the seriousness of the defect, its effect on your health or safety, and how long it has existed. For example, if the defect(s) caused you to lose all use and enjoyment of your home for 2 months, you would be entitled to get back 2 months' rent.

As another example, if your rent is \$300 a month and the defects made you to lose 1/3 of the use and enjoyment of your home for the past 4 months, during which time you paid your rent in full, you would be entitled to recover 1/3 of the past 4 months' rent. ($\$300 \text{ per month rent} \times 4 \text{ months} = \$1200 \div 3 = \$400$ returned to you.)

If your landlord refuses to return the excess rent you paid, you may sue him by filing a lawsuit yourself with a District Justice (formerly called a Justice of the Peace) or Municipal Court, or you can contact a private attorney or legal services and sue in a higher court called the Court of Common Pleas.



TENANT REMEDY #5: OBTAIN A COURT ORDER FOR REPAIRS

In certain special situations, when no other remedy would work in your unique case and you've followed **STEPS 1, 2 and 3**, you may request a court to order the landlord to make the necessary repairs.

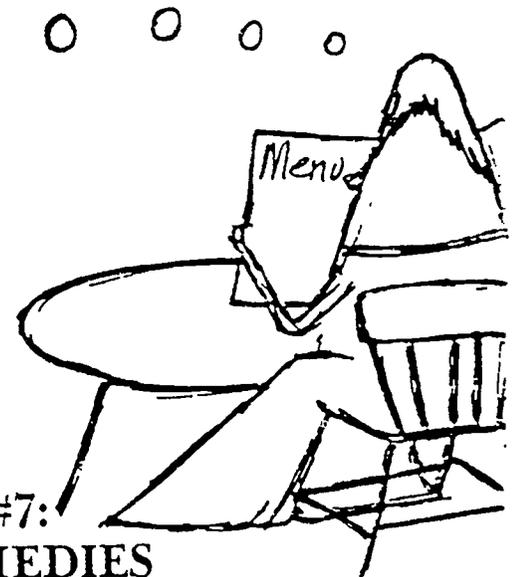
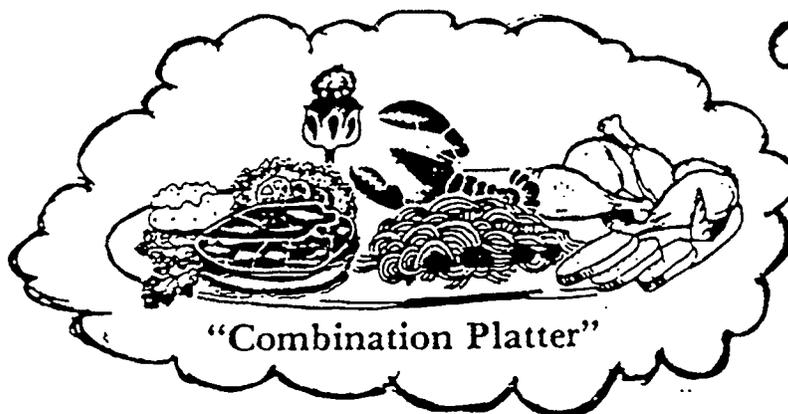
For example, it's winter. Your furnace breaks down. It would cost \$750 to fix it. Your monthly rent is \$250. You can't move because you can't find another place. You can't make the repairs and deduct the cost from your rent because the repairs cost more than your monthly rent. (See **Tenant Remedy #3**) You can't afford to wait to withhold your rent and hope your landlord repairs because it's 10 degrees below zero, and you and your kids are freezing. You should contact a private attorney or a legal services' attorney immediately to request a court order for repairs.

This is known as asking for "specific performance" --requiring your landlord to perform his obligation under your rental agreement to make repairs. But remember, this remedy is available only in rare cases -- usually, when no other remedy is satisfactory.

TENANT REMEDY #6: COMPENSATION FOR SEVERE EMOTIONAL SUFFERING

If you can prove that your landlord, by failing to make repairs of very serious defects that create a danger to your health or safety, has intentionally or recklessly caused you or your family to suffer severe emotional suffering, you may be able to recover money damages from your landlord to pay for this severe emotional distress. The landlord's conduct in failing to repair, usually over a long period of time, despite notice from you of the defects, must be "extreme and outrageous." Your landlord must have intentionally or recklessly caused you serious emotional distress. And the emotional suffering you experience must be severe.

You should know that this remedy is fairly new and the extent to which it is available has not yet been fully decided by Pennsylvania courts. It would be best to contact an attorney if you wish to bring such a lawsuit for severe emotional distress.

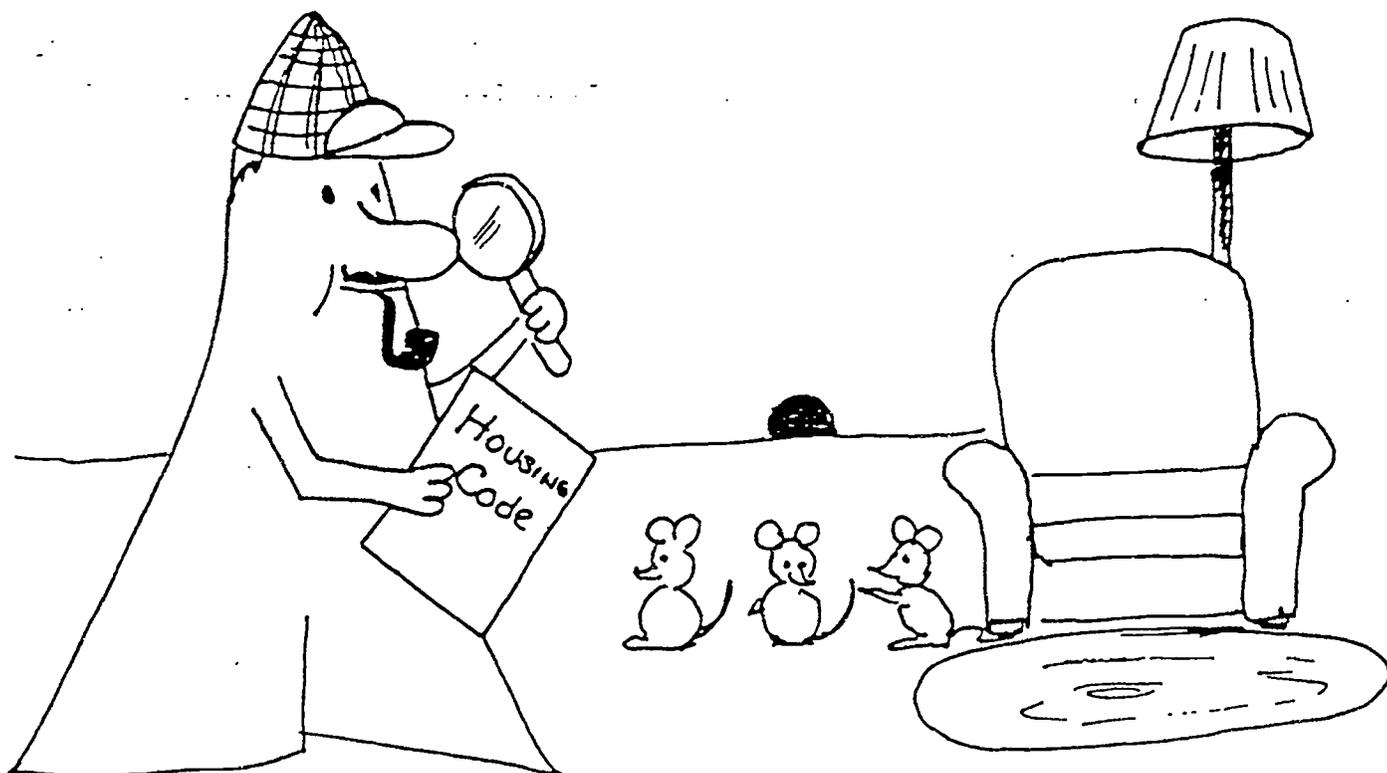


TENANT REMEDY #7: COMBINATION OF REMEDIES

You may choose a combination of remedies. Any one of the previous remedies, by itself may not be totally suitable for you. Your situation may enable you to use a combination of different remedies.

Suppose, for example, that for the past 2 months you have paid the full rent but have been without hot water. You have told the landlord about it, but he has not made the repairs in a reasonable length of time. In the meantime you have found another place to live and plan to move next month. What can you do? You may choose to:

- 1) request that a part of the past 2 months' rent be returned to you;
- 2) reduce part of this month's rent; and
- 3) move out next month without being responsible for future rent to your present landlord.



WHAT ABOUT HOUSING CODES? HOW DO THEY FIT IN WITH THE IMPLIED WARRANTY LAW?

Some cities, towns, and boroughs have adopted housing codes. These local laws are meant to help you by providing for your safety and protection. They contain rules for adequate light, air, heat, water, ventilation, space for occupants, and safety from fire.

The dwelling you rent should meet the requirements of your local housing code, if there is one in your area. Find out if there is a code by calling your local borough or municipal offices. If there is a housing code in force in your area and you live in poor housing, call your local housing inspector and ask for an inspection of your rental home.

If the housing inspector finds that the defective conditions in your dwelling violate the local housing code, he may order your landlord to make repairs and may fine the landlord if he fails to do so. In other cases, the housing inspector may have the power to make the repairs and charge the landlord for the costs.

REMEMBER: It is NOT necessary to prove that the defective conditions in your rental home violate a local housing code in order to prove that your landlord broke the implied warranty of habitability law (the law we have been talking about), or to use any of the tenant remedies discussed in this booklet. But the existence of housing code violations is evidence of poor housing conditions. So an inspection report of a local housing code official or the testimony of the housing inspector himself will help, but is not necessary, to prove your case.

WHAT ABOUT PENNSYLVANIA'S RENT WITHHOLDING LAW?

HOW DOES IT FIT IN WITH THE IMPLIED WARRANTY LAW?

You can use the Rent Withholding Law, or you can use one or more of the tenant remedies already discussed in this guide. (In certain situations you may be able to use both.)

The Rent Withholding Law applies only in large cities in Pennsylvania. Contact your city or municipal offices or an attorney to find out if it applies where you live. This is how it works.

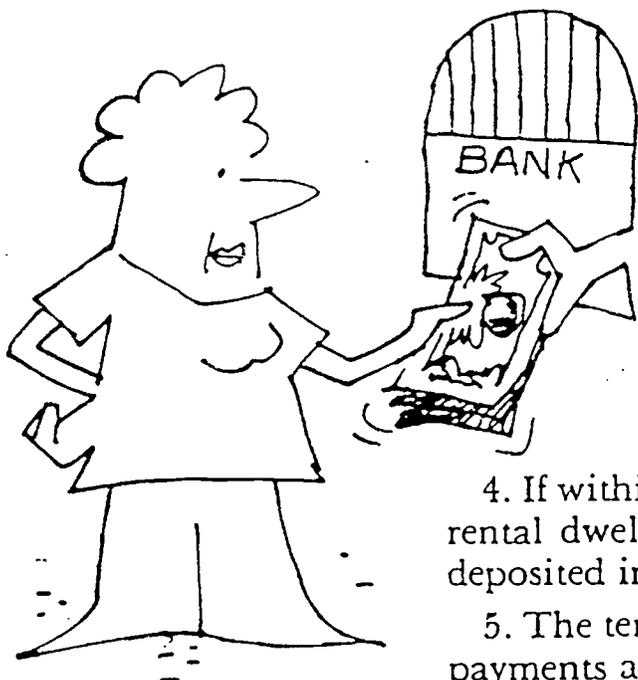
1. The tenant may contact the appropriate city or county office (the Department of Licenses and Inspections, Department of Public Safety, or Public Health Department, depending on where the tenant lives) and arrange for a housing inspection.

2. If the inspector certifies that the rental dwelling is "unfit for human habitation" (not fit to live in), the tenant can stop paying rent to the landlord but must instead deposit the rent in a separate account (called an "escrow account") at a bank approved by the city or county.

3. If the landlord fails to make repairs within 6 months, the tenant gets the rent money paid into escrow -- except that this money may be used to make repairs and pay any utility bills the landlord is supposed to pay but doesn't.

4. If within 6 months the landlord does make repairs and the rental dwelling is certified as fit to live in, the rent money deposited in escrow is paid to the landlord.

5. The tenant can't be evicted for any reason -- provided rent payments are deposited in escrow.



REMEMBER: The remedies provided under the Rent Withholding Law are separate from the remedies under the implied warranty of habitability law we've discussed. If you live in a city where the Rent Withholding Law applies, you can use its remedies or those explained in this booklet.

REMINDER: If you are withholding all or part of your rent money under the implied warranty law (see **Tenant Remedy #2**), you should put that money in a separate bank account. Then you will have it so you can pay it and avoid being evicted if a court decides later that you owe it.

Steps 1 + 2 + 3 = Answer



HOW DO I PROVE MY CASE?

Try to work out the problems with your landlord. If this doesn't work, follow Steps 1 (notice), 2 (allow landlord a reasonable time to fix), and 3 (show landlord failed to repair).

If you must still go to court, you can help prove your case by:

1. Obtaining a housing code inspection report showing violations of the local housing code, if there is one in your area, and having the housing inspector testify in court.
2. Explaining (testifying) to the person who decides your case:
 - What the serious defects in your rental home are;
 - How they affect the safety and health of you and your family;
 - That you notified your landlord of them (have copies of letters you sent and, for certified letters, the sender's receipt and the return card your landlord signed);
 - That you allowed the landlord a reasonable time and opportunity to repair; and
 - That the landlord didn't make necessary repairs, or the repairs made weren't adequate.
3. Taking pictures of the defective conditions in your home, writing on the back of each picture what it shows and the date it was taken, and bringing the photographs with you to court.
4. Bringing to the hearing written estimates that you got from reputable repairmen for the cost of repairs.
5. Asking members of any local housing groups or social service agencies who have seen the defective conditions in your home to testify.
6. Having friends, neighbors, or relatives who have visited your rental home and have seen its condition testify.

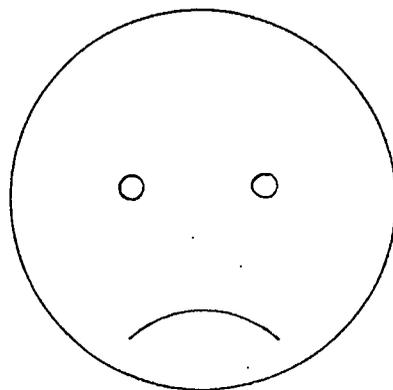
WHY EXERCISE YOUR RIGHT TO A DECENT RENTAL HOME?

To improve the housing you and your family live in each day!

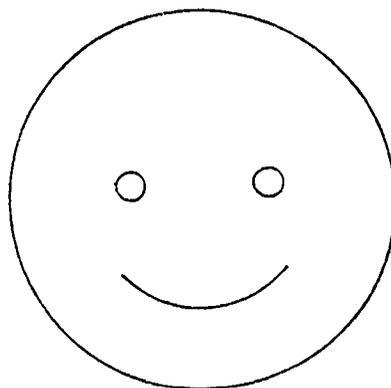
To receive the fair treatment you deserve as a tenant!

To encourage landlords throughout Pennsylvania to keep up their residential housing so that you, they, and everyone benefits.

BAD HOUSING AFFECTS EVERYBODY!



SO DOES GOOD HOUSING!!



A Public Information Booklet
Published By Legal Services, Inc.
Chambersburg, Pennsylvania

June 1982

APPENDIX 1

Sample Checklist

Before notifying your landlord of the problem(s), it's a good idea to inspect every part of your house to decide all the repairs that are needed to make your home fit. Here is a checklist to help you in inspecting your home and listing defects.

Directions:

1. Put a check (✓) or a short word describing the problem in the appropriate box on the checklist for every defect in your home.
2. Review the checklist before writing your notice letter so you'll be sure to list all needed repairs in the letter.
3. You may also want to review the checklist to help you decide how much rent to withhold (how much your use and enjoyment of your home has been cut), if you decide to use the rent withholding remedy. (See Tenant Remedy #2.)

	BATHROOM	KITCHEN	LIVING ROOM	BEDROOM 1	BEDROOM 2	BEDROOM 3	DINING ROOM	OTHER ROOMS (Identify them)	COMMON AREAS (Such as hallways or stairs that you and others use.)
DEFECTS:									
DOOR									
CEILING									
FLOOR									
WINDOWS									
ELECTRICAL OUTLETS									
OUTLETS									
LIGHT FIXTURES									
HEATING VENTS									
BASEBOARD HEATER									
STOVE									
REFRIGERATOR									
FAUCET LEAKS									
STAIRS									
LIGHTING									
LOCKS									
FURNACE									
THERMOSTAT									
ELECTRICAL WIRING									
PEST INFESTATION									
NO HEAT									
NO HOT WATER									
NO WATER AT ALL									
PLASTER									
FLOOR TILE									
BATH TUB									
TOILET									
SINK									
PIPES									
WALLS									

APPENDIX 2

Sample Notice Letter

To help you write your own letter, here's a sample letter telling the landlord what the problems are and what the tenant will do if the landlord doesn't correct them.

Date _____

Dear (landlord's name),

I am your tenant at (tenant's address), Pennsylvania. I am writing to notify you of repairs that are needed in my home. The specific problems which must be repaired include: [Fill in your own problems below. The following are only examples.]

1. No hot water,
2. Leak in living room ceiling.
3. No heat
4. Broken lock on front door.
5. (List others.)

These conditions are serious and make my home unfit.

I would appreciate it if you would make these repairs as soon as possible. If these conditions are not corrected within a reasonable time, I intend to exercise my legal rights, including (Here tell the landlord which of the steps described in this booklet you'll take, such as moving out, reducing the rent you pay, or repairing yourself and deducting the cost of repairs from your rent.)

Sincerely yours,
(Your Signature)

YOUR NOTES

This space is for you. You may want to use it to keep track of what happens and when in your case.

PUBLIC HOUSING

TYPES OF PUBLIC HOUSING

I. Section 8 Certificates or Vouchers

A. System of assistance payments.

1. Existing Housing

a. HUD pays the agency or private owner the difference between the family contribution and the approved contract rent for the unit.

b. The family must find an approvable unit.

c. The rent must fit within the applicable rent limits.

d. Once the unit and rent have been approved, the tenant and landlord execute a lease and the PHA and landlord enter into a housing assistance payments contract.

e. The initial term of the contract is five years, but it may be extended.

2. New Construction

a. Funds are available for private owners to construct housing units.

b. Developers submit proposals for new housing construction.

c. The Developer receives the difference between the family contribution and the approved rent contract.

B. Provided to public housing agency owners, private owners or state or local agencies.

C. HUD specifies the number of units which it can make available for the allocation area.

D. Admissions procedure is similar to the public housing policies.

E. Section 8 certificate tenants must be provided with a 90 day notice of termination of the Housing Assistance Payments contract.

Section 8 landlords may evict for a valid business reason proffered in good faith.

II. Public Housing - Most widely used federal housing program and almost all new construction.

A. Public housing is owned and operated by a local public housing authority, created pursuant to state enabling legislation.

1. HUD is ultimately responsible for the operation of public housing units.
2. Tenants are required to pay 30 per cent of the family's monthly adjusted income. Adjusted income is the income which remains after exclusions.

Exclusions:

1. \$550 for each member of the family residing in the household (other than the head of the household or his spouse) who is eighteen years of age or who is 18 years of age or older and is disable or handicapped or a full-time student.
2. \$400 for any elderly family
3. medical expenses
4. child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education; or excessive travel expenses, not to exceed \$25 per family per week, for employment or education related travel, except that this clause shall apply only to families assisted by Indian housing authorities.
5. 10 percent of the earned income of the family
6. any payment made by a member of the

family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household.

The total tenant payment includes utilities and other essential housing services when they are furnished by the PHA. If utilities are not supplied by the PHA, and they are not included in the rent amount, the tenant rent equals the amount calculated under the regulations minus the PHA utility allowance.

Lump sum payments:

HUD has issued a series of memoranda limiting the manner in which lump sum payments can be included in income. Any portion of the lump sum that is attributed to a period of time when the tenant was not living in public or subsidized housing should not be included in income. Attorney fees paid to secure the lump sum payment are excluded from the lump sum. With the Section 8 project-based subsidy program, the entire lump sum payment is excluded from income, unless, prior to receiving the lump sum, the tenant had secured an interim recertification of income and rent reduction. HUD has also made it clear that PHAs are allowed to make the calculations prospectively or retroactively.

B. Admission is based upon the federal preference list.

1. Each PHA is required to provide not less than 70 percent of the units available annually to:

a. families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families) - Substandard housing is defined as housing that is dilapidated, does not have operable indoor plumbing, does not have a usable flush toilet, bathtub, or shower inside the unit for the exclusive use of a family, does not have safe and adequate electrical service or heat source, does not have a kitchen, or has been declared unfit for habitation. A housing unit is dilapidated if it does not

provide safe and adequate shelter and, in its present condition, endangers the health, safety, or well-being of the family or has one or more critical defects or needs considerable repair.

Homeless: A family that occupies substandard housing or that lacks, fixed, regular, or adequate night residence and has a primary night residence that is (1) a shelter; (2) a temporary residence for individuals intended to be institutionalized; or (3) not designed for regular sleeping accommodations for human beings.

b. are paying more than 50 percent of family income for rent,

c. involuntarily displaced at the time they are seeking assistance - an individual is involuntarily displaced if the following circumstances exist: (1) a disaster such as a fire or a flood that results in the uninhabitability of the unit; (2) government action such as eminent domain or code enforcement; (3) action taken by a housing owner, other than a rent increase, that causes the applicant to vacate the unit, if the owner's action is beyond the applicant's ability to prevent and the applicant has complied with the lease terms; or (4) as a result of actual or threatened physical violence directed against the applicant or a member of the applicant's family by a spouse or other household member. An applicant living with an individual who engages in violence also qualifies for the preference. The actual or threatened violence must have occurred recently or be of a continuing nature.

d. A family evicted from subsidized housing due to drug-related activity cannot receive a preference for three years, unless the evicted tenant successfully completes a rehabilitation program approved by the PHA.

2. The remaining 30 percent of the units must be made available in accordance with a system of preferences established by the public housing

agency in writing and after public hearing to respond to local housing needs and priorities, which may include:

a. Very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act.

b. Participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities.

c. Families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family.

d. Assisting youth, upon discharge from foster care, in case in which return to the family or extended family or adoption is not available.

C. Definition of Family:

1. a person who is at least sixty-two years of age, is under a disability
2. a displaced person - displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a formally recognized disaster.
3. the remaining member of a tenant family
4. any other single persons - The HUD field office director must authorize the admission of single persons pursuant to 24 C.F.R. section 912.3.

D. Each public housing authority has some discretion in tenant selection, but all policies and procedures must be reasonably related to the purpose of the National Housing Act.

1. Admission policies must be publicized and furnished to applicants.
2. The PHA is not permitted to discriminate in the selection and placement of tenants.
3. There is no minimum age limit under the federal regulations. However, the public housing occupancy handbook allows a PHA to establish a minimum age to avoid unenforceable contracts.

E. Eviction

1. 24 C.F.R Section 966.4 (1) (1) provides "that the PHA shall not terminate or refuse to renew the lease other than for serious or repeated violation of material terms of the lease such as failure to make payments due under the lease or to fulfill the tenant obligations set forth in Section 944.4(f) or for other good cause.

a. the PHA must give the tenant a 14 day notice of intent to evict. The notice of proposed lease termination must inform the tenant of

(1) the specific grounds for termination; (2) the right to reply; (3) the right to examine relevant PHA documents; and (4) the right to request a hearing in accordance with the PHA's grievance procedure when the PHA is required to afford the tenant an opportunity for a grievance hearing.

b. the tenant must also be given notice in compliance with state law.

2. Each PHA must maintain a grievance procedure. A tenant may grieve any eviction, sanction or problem. Each eviction notice must inform the tenant of his/her right to a grievance hearing and the time limits imposed upon requesting a hearing. A tenant who has a complaint must first present the grievance to the project manager and discuss the grievance informally. The manager must then prepare a summary of the discussion and give a copy to the tenant. If the tenant is dissatisfied with the attempted resolution, he or she must submit a written request for a hearing within a reasonable time after receipt of the summary of

the informal settlement conference. The written request must state the reasons for the grievance and the action requested or relief sought.

A hearing officer is selected jointly by the PHA and the tenant. If the parties cannot agree on a hearing officer, each party selects a panel member, and the two panelists select a third member.

3. Notice of eviction must be hand delivered to the tenant and the tenant must sign a document stating that the notice was received.

4. The notice must state the reason for the eviction.

5. A tenant is not being evicted for nonpayment of rent is entitled to at two warnings prior to eviction. The tenant must be given the opportunity to cure the lease violation. The PHA must issue the warnings in writing to the tenant and hand it to the tenant.

III. Farmers Home Administration multi-family housing loan and grant program.

A. Statutory basis is Section 515 of the National Housing Act of 1949.

1. The Secretary of Agriculture is authorized to make loans to private nonprofit corporations and consumer cooperatives and Indian tribes to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income or other persons and families of low income in rural areas.

2. Loans may be made for a period of up to fifty years.

3. Several subsidies are available to the tenants, including Section 8.

B. Evictions

1. The Borrower or project manager may terminate or refuse to renew any tenancy only for material noncompliance with the lease or other good cause.

2. Notice is to be given in accordance with State or local law and

(a) must refer to relevant provisions in the lease

(b) Set a specific date for termination of the lease.

(c) The FmHA regulations have provisions for a grievance procedure, however, nonpayment of rent was previously exclude. However, a Georgia district court invalidated the FmHA regulation excluding evictions from the grievance procedure.

C. Prepayments: The most significant problem for tenants of FmHA housing is the prepayment of the mortgage. The purchaser would evict the tenant and solicit other tenants who could afford to pay without subsidies.

In the Housing and community Development Act of 1987, Congress restricted the right of owners of FmHA rental projects financed prior to December 21, 1979, to prepay their loans. On April 22, 1988, FmHA adopted interim regulations which would implement the Act.

In section 206 of the HUD Reform Act of 1989, Congress placed 50-year use restrictions on all FmHA rural rental projects approved after December 15, 1989.

D. Moratorium Relief

In a case of first impression, a district court invalidated the FmHA regulation that denied moratorium relief to single-family Section 502 and Section 504 borrowers after their homes loans had been accelerated.I.

COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS)

CHAS is a five-year action-oriented plan developed at the local level to serve as a working guide for the community's use of federal and other housing resources. CHAS is intended to replace other housing plans presently required by federal law.

HOME INVESTMENT PARTNERSHIP PROGRAM (HOME)

A block grant program primarily for rehabilitation of units, but also for construction or acquisition of units or subsidies.

HOME OWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE)

Title IV of the Cranston-Gonzalez National Affordable Housing Act includes a number of programs to facilitate the sale of public, HUD-owned or -insured housing and other federally, state or locally owned housing to organizations for subsequent sale to individual low-income occupants. The programs offer home ownership opportunities for families at the high end of the low-income range. This program is a pet of Housing Secretary Kemp.

SELF-SUFFICIENCY PROGRAMS

The Cranston-Gonzalez National Affordable Housing Act added a provision to the United States Housing Act requiring some Section 8 certificate, voucher and public housing families to work toward economic independence and self-sufficiency. Participating families must be provided supportive services which may include child care, transportation necessary to receive services, remedial education, education for completion of high school, job training, substance abuse treatment and counseling, training in homemaking and parenting skills, training in money and household management, or other appropriate services. Participating families enter into a contract to fulfill their obligation toward achieving self sufficiency within five years unless extended for good cause.

PUBLIC HOUSING
TENANT GRIEVANCE PROCEDURE

Public Housing Authorities (PHA) are required by federal law to establish grievance procedures and policies. The purpose of the procedure is to provide an informal platform for public housing tenants to voice and resolve their problems with the PHA.

Every tenant of public housing has the right to grieve any PHA action or failure to act. The act or failure to act must be related to the PHA's obligation to the tenant under the lease or PHA regulations and adversely affect the tenant.

The tenant must request the grievance, personally, either orally or in writing to the PHA. Tenants should make all request in writing to avoid problems and keep copies of all documents.

The grievance is first discussed informally by the PHA and the tenant. A summary of that discussion should be prepared by the PHA and a copy provided to the tenant. If the tenant is unhappy with the results of the informal discussion, he/she should request a hearing in writing. The written request should contain:

- (1) The reasons for the grievance.
- (2) The action or relief sought.

The PHA should arrange for a hearing officer or hearing panel to convene to hear the grievance. Tenants have the right to review all of the PHA's evidence prior to the hearing and to present evidence at the hearing. A written decision shall be prepared by the hearing officer or hearing panel. In most cases, the decision is binding on the PHA. However, the decision is not a waiver of the tenant's right to seek help in court.

A tenant may pursue a grievance without the aid of an attorney. The PHA should provide the tenant with all the information necessary to participate in the grievance process. All eviction and proposed action notices should contain instructions on how to grieve the PHA's action. This is a very important process for a public housing tenant, since it may avoid possible future litigation and resolves matters quickly.