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LEGAL SERVICES: MEETING NEW CHALLENGES WITH DELIVERY SYSTEMS THAT PROMISE LASTING IMPACT FOR MARYLAND'S POOR

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INTRODUCTION

This is an important time to assess the future direction for legal services programs in Maryland. Since the establishment of the Maryland Legal Services Corporation twenty-five years ago, advocates for the poor have witnessed transformations in client communities and changes to the theories and methods of delivering legal services. These changes present challenges to meeting client needs and demand that the legal services community undertake a thoughtful, inclusionary, and comprehensive process to determine whether the legal services programs' limited and inadequate resources achieve meaningful and lasting results for Maryland's low-income residents and communities.

Legal services programs must meet the needs of Maryland's rapidly changing low-income communities. Those communities are increasingly culturally and linguistically diverse.¹ The state's senior population is rising rapidly,² and there are nearly 300,000

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1. Based on census data, Maryland's Department of Planning reports that the total foreign born population in Maryland jumped from 313,494 in 1990 to 518,315 in 2000. The number of Marylanders who speak English less than very well increased from 148,493 to 246,287. Planning Data Services, Md. Dep't of Planning, Table DP-2. Profile of Selected Social Characteristics: 2000 (2002), http://www.mdp.state.md.us/msdc/census/cen2000/SF3/sumyprof/DP2_chg/MD_DP2.pdf; see MD. DEP'T OF PLANNING, INCOME INEQUALITY CONTINUES TO GROW IN MARYLAND, http://www.mdp.state.md.us/msdc/income_inequality/incomeinequality_1980_2000.pdf. (last visited Mar. 20, 2008) (noting that foreign immigrants in Maryland have filled many low wage jobs). These statistics undoubtedly undercut undocumented English speakers whose status makes them particularly vulnerable to workplace and other exploitation.

2. The Maryland Department of Aging estimates that Maryland's over-sixty population increased from 801,036 to 896,760 between 2000 and 2005. The Department expects the number to reach more than one million by 2010. Md. Dep't of Aging, Maryland's 60+ Population Projections by Jurisdictions, 2000-2030 (2005), <http://www.mdoa.state.md.us/demogtable1.pdf>. The Department estimated that, as of 2000, almost 64,000 Maryland residents lived in poverty. Md. Dep't of Aging, Senior Demographic Information (2005),

impoverished children who need a variety of critical services.³ The number of poor Maryland residents has increased.⁴ Lacking training for new “good” jobs, many poor people are relegated to low-wage, dead-end employment, without essential workplace benefits.⁵ The drastic lack of affordable housing statewide means that homelessness is a constant threat for the hard-working poor.⁶ Physically and mentally damaged veterans returning from Iraq and Afghanistan, unable to get adequate help presage a serious surge in demand for our assistance.⁷ Too many children still leave school without the mastery of basic skills.⁸ Finally, non-performing schools, sub-standard housing, and few employment opportunities often cluster in poor,

<http://www.mdoa.state.md.us/demographicsn.html>. Other estimates are higher. The Henry J. Kaiser Family Foundation reports that, of Maryland’s seniors aged sixty-five and older, 13%, or 87,563 live in poverty. The Henry J. Kaiser Family Found., *Maryland: Poverty Rate by Age, states (2005–2006)*, U.S. (2006), <http://www.statehealthfactsonline.org/profileind.jsp?ind=10&cat=1&rgn=22>.

3. The Henry J. Kaiser Family Found., *Maryland: Poverty Rate by Age, states (2005–2006)*, U.S. (2006), <http://www.statehealthfactsonline.org/profileind.jsp?ind=10&cat=1&rgn=22>. The Henry J. Kaiser Family Foundation reports that approximately 270,543—19% of Maryland’s total under-eighteen population—lives in poverty. This is a significantly higher percentage than the 13% of adults in the state who are impoverished.

4. According to the Maryland Budget & Tax Policy Institute, approximately 417,207, or 8% of Maryland’s population was poor in 1999. Md. Budget & Tax Policy Inst., *Frequently Asked Questions about Poverty (2003)*, <http://www.marylandpolicy.org/html/research/POVERTYfaq2002.asp>; see also JOANNA SHOFFNER, MD. BUDGET & TAX POLICY INST., *THE GREAT DIVIDE: POVERTY & PROSPERITY IN MARYLAND (2006)*, available at <http://www.marylandpolicy.org/documents/PovertyPersistsDespiteEconomicGrowth.pdf> (indicating that 8.2%, or 544,000 of a growing population lived at or below federal poverty levels as of 2006); U.S. Census Bureau, *State and County Quick Facts: Maryland (2008)*, <http://quickfacts.census.gov/qfd/states/24000.html> (showing that 2004 estimates indicated that 9.2% of Maryland’s population was poor).

5. See, e.g., MD. DEP’T OF PLANNING, *INCOME INEQUALITY CONTINUES TO GROW IN MARYLAND*, http://www.mdp.state.md.us/msdc/income_inequality/incomeinequality_1980_2000.pdf. (last visited Mar. 20, 2008) (recognizing that a shift from manufacturing to service jobs caused a drop from good to inadequate wages for blue and semi-skilled workers, many of whom had no more than a high school education).

6. See THOMAS J. VICINO ET AL., UNIV. OF MD., BALTIMORE COUNTY, *AFFORDABLE HOUSING IN METROPOLITAN MARYLAND: A POLICY ANALYSIS (2004)*, available at <http://www.umbc.edu/mipar/documents/FinalAffordableHousingAnalysis2.pdf>.

7. Linda Bilmes, *Soldiers Returning from Iraq and Afghanistan: The Long-term Costs of Providing Veterans Medical Care and Disability Benefits 1* (Harvard University, John F. Kennedy Sch. of Gov’t Faculty Research Working Papers Series, Paper No. RWP07-001, 2007), available at [http://ksgnotes1.harvard.edu/Research/wpaper.nsf/rwp/RWP07-001/\\$File/rwp_07_001_bilmes.pdf](http://ksgnotes1.harvard.edu/Research/wpaper.nsf/rwp/RWP07-001/$File/rwp_07_001_bilmes.pdf).

8. See, e.g., Md. Ass’n for Adult Cmty. and Continuing Education, *Maryland Adult Education Fact Sheet*, <http://www.maaccemd.org/factsheet.html> (last visited Mar. 20, 2008) (stating that 20% of Maryland adults function at the lowest literacy rates, 959,000 residents need basic skill instruction, and 632,000 persons without high school diplomas are unemployed).

African-American communities, reinforcing the continued shameful correlation between race and poverty.⁹

Other changes compound the challenge of delivering services over this wide spectrum of clients and needs. Laws that the legal services community had historically relied upon to vindicate clients' basic rights have been severely narrowed.¹⁰ Modern technology presents both new opportunities and obstacles for low-income persons.¹¹

“Access to justice” involves more than opening courthouse doors to the poor. It requires focused strategies to enable clients to overcome barriers to fundamental necessities that include education, safe and affordable housing, quality healthcare, and access to safe jobs that pay a decent wage. Decisions about how to allocate scarce but potentially powerful advocacy resources to achieve clients' goals must be strategic and arise from rigorous planning.

Before Maryland adopts new legal services programs or projects, particularly ones that have been previously tried and abandoned, the legal services community must articulate a clear set of values to guide our choices, understand the barriers that keep communities in poverty, and identify clear goals and advocacy strategies to achieve the changes clients want and deserve. This Essay suggests a framework for the future design of Maryland's legal services delivery system that is grounded in a sound analysis of client needs and community-based solutions.

9. See Ga. S. Univ. Ctr. for Africana Studies, *Poverty in the African American Community*, <http://academics.georgiasouthern.edu/africana/poverty.htm> (last visited Mar. 25, 2008).

10. See, e.g., *Gonzaga Univ. v. Doe*, 536 U.S. 273, 280 (2002) (holding that only “unambiguously conferred” rights will support a cause of action under 42 U.S.C. § 1983); see also *Blessing v. Freestone*, 520 U.S. 329, 340 (1997) (finding that, to seek redress through 42 U.S.C. § 1983, a plaintiff must assert a violation of a federal right, and not just a violation of federal law); *Seminole Tribe of Fla. v. Fla.*, 517 U.S. 44, 72 (1996) (holding that there exists sovereign immunity barriers to obtaining redress for State violations of federal law).

11. Telephone “hotlines” and intake systems, together with remote access to legal assistance via computer, may make legal services providers more accessible to rural and home-bound persons. See ABA STANDARDS FOR THE PROVISION OF CIVIL LEGAL AID Standard 2.2 cmt. (2006). However, the experience of the Legal Aid staff is that, while legal information is increasingly made available over the Internet, many older low-income persons lack both basic and computer literacy skills to use online resources.

II. MARYLAND'S FUTURE LEGAL SERVICES DELIVERY SYSTEM MUST BE SHAPED BY A PLANNING PROCESS BUILT UPON CLEARLY ARTICULATED VALUES AND GROUNDED IN A COMPREHENSIVE UNDERSTANDING OF CLIENT AND COMMUNITY NEEDS.

A legal services delivery system should be founded on clearly articulated values that guide how and why we do our work. The recently-promulgated *American Bar Association Standards for the Provision of Civil Legal Aid*,¹² which reflects the consensus views of private Bar and legal services leaders, identifies key core values for an effective and comprehensive delivery system. In accordance with the ABA standards, Maryland's future legal services delivery system should:

- Be client-centered and grounded in a deep understanding of the needs of low-income people through consistent and regular interaction with individuals and groups in the communities to be served.¹³
- Reflect choices about the scope and form of services that are strategic and the product of a comprehensive planning process.¹⁴
- Strive to achieve lasting results (measured against articulated goals and criteria) that are responsive to the low-income community's most compelling needs.¹⁵
- Concentrate on the needs of the most vulnerable populations, including poor children and seniors, immigrants, people with limited English proficiency, ex-offenders, low-wage workers, institutionalized persons, persons with disabilities (especially those with mental health problems), and other isolated populations.¹⁶

12. ABA STANDARDS FOR THE PROVISION OF CIVIL LEGAL AID (2006).

13. *Id.* at Standard 2.1 cmt. ("A provider should have a means to spot patterns among legal problems that are presented . . . and to detect significant changes that may herald the emergence of new legal issues. A provider whose contacts with low income persons are limited to the office setting will not be fully aware of or understand the full range of legal needs and objectives of low income persons it serves.").

14. *Id.* at Standard 2.1 ("A provider should interact with low income individuals and groups serving low income communities to identify compelling legal needs and should implement plans to address those needs most effectively.").

15. *Id.* at Standard 2.6 ("A provider should strive to achieve both clients' objectives and lasting results that respond to the low income communities' most compelling needs.").

16. *Id.* at Standard 2.3 cmt. (explaining that a delivery system needs to provide service to all populations, including the undocumented, incarcerated, institutionalized, and otherwise isolated).

- Have practitioners who understand and can communicate effectively with the wide variety of cultures and languages of Maryland's poor. Practitioners must also understand the interlocking nature of the problems poor people face, the difficulty of navigating unfamiliar agencies and institutions (including those that provide basic services), the differences of class and race, and the consequences of low literacy, mental health problems and other disabilities.¹⁷ Without such multi-faceted provider competence, advocates and clients may fail to communicate effectively and thereby thwart the full achievement of clients' goals.
- Utilize a broad spectrum of advocacy strategies and provide all forms of representation from limited service (advice, referral, and brief services) through representation before adjudicative bodies and courts, economic development activities, transactional assistance, policy advocacy and community legal education.¹⁸ To the extent possible, these strategies should be coordinated.
- Address the myriad problems that go beyond those that routinely reach the courts. Representation of poor persons in litigation, including family law and housing cases, is not the only kind of legal assistance poor people need. Courts see few of the other legal issues that keep people in poverty, which include a lack of access to meaningful and appropriate education, quality health care, sufficient job training, adequate employment wages, safe and affordable shelter, and the ability of ex-offenders to successfully re-enter society. A legal services delivery system must address a wide spectrum of needs beyond the disputes that courts routinely resolve.¹⁹
- Provide consistent supervision, oversight, and training for legal service staff members and accountability for their work.²⁰
- Integrate private Bar capacity strategically, including but not limited to the representation of clients.²¹ Programs should seek

17. *Id.* at Standard 2.4 cmt. (establishing that cultural competence requires legal services providers to have "the capacity to interact effectively and to understand how the cultural mores and the circumstance of persons from diverse communities affect their interaction with the provider and its practitioners and govern their reaction to their legal problems and to the process for resolving them").

18. The ABA standards provide guidance for practitioners in each of these areas, further highlight the expectation that providers will engage in multi-forum strategies to address client needs. *See id.* at Standards 7.1-7.16 cmt.

19. *Id.* at iii.

20. *Id.* at Standards 2.11, 6.2, 6.3, 6.4, 6.5, 6.6.

to ensure accountability and quality for cases referred to the private Bar.

While the ABA standards establish comprehensive value-driven guidelines for a responsive delivery system, they do not dictate specific substantive services. Such substantive choices must be based on a comprehensive assessment of the unmet needs of our low-income populations.²² The assessment process must meaningfully engage members of the low-income community and inquire beyond traditional categories of legal practice.²³

This year, Maryland's Legal Aid Bureau (Legal Aid) undertook a statewide assessment effort of the state's low income population needs. We interviewed hundreds of income-eligible persons and low-income community service providers, facilitated focus groups in English and Spanish with low-income participants, examined demographic data and our own case statistics, obtained staff knowledge about our clients and low-income communities, and surveyed stakeholders in the civil and criminal judicial systems. Legal Aid is currently analyzing the gathered information on a county-by-county, regional, and statewide basis to determine how to most effectively meet the needs of Maryland's poor.

We approach the process with no preconceived notions. We are open to change while committed to preserving those aspects of our delivery systems that effectively meet identified needs. Our process seeks to develop explicit advocacy goals to meet client needs, which may require new delivery models. We may identify more innovative ways to engage private lawyers and collaborate with community organizations, law schools, educational institutions, hospitals, private employers, other legal services providers, and others who share our interest in strong and healthy communities that afford meaningful opportunities to all.

21. *Id.* at Standard 2.7 ("A provider should integrate the resources of the legal profession and individual members of the bar to its delivery of services, including in direct representation of clients.").

22. *Id.* at Standard 2.1.

23. *Id.*

III. MARYLAND'S FUTURE LEGAL SERVICES SYSTEM MUST MEET THE ABA STANDARDS.

Recently, there has been discussion about reviving a Judicare²⁴ program in Maryland. Legal Aid is concerned about the adoption of a long-abandoned delivery model, particularly one not grounded in a rigorous, value-driven planning process and evaluated according to the core values of the ABA standards.

A. Delivery of anti-poverty focused legal services is a specialty that requires the cross-disciplinary expertise and structure of staffed legal services programs.

Effectively serving low-income clients is not the same as providing legal services to persons who are not poor. Private lawyers who are unaccustomed to the barriers low-income people face may not be able to solve their legal problems in an effective or lasting manner, as the following common example demonstrates:

Ms. S is a forty year-old divorced mother of two children—ages eight and three years old. She reads at a fourth grade level. Her ex-husband is not paying child support. She has worked in fast food restaurants and other minimum wage jobs. Her subsidized housing complex was sold to a developer who is renovating it for condominiums. Ms. S received a Section 8 voucher and was given thirty days to move from the subsidized housing complex. However, during the months it took Ms. S to find replacement housing (during which she and her children lived in a local shelter), her voucher expired. Ms. S and her children then moved in with a cousin. The displacement interrupted the education of her oldest child, who enrolled in an unfamiliar school,

24. Most generally, Judicare models are programs designed to pay attorneys in private practice on a fee-for-service basis to provide legal services to eligible persons. See *infra* note 31 and accompanying text (describing various “Judicare” models). Maryland’s Judicare program, began in 1971 and operated by the Department of Human Resources, was severely cut back in the mid 1980s and terminated in 1990. See MICHAEL MILLEMANN, FINAL REPORT AND RECOMMENDATIONS ON THE POTENTIAL USE OF PRIVATE LAWYERS, WHO ARE PAID REDUCED FEES BY A LEGAL SERVICES FUNDER, TO REPRESENT LOW-INCOME PERSONS IN MARYLAND WHO CAN NOT OBTAIN LEGAL ASSISTANCE IN CIVIL CASES 42 (2007) [hereinafter MILLEMANN REPORT], available at http://www.msba.org/sec_comm/sections/dlserv/minutes/RFLSPFinalReportFINAL.pdf. At its inception, no staff program, including Legal Aid, provided representation to poor people throughout the state.

is academically behind his peers, is often sent home early, and constantly complains about stomach pain. However, Ms. S can only afford to take her son to a doctor when he is very sick; then, she resorts to the local hospital's emergency room services. Forced into a new neighborhood, Ms. S was unable to find transportation and affordable daycare and, unable to work the ten hour shift her employer demanded, she lost her job. Ms. S was told she was not entitled to receive a day care voucher until she secured a job. Ms. S worries about returning to work if her older child continues to come home early from school. Meanwhile, Ms. S is having difficulty paying her share of the utility bills and buying food for her family. Furthermore, Ms. S and her children may have to move again because their staying with the cousin violates the cousin's apartment lease. Ms. S now seeks a lawyer because when Ms. S sought child support from her ex-husband, he responded by filing for custody.²⁵

Ms. S surely needs assistance in her custody case. However, her ability to retain custody is jeopardized by the many circumstances that prevent her from achieving familial and economic stability—issues she and many others do not recognize as legal. Her limited literacy makes it difficult to navigate the bewildering paperwork and bureaucracy of social services. Ms. S needs and may have a legal right to subsidized housing. She needs to enroll her children in Maryland's children's health program and apply for food stamps. If she is denied public benefits, Ms. S will need assistance to appeal the denials. Further investigation into her situation may reveal that Ms. S had worked overtime but did not receive overtime pay. Her son's repeated "early releases" from school may be the school's strategy to avoid legal obligations regarding suspension, special education, or supplemental tutoring. If these sources of familial instability are not effectively addressed, Ms. S may lose custody of her children.

Advocates in staffed legal services programs routinely and effectively address such interlocking problems. They recognize that a custody case may raise complex housing, health care, public benefits

25. The hypothetical raises serious questions about the possible violation of a number of Ms. S's rights, including those that relate to her displacement, the remedies for which may be based on complex federal and state law. Those rights and remedies, however, are beyond the scope of this article.

and, increasingly, employment and education issues. Many of those problems require mastery of complicated federal and state laws and programs. Staffed, multi-disciplinary providers draw on their deep expertise to address these highly specialized areas of the law and interrelated needs.

Because they see many clients and maintain detailed records of each client's case, staffed legal services programs are able to identify and address recurrent problems. Such institutional knowledge and resources position them to pursue effective systemic solutions for recurrent problems in multiple forums, including the courts, legislative and administrative bodies, and public education. To meet the growing number of clients with limited English proficiency, staffed programs have a compelling reason to develop a diverse, multi-cultural, and multi-lingual staff. They can provide continued training in complex and specialized areas of the law. They are also well-positioned to include private lawyers in advocacy strategies to solve clients' problems that make the best use of private lawyers' background and practice. In sum, staffed legal services programs meet client needs comprehensively and have the capacity to redress systemic problems because of their deep understanding and connectedness with their client communities.

B. Maryland should avoid the adoption of a delivery service model that may not meet ABA standards or may not achieve lasting differences for clients and their communities.

Innovation and creativity in delivering legal services is important, but as imperative, the delivery must be strategic. Maryland's legal services community cannot afford to squander its limited resources. The wisdom of adopting a Judicare model, which was generally abandoned nation-wide²⁶ and completely defunded by Maryland in 1990,²⁷ is doubtful in light of the ABA standards and a

26. Judicare has been retained in a few states as a way to deliver services in very rural areas that cannot readily be reached by the offices of their staffed legal services programs. *See generally* MILLEMANN REPORT, *supra* note 24; *see also* ABA STANDARDS, *supra* note 12, at Standard 2.2 cmt. (noting other methods that may enhance rural delivery). There is no evidence that there is a movement in this country from staffed programs toward Judicare models. While Maryland's rural areas, like its urban and suburban populations, could surely use more legal services resources, there are legal services offices that can and do serve all of its counties. Moreover, advances in technology may remove one of the biggest incentives for Judicare programs, accessibility to remote areas. It certainly is a factor that should be carefully considered and which may make older studies regarding the benefits of Judicare less relevant.

27. Its final elimination followed drastic reduction in funding in the early 1980s. *See* MILLEMANN REPORT, *supra* note 24, at 42.

six-year comprehensive evaluation of delivery models, which included several variants of the Judicare theme, conducted by the Legal Services Corporation (LSC) at Congress's insistence.²⁸ The LSC study evaluated and compared thirty-eight programs based on cost, quality, client satisfaction, and impact, including staffed legal services programs and a "pure" Judicare system, Judicare as a supplement to a staff attorney program, and Judicare with a staff attorney component.²⁹

The LSC study concluded that none of the Judicare-based programs exceeded the standards set by the staffed program model.³⁰ Indeed, the pure Judicare program was found to be not viable.³¹ The Judicare supplementation to a staffed program failed the study's performance standard,³² particularly regarding to the ability to do impact work.³³ Only the staffed Judicare model was deemed viable.³⁴ The study also unequivocally rejected the often-vaunted client choice potential of a voucher program, noting that clients rarely had a preference or exercised their theoretical options.³⁵

The LSC study confirmed that Judicare programs are not well-suited to address the poverty-specific needs of low-income clients and,

28. LEGAL SERVICES CORPORATION, *THE DELIVERY SYSTEMS STUDY: A POLICY REPORT TO THE CONGRESS AND THE PRESIDENT OF THE UNITED STATES* (1980). The LSC study advisory panel was comprised of a cross-section of the legal community and independent contractors to collect and analyze performance data. It is the most rigorous analysis of which this author is aware.

29. *Id.*

30. *Id.* at ii.

31. *Id.* at 7. The "pure" Judicare model pays attorneys in private practice on a fee-for-service basis to provide legal services to eligible persons with only a small staff that provides administrative support. *Id.* at 23-24. The Judicare "with staff attorney component" provides staff for some specific types of legal services, such as advice, information, and perhaps training and technical assistance. *Id.* at 24. A Judicare "supplement to a staff attorney program" uses Judicare attorneys to extend services to a geographic area not served by the staff attorney program, or to provide types of services not handled by the staff attorney program. *Id.* The voucher model "provides funds (vouchers) to individual clients or organized client groups, who may then select private service providers." *Id.* at 26. The LSC Study found that the voucher model was difficult to conceptualize and implement and was eventually converted in its second year of funding to a "pure" Judicare model (that ultimately did not meet the viability criteria). *Id.*

32. *Id.* at 8.

33. *Id.* at 9. The LSC study noted that the model might work where the parent staff attorney organization would do the necessary impact work. *Id.* at 7, 9.

34. *Id.* at ii. Its viability stems from its essential similarity to staffed programs: a staff that provides institutionalized substantive knowledge, support, and infrastructure. To that extent, it may simply duplicate staffed programs, adding another set of administrative demands, without any discernable benefit.

35. *Id.* at 10.

above all, are unlikely to identify and address systemic problems.³⁶ One reason is obvious: Judicare-participating lawyers, who spend the majority of their time in private, for-profit practice, are generally not systematically engaged with or grounded in low-income communities. As a result, the vast majority lack exposure to, and therefore an understanding of, the multifaceted problems facing poor people. The LSC study concluded that staffed programs are necessary to undertake broad-based advocacy, a conclusion buttressed by experiences in Minnesota, Great Britain, and Canada.³⁷ Although private lawyers are key collaborators with legal services providers in many efforts, including “impact” work,³⁸ integrating the private Bar into Maryland’s legal services delivery system should be a strategic process based on careful planning according to the ABA standards.

Unlike in staffed programs, it is difficult to ensure ongoing accountability and quality control mechanisms in a Judicare model.³⁹ Little information exists about the quality of Maryland’s former Judicare program, but administrators agree that “there was little in the way of quality control.”⁴⁰ The former program depended upon the performance of scattered, individual lawyers, and it lacked the formal supervisory controls, case reviews, and internal systems of accountability expected of, and maintained by, staffed programs.⁴¹ Maryland’s abandoned program could not afford the necessary infrastructure to ensure accountability and ultimately became too costly to maintain at all.⁴²

In Legal Aid’s experience with reduced-fee programs, it is difficult to place cases, particularly complex and time-consuming

36. See MILLEMANN REPORT, *supra* note 24, at 71, 78–79, 85–86 (noting Canadian and English systems moving from Judicare to staffed models to enhance ability to address specialized poverty law issues; Wisconsin’s program reported that Judicare attorneys handled few impact, group, or appellate cases).

37. *Id.*

38. In many impact or systemic advocacy efforts, private lawyers donate their services or seek attorney’s fees pursuant to a fee-shifting statute. Such collaborations powerfully combine the skills of both sets of lawyers for a common goal. See, e.g., *Ehrlich v. Perez*, 908 A.2d 1220 (Md. 2005) (representing a successful equal protection challenge to Maryland’s denial of Medical Assistance to legal immigrant pregnant women and children brought by Legal Aid and the Bethesda, Maryland firm of Bregman, Berbert, Schwartz & Gilday).

39. See MILLEMANN REPORT, *supra* note 24, at 47–48.

40. *Id.* at 47.

41. *Id.* at 47–48.

42. *Id.* at 48 n.124. The program was run by a director and support staff that had insufficient administrative capacity to perform effective quality control. Staffed programs have that administrative capacity and exercise it on a regular basis.

family law matters, with private lawyers.⁴³ Our experience suggests that reimbursement rates in a Judicare program would need to be fairly high to maintain a remotely adequate cadre of attorneys. Participating attorneys may tend to “cherry-pick” cases that appear to have the best chance of resolution within the reimbursement limits, rejecting those that are the most difficult and therefore more likely to need an effective lawyer. Also unclear is to what extent a Judicare program would support expenditures for litigation costs, including potentially significant discovery and trial expenses. A failure to provide adequate financial support, particularly in fact intensive cases, is likely to lead to substandard representation.

The delivery of legal services to low-income clients is not one where quality is ensured by market forces. Social, cultural, and institutional factors prevent clients from holding their lawyers accountable. Power imbalances and the lack of resources, access, and time for anything beyond basic survival activities make such an expectation unreasonable.⁴⁴

IV. CONCLUSION

The private Maryland Bar can and should be as involved as possible in the delivery of civil legal services to Maryland’s poor. Maryland’s current system lacks resources to meet the many complex legal needs of its low-income residents and communities. Maryland should harness the expertise of both private and Legal Aid-type program attorneys to provide quality services and produce lasting changes for low-income communities.

Before Maryland spends scarce resources to recreate programs with known limitations and that may not meet ABA standards, the legal services community needs to engage in a rigorous and thoughtful

43. Legal Aid has worked with reduced-fee programs that provide family law services to persons Legal Aid cannot serve. However, while helpful, those programs and the Legal Aid offices with which they work report difficulties engaging private lawyers at reduced rates to handle complex custody matters. Legal Aid regularly sees applicants for services who have been dropped by private lawyers, including those who had accepted a reduced fee arrangement, once the lawyer had exhausted the fee. Although a Judicare program could require a lawyer to agree to finish a case, our experience raises concerns that compelling lawyers to finish a case without further compensation may reduce the incentive to give the case the attention it warrants, disserving vulnerable clients. A Judicare model should not be adopted without first thoroughly analyzing the costs required to attract a sufficient number of trained and fully-committed lawyers.

44. The ABA standards set forth extensive expectations and guidelines for ensuring high quality legal work through effective supervision, training, and oversight of legal work. ABA STANDARDS, *supra* note 12, at Standards 6.2, 6.3, 6.4.

planning process. This process should involve those whom it purports to serve and identify and develop strategies to address the legal impediments to escaping poverty. The process should also aim to ensure that fundamental needs, such as safe and affordable shelter; access to healthcare, meaningful education, and jobs that pay a decent wage; and freedom from violence, discrimination and exploitation, are met. Once we articulate the goals of our legal services program, we will be in a position to draw from Maryland's deep private and non-profit Bar legal resources to fashion a coordinated and impactful delivery system.

