



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 3

TO: MEMBERS OF THE STUDY COMMITTEE ON ACCESS TO CIVIL LEGAL SERVICES

FROM: David Moore, Senior Staff Attorney, and Rachel E. Snyder, Staff Attorney

RE: Use of Federal Block Grants to Fund Civil Legal Services

DATE: November 7, 2016

The scope statement approved by the Joint Legislative Council for the Study Committee on Access to Civil Legal Services directs the committee, among other tasks, to “identify additional non-general purpose revenue (GPR) sources of revenue to provide civil legal services for the indigent.” During the committee’s July 27 and September 14, 2016 meetings, some members of the committee identified block grants the federal government makes to the state as possible non-GPR revenue sources for funding civil legal services. At the September 14, 2016 meeting, Representative Cody Horlacher, Chair of the Study Committee, directed committee staff to prepare background information on this topic for the committee.

Please note that this Memo provides a brief overview of federal grants that may be used for civil legal services, highlighting two that are commonly used for these purposes. This Memo does not contain an exhaustive discussion of the various federal grants mentioned.

BACKGROUND

The federal government awards block grants in support of broadly defined programs. Usually, these grants are made to states, which then have broad discretion to choose how to spend the money within the eligibility and purpose requirements established by the federal government. Many of the federal block grants may be used for the provision of civil legal services. States that choose to utilize federal block grant funding to provide civil legal services commonly allocate funding from the grants received under the Temporary Assistance to Needy Families (TANF) and Victims of Crime Act (VOCA) programs.

Wisconsin does allocate some funding from federal block grants to provide for civil legal services, including funding from the TANF and VOCA programs. Although Wisconsin likely

provides additional funding for civil legal services from other federal block grants, TANF and VOCA are discussed below as significant examples.

TANF

The purpose of TANF is to give states the flexibility to operate programs that:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.
- Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies.
- Encourage the formation and maintenance of two-parent families.

[42 U.S.C. s. 601.]

Wisconsin's federal TANF grant is the primary source of funding for the state's Wisconsin Works (W-2) and childcare programs. W-2 is a work-based program that provides training and support services to assist low-income parents to obtain permanent and stable employment, and provides related employment support services and cash assistance to eligible families. In addition to using TANF monies to fund this type of public assistance, states have wide flexibility under TANF to fund programs that achieve one or more of the program's purposes.

One way in which states may expend TANF funding is by providing funding for civil legal services that are consistent with TANF purposes. The Office of Family Assistance within the U.S. Department of Health and Human Services has provided examples of legal services that may be funded with TANF dollars, including: representation for members of needy families who are pursuing Social Security Income (SSI) benefits for children in their own home; services to help needy families resolve bad debt and credit problems; and any other personal or family legal problem that are a threat to family stability or that undermine the employment of needy parents¹.

Use of TANF Funds for Civil Legal Services in Wisconsin

In Wisconsin's 1999-2001 Biennial Budget, the Legislature created a statutory provision requiring the Department of Children and Families (DCF) to distribute to the Wisconsin Trust Account Foundation (WisTAF) an amount equal to the amount received by WisTAF from private donations, up to \$100,000 in each fiscal year, from the state's TANF block grant. These funds could be used for the provision of legal services to individuals who were eligible for TANF benefits, under federal law, and whose incomes were at or below 200% of the federal poverty

¹ Office of Family Assistance, Q & A: Use of Funds, available at <http://www.acf.hhs.gov/programs/ofa/resource/q-a-use-of-funds?page=2>.

line. The 2003-05 Biennial Budget modified this provision to make DCF's distribution of TANF funds as a matching grant to WisTAF permissive rather than mandatory. The 2003-05 budget also did not specifically appropriate any funds to this purpose. The provision allowing DCF to make these matching grants remains in statute; however, because the Legislature has not specifically appropriated funds for the purpose, grants have not been made under this provision since the 2003-05 Biennial Budget took effect. [s. 49.1635, Stats.]

In the 2015-17 Biennial Budget, the Wisconsin Legislature appropriated \$1,000,000 (\$500,000 in each fiscal year) from the state's TANF block grant to the WisTAF for distribution to programs that provide certain types of civil legal services. This provision authorized WisTAF to make annual awards to programs that provide legal services to TANF-eligible persons whose gross incomes are at or below 200 percent of the poverty line. These grants were capped at \$75,000 per organization per year and may be used only to provide legal services in matters related to domestic abuse, sexual abuse, and restraining orders or injunctions for individuals at risk. The appropriation was made via a nonstatutory provision and authorization to make such grants expires on June 30, 2017.

The biennial budget also contained a number of reporting requirements associated with these grants. Among other obligations, these provisions require WisTAF to submit a plan to DCF detailing the proposed use of the grant and enter into an agreement with DCF that specifies the conditions for the use of the grant proceeds, including conditions relating to training, reporting, and auditing requirements. Additionally, the provisions require WisTAF, if it makes a grant in fiscal year 2015-16, to submit to DCF, within three months after spending the full amount of the grant, a report detailing how the proceeds were used. If WisTAF makes a grant in fiscal year 2016-17, these provisions require WisTAF to submit this report within six months after spending the full amount of the grant. [2015 Wis. Act 55, SEC. 9106 (2q).]

VOCA

The primary purpose of VOCA crime assistance grants is to provide certain services for crime victims. Eligible services include "efforts that (1) respond to the emotional and physical needs of crime victims; (2) assist primary and secondary victims of crime to stabilize their lives after a victimization; (3) assist victims to understand and participate in the criminal justice system; and (4) provide victims of crime with a measure of safety and security...." [Final VOCA Assistance Program Guidelines, Section I.]

VOCA funds may be used to provide crime victims with legal assistance, such as filing restraining orders and obtaining emergency custody or visitation rights, when the necessary legal assistance is directly connected to family violence cases, and the legal actions are taken to ensure the health and safety of the victim. VOCA funds may also be used to assist victims who participate in the criminal justice system and to advocate on behalf of crime victims.

Use of VOCA Funds in Wisconsin for Civil Legal Services

Wisconsin's VOCA grant is administered by the Department of Justice, Office of Crime Victim Services (OCVS). OCVS issues grants using VOCA funds to subgrantees on a

competitive basis. In the 2015-16 award year, OCVS awarded 82 VOCA grants, totaling \$7,865,854. Among these awards were two to Legal Action of Wisconsin for various crime victim-related legal service programs.

OTHER BLOCK GRANTS

According to staff from the U.S. Department of Justice, Office of Access to Justice, the following federal block grants also permit expenditures related to civil legal services:

- Community Services Block Grant
 - This grant provides funds to alleviate the causes and conditions of poverty in communities. In Wisconsin, this grant is administered by DCF, and funds are distributed to a variety of community action agencies and statewide programs that address poverty at the community level.
- Social Services Block Grant
 - States may use funds from this grant to provide services directed toward at least one of five goals: (1) preventing, reducing, or eliminating economic dependency; (2) achieving or maintaining self-sufficiency; (3) preventing or remedying neglect, abuse, or exploitation of children and adults; (4) preventing or reducing inappropriate institutional care; and (5) securing admission or referral for institutional care when other forms of care are not appropriate. In Wisconsin, this grant is administered by the Department of Health Services.
- Family Violence and Services Block Grant
 - This grant provides federal funding to support emergency shelter and related assistance for victims of domestic violence and their children.
- Community-Based Grants for the Prevention of Child Abuse and Neglect
 - The purpose of this grant program, among other goals, is to support community-based efforts to develop, operate, expand, enhance, and coordinate initiatives, programs, and activities to prevent child abuse and neglect and to support the coordination of resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect.
- Title II Formula Grants Program
 - This grant program supports state and local delinquency prevention and intervention efforts. Juvenile Justice Specialists in each state administer this funding through subgrants to local government, local private agencies, and tribes.

- STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Formula Grant Program
 - The STOP grant program provides funds to help combat violent crimes against women and to strengthen victim services in cases involving violent crimes against women. In Wisconsin, the Department of Justice's OCVS administers this grant.
- Community Development Block Grant Program
 - This grant provides communities with resources to ensure decent affordable housing, provides services to the most vulnerable, and creates jobs through the expansion and retention of businesses. This grant is administered by the U.S. Department of Housing and Urban Development.

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