



UTAH LEGAL SERVICES

Committed to Equal Justice

UTAH LEGAL SERVICES' FINANCIAL ELIGIBILITY GUIDELINES

INTRODUCTION

The Utah Legal Services' Board of Directors adopts the following guidelines for determining the eligibility of persons seeking assistance after having considered relevant factors including:

1. The cost of living in Utah;
2. The number of clients who can be served by program resources;
3. The low income population at and below alternative income and asset levels; and
4. The availability and cost of legal services provided by the private bar.

Utah Legal Services' Financial Eligibility Guidelines are for individuals and groups who are provided legal assistance supported in whole or in part with funds received from the Legal Services Corporation (LSC) are set forth below.

Any client with income or assets above the limits specified below will be determined ineligible for services as an LSC client. These policies are not intended to and do not create any entitlement to legal assistance from Utah Legal Services (ULS) to those determined to be eligible. ULS will determine whether or not to provide service to an eligible individual or group based on the merits of the particular case and the application of ULS' priorities and case acceptance criteria.

These policies shall be reviewed at least once every three years and revised as necessary.

DEFINITIONS

1. **Assets.** Assets are cash or other resources of the applicant or members of the applicant's household which are readily convertible to cash, which are currently and actually available to the applicant.

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84770
435-628-1604
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2. **Income.** Income means actual current annual *total cash receipts* before taxes of all persons who are resident members of and contribute to the support of an applicant's household.
 - a. **Total Cash Receipts include** but are not limited to money, wages, and salaries, before any deduction; income for self-employment after deductions for business or farm expenses; regular payments from governmental programs for low income persons or person with disabilities; social security payments; unemployment and worker's compensation payments; strike benefits from union funds; veterans benefits; training stipends; alimony; child support payments; military family allotments; public or private employee pensions; regular insurance or annuity payments; income from dividends, interest, rent, royalties or from estate trusts; and other regular or recurring sources of financial support that are currently and actually available to the applicant.
 - b. **Total cash receipts DO NOT include** the value of food or rent received by the applicant in lieu of wages; money withdrawn from the bank; tax refunds; gifts; compensation and/or one-time insurance payments for injuries sustained; non-cash benefits; and up to \$2,000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distribution exempt by statute.

3. **Household.** Household includes only those people who live together or those separated temporarily for economic reasons but intending to live together long term and who are related by blood or by law as relatives for whom legal responsibility attaches.

GENERAL POLICIES

1. Prior to providing legal assistance to any person or household, ULS staff shall make a reasonable inquiry regarding sources of the person's income, income prospects, and assets. If there is substantial reason to doubt the accuracy of financial information provided by the individual or group, appropriate inquiry will be made to verify the information.

2. Financial eligibility for legal assistance shall be determined in a manner conducive to the development of an effective attorney-client relationship, and information from applicants and groups shall be obtained in a manner that promotes the development of trust between attorney and client.

3. All eligibility determinations shall be recorded in ULS' Case Management System contemporaneously if possible, in order to benefit from ULS' various computerized eligibility and timekeeping features. If that is not possible, (as with in-court assistance provided at the request of a local judge or at an outreach clinic), the eligibility information should be entered into ULS' Case Management System at the earliest time possible.

INCOME ELIGIBILITY

1. Annual Income Ceiling. The maximum annual income level for applicants seeking legal assistance is 125% of the official Federal Poverty Income Guidelines as published annually by DHHS. Income eligibility is based upon household size and the household's **gross** annual income. As of March 2012, the maximum income levels are:

Family Size	Weekly	Monthly	Yearly
1	\$268.52	\$1,163.58	\$13,963.00
2	\$363.71	\$1,576.08	\$18,913.00
3	\$458.90	\$1,988.58	\$23,863.00
4	\$554.10	\$2,401.08	\$28,813.00
5	\$649.29	\$2,813.58	\$33,763.00
6	\$744.48	\$3,226.08	\$38,713.00
7	\$839.67	\$3,638.58	\$43,663.00
8	\$934.87	\$4,051.08	\$48,613.00
9	\$1,030.06	\$4,463.58	\$53,563.00
10	\$1,125.25	\$4,876.08	\$58,513.00
11	\$1,220.44	\$5,288.58	\$63,463.00
12	\$1,315.63	\$5,701.08	\$68,413.00

2. Exceptions. Consistent with ULS' policies, which currently only allow for exceptions in rare and unusual circumstances, ULS may determine an applicant whose income exceeds the maximum income standard of 125% of the current official Federal Poverty Guidelines amount to be financially eligible if the applicant's income does not exceed 200% of the official poverty guidelines AND ULS' Executive Director, or his/her designee, has determined on the basis of documentation received by ULS, that:
- a. The applicant is seeking legal assistance to maintain benefits provided by a governmental program for low income individuals or families; or
 - b. The applicant is seeking legal assistance to obtain governmental benefits for low income individuals or families; or
 - c. The applicant is seeking legal assistance to obtain or maintain governmental benefits for persons with disabilities; or
 - d. The applicant's income is primarily committed to medical or nursing home expenses and that, excluding such portion of the applicant's income which is committed to medical or nursing home expenses, the applicant would otherwise be financially eligible for service; or

- e. That the applicant should be considered financially eligible based on consideration of one or more of the following factors as applicable to the applicant or members of the applicant's household:
- i. The current income prospects, taking into account seasonal variations in income;
 - ii. Unreimbursed medical expenses and medical insurance premiums;
 - iii. Fixed debts and obligations;
 - iv. Expenses such as dependent care, transportation, clothing and equipment expenses necessary for employment, job training, or educational activities in preparation for employment;
 - v. Non-medical expenses associated with age or disability;
 - vi. Current taxes; or
 - vii. Other significant factors that ULS has determined affect the applicant's ability to afford legal assistance.

3. Claims of Zero Income or Other Substantial Reasons to Question Information Given. On occasion, an applicant may state they have no income. ULS will consider it reasonable to accept this report:

- a. If the applicant's Social Security, SSI, TANF, or other government income benefits have been recently terminated; or
- b. If the applicant has applied for Social Security, SSI, TANF or other government income benefits and been denied; or
- c. If the applicant has applied and been denied UIB benefits or UIB benefits have been terminated; or
- d. If the applicant has just left a spouse and is seeking assistance with child support/alimony as well as a divorce.

In all other cases, ULS will ask follow-up questions of the applicants which may include whether or not they pay rent or have a mortgage and how they are managing to pay it; how they buy groceries/staples; whether their utilities are on and how do they pay for them; if they are calling on a phone, how do they pay for the service; are they making payments on a vehicle; when did they last work; what are their prospects for future income (actively looking for work, had/have an interview, been offered a job that starts later, benefits are pending, etc.). If an applicant reports that they are receiving money to meet these obligations, then they must disclose what that is and it shall be recorded

as income. If the answers to the follow-up questions seem reasonable, then ULS will accept their answer that they have no income. ULS can decline to provide assistance if no reasonable explanation is forthcoming. A similar inquiry will be made if other substantial reasons to question the applicant's statements exist, such as an applicant giving one response, then calling back at later time and giving different information.

4. Documentation. In the event that ULS determines that an applicant is financially eligible pursuant to this section and is provided legal assistance, ULS shall document the basis for the financial eligibility determination. ULS shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such determination. ULS shall document each decision and include it in the client's case file.

ASSET ELIGIBILITY

1. General policy statement. ULS shall determine the available assets of all potential clients, including such assets of the applicant's household that the individual applicant has actual access to for the purposes of obtaining legal assistance.
2. Waiver. In rare and unusual circumstances, ULS' Executive Director, or her/his designee, may grant waivers of this asset ceiling. The decision to represent otherwise eligible clients with assets shall be made by balancing the immediacy of the need for representation with the value of the assets, the availability of other legal services and the criteria outlined above when determining exceptions to the income ceiling.
3. Documentation. When the Executive Director, or her/his designee, grants a waiver, the decision shall be documented and included in the client's file as well as in ULS' Case Management System. ULS shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such determination. ULS shall document each decision and include it in the client's case file.
4. Asset Ceiling. ULS asset limits are based on the formula of multiplying the applicable monthly income ceiling amount (125% of the federal poverty level) for the respective household size by a factor of 10. As the income amount raises annually, so will the asset limit. The asset limits are currently as follows:

Household Number	Asset Limit
1	\$11,635.80
2	\$15,760.80
3	\$19,885.80
4+	\$24,010.80

5. Exclusions. The following will not be counted towards ULS' asset ceiling:
- a. The primary residence of the applicant;
 - b. One vehicle per driver in the household used primarily for transportation and not used for recreational purposes;
 - c. Assets exempt under Utah law as follows:
 - i. Up to \$3,500 of the fair market value of work-related tools and equipment;
 - ii. Insurance proceeds, judgment, or settlement that are compensatory for bodily injury or wrongful death to you or to someone for whom you are or were a dependent;
 - iii. Cash value of Life insurance policy;
 - iv. Pensions, IRA, 401(K) plans and retirement plans.

VERIFICATION

If there is substantial reason to doubt the accuracy of information provided by a prospective client, the individual may be requested to provide appropriate verification. All inquiries regarding verification should be undertaken in a manner consistent with the maintenance of an attorney-client relationship.

VICTIMS OF DOMESTIC VIOLENCE

In assessing the income or assets of an applicant who is the victim of domestic violence, ULS shall consider only the assets and income of the applicant and members of the applicant's household other than those of the alleged perpetrator of domestic violence. ULS shall not include any assets held by the alleged perpetrator of domestic violence, jointly held by the applicant with the alleged perpetrator of the domestic violence, or assets jointly held by any member of the applicant's household with the alleged perpetrator of the domestic violence.

REPRESENTATION OF GROUPS

ULS may provide legal assistance to a group, corporation, association or other entity if the group provides information showing that it lacks, and has no practical means of obtaining, the funds to retain private counsel AND

1. The group (or for a non-membership group, the organizing or operating body of the group) is primarily composed of individuals who would be financially eligible for LSC-funded legal assistance; or
2. The group has as a principal activity the delivery of services to those persons in the community who would be financially eligible for LSC-funded legal assistance and the legal assistance sought relates to such activity.

A determination that a group, corporation, association or other entity is eligible to receive services hereunder shall be made in accordance with LSC Reg. 45 CFR § 1611.6.

CHANGE IN FINANCIAL ELIGIBILITY STATUS

If an eligible client becomes ineligible through a change in the client's circumstances, ULS shall take steps to discontinue representation. Such representation shall be discontinued only if the change in circumstance is sufficient to change the client's financial eligibility under this policy and discontinuation is not inconsistent with applicable rules of professional responsibility.

REPRESENTATION AGREEMENTS

When ULS provides extended service to a client, ULS shall execute a written representation agreement with the client or group. The representation agreement shall be executed when representation commences or as soon thereafter as is practicable. Such agreement must be in a form consistent with the applicable rules of professional responsibility and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the services being provided.

A written representation agreement is not required for advice and counsel or brief services provided by ULS to the client or legal services provided to the client by a private attorney pursuant to 45 CFR part 1614.

ULS shall maintain copies of all retainer agreements in the client's file.