

To: Legal Service Providers
From: Pro Bono Initiative, Michigan Litigation Assistance Partnership Program (MI LAPP)
Date: June 10, 2011
Re: Qualified Domestic Relations Order Referral Process (QDRO)

EXECUTIVE SUMMARY: The MI LAPP program of the State Bar of Michigan (SBM) currently oversees the administration and distribution of QDROs. We strive to make this process as smooth as possible keeping the interest of the client in mind. The term Legal Service Provider (LSP) refers to the referring agency while the Preparer refers to the attorney who will be preparing the QDRO. SBM staff currently administers this program and aids in the referral of QDROs to the Preparers. SBM staff plans to accomplish these referrals within seven business days; two business days for emergency cases. The Preparer will complete emergency QDROs in 15 days and 30 days in non-emergency cases.

MISSION: MI LAPP actively places QDROs with volunteer providers for the benefit of low-income clients throughout the state of Michigan. The goals of this program are: (a) to provide a critical service to low-income persons in the divorce process; (b) to prevent divorced and dependent persons from being unnecessarily impoverished due to a divorce; (c) to effectively utilize the skills of pension specialists in the provision of legal services to the poor; (d) to expand the resources of legal services providers by providing pro bono assistance in a critical and specialized legal area.

GUIDING PRINCIPLES: MI LAPP was created to meet the needs of low-income clients and engaging willing volunteers to assist them. In all our work, the clients' needs are at the heart of our efforts. SBM staff appreciates and honors the time donated by volunteer Preparers and will do everything possible to reduce the administrative work for volunteers, making it as simple and easy as possible to participate in this program. Volunteers are valued and thanked regularly. Legal services programs are considered key business partners and are consulted regularly to ensure program quality. MI LAPP embraces an attitude of continual quality improvement.

CASE ACCEPTANCE POLICY: In general, QDRO cases referred by participating legal services providers are referred to panel members. If SBM staff or the volunteer Preparer feels that the case is not an appropriate case for referral, they may decline the case (explaining the rationale to the referring agency). If there are questions, about a specific denial, these will (at the request of SBM staff or the LSP or the pro bono lawyer) be discussed by the QDRO Administrative Group.

EMERGENCY AND NON-EMERGENCY CASES: MI LAPP and SBM staff recognizes that some of the cases referred will be emergency cases. These are situations where there appears to be current eligibility for pension benefits and where the income from those benefits is critical to the client. These cases will be given priority.

GEOGRAPHIC AREA SERVED: This is a statewide program.

ROLE OF LSP AND THE PREPARER: QDRO referrals should emerge from the priority legal work of the LSP. It is the expectation that the primary divorce case will be an accepted case by the LSP (either directly or through a member of a local pro bono panel) and that the LSP will appear in the underlying divorce action. The volunteer attorney will prepare the QDRO, and is not expected to appear in the divorce action. The LSP will cover any court hearings necessary to assure entry of the order.

CASE COMPLETION AND TIMEFRAMES: Emergency cases will be completed in 15 days. All other cases will be completed in 30 days.

MAKING A REFERRAL

INITIAL CONTACT:

1. The Legal Service Provider (LSP) initiates contact with SBM staff and has already gathered information regarding the retirement plan(s) to be divided:
 - a. Name of employer of plan participant,
 - b. Name and address of 401(k) plan to be divided – LSP must be specific as to whether plan covers hourly or salaried employees,
 - c. Benefit statements for participant,
 - d. Summary plan description,
 - e. Date for division of benefits,
 - f. Judgment of divorce decree (If a judgment has not yet been entered, a draft that includes the terms of division for the retirement plan(s) to be divided, or if there is no such draft, an understanding of the terms, and also a caption page from any motion or pleading),
 - g. Any other information, which from time-to-time is requested by the volunteer Preparer.
2. Has completely filled out the MI LAPP referral form, which is located at http://www.michbar.org/programs/atj/pdfs/MILAPP_referral.pdf.
3. The LSP sends the completed referral form with all required documents to the State Bar of Michigan staff. This information can be mailed to State Bar of Michigan, Pro Bono Initiative, 306 Townsend Street, Lansing, MI 48933 or emailed to pbi@mail.michbar.org.

TIMING:

4. SBM staff, upon receipt, enters all information into PIKA, SBM's case management system. SBM staff will place cases as quickly as possible with the Preparer. One to two business days is the goal for emergencies and one week for non-emergencies. This will be accomplished so long as all documentation is completely filled out and submitted by the LSP.
5. The Preparer may accept or reject any referrals. In general, the Preparer's decision on the referral will be made within five business days of the date of the referral. The Preparer will notify SBM staff whether they can or cannot accept a case.
 - a. If necessary, SBM staff will work with the LSP and the Preparer to create a realistic timeframe for case completion to manage client expectations.
 - b. If a timeframe is negotiated outside of the regular case standards, SBM staff will communicate this arrangement to the LSP and document in PIKA.
6. SBM staff understands that sometimes, unforeseen circumstances may prevent the Preparer from completing a QDRO within the designated time period. Under those circumstances and after 30 days (15 for emergency QDROS) SBM staff, with the permission of the client and notification of the LSP and advice of the QDRO Administrative Group, will re-assign the case.
7. SBM staff will notify the LSP staff when the case is referred. From that point on, Preparers and Providers will communicate directly. The LSP retains the primary lawyer-client relationship and is responsible for client communication. The Preparer may contact the client directly so long as the LSP is notified. .
8. For emergency cases, the expectation is that the QDRO will be prepared within 15 days of the date of acceptance. The LSP will follow-up by calls or email to the Preparer on day 16 to check on the status of the case.

9. For non-emergency cases, the expectation is that the QDRO will be prepared within 30 days of the date of acceptance.
10. SBM staff is initially responsible for trouble-shooting out-of-standards cases; if staff is not successful in resolving these cases, the Administrative Group will follow up on the cases. This follow up may include discussions with the Preparer or re-referral of the case.

APPROVAL:

11. Upon acceptance, the LSP will be placed in direct contact with the Preparer. Both are responsible for notifying SBM staff of the following dates and information: (a) date of completion of the QDRO by the volunteer; (b) date of entry of the QDRO order by the LSP; (c) pro bono hours provided on the case. SBM staff will enter notes in PIKA reflecting these reports.
12. Not all QDROs are approved or entered on the first draft. The Preparer will remain available to consult with the LSP through the order entry process. SBM staff will close case upon entry of the QDRO order (not the initial completion of the QDRO) and notification from the LSP.

ADMINISTRATION:

13. SBM staff with the assistance of the LSP will send out client satisfaction surveys. These surveys will be sent out only after the QDRO has been completed, filed and an approval received from the plan administrator.
14. SBM staff will send out quarterly reports to the Preparers and the QDRO Administration Committee.
15. Each quarter SBM staff will contact the Preparer and the LSP to inquire on the status of referrals. Those contacts and any and all information gathered will be entered into PIKA.