

## **Wisconsin Trust Account Foundation, Inc.**

### **Report to the Department of Administration: 2008-2009 Low-Income Civil Legal Services Appropriation**

#### *Overview*

Prior to July 1, 2008, Wisconsin was one of only six states in the U.S. that did not fund legal services to enable the state's low-income residents to access the civil court system. While Wisconsin has funded legal representation for low-income residents accused of criminal offenses through the Public Defenders Office for decades, similar court access for low-income civil victims of unlawful activities such as domestic violence, illegal evictions and consumer fraud remained financially inaccessible to over half a million Wisconsin residents.

The legislature corrected that oversight in its 2007-2009 budget, in which it included \$1,000,000 annually for low-income civil legal services beginning July 1, 2008.

The legislature mandated that the funds should be administered by the Wisconsin Trust Account Foundation, Inc. (WisTAF) under the oversight of the Department of Administration (DOA). WisTAF is a 501(c)(3) nonprofit that was established by the Wisconsin Supreme Court in 1986 to administer Wisconsin's Interest on Lawyers Trust Account (IOLTA) program, which provides modest private income for civil legal services funding.

#### ***2008-2009 Low-Income Civil Legal Services Appropriation Program Management***

In March 2008, WisTAF submitted a 2008-2009 allocation plan to DOA, which was approved in June 2008. This section of the report covers the various management processes and guidelines that WisTAF has used to fulfill the terms of the allocation plan and to ensure high-quality civil legal services were provided to low-income clients in all parts of Wisconsin through the efficient and effective use of the low-income civil legal services appropriation funds.

#### **Grant Application Process**

WisTAF received sixteen grant applications for the 2008-2009 state appropriation funding cycle, with combined requests totaling \$1,996,585 (please see Appendix Chart 1: WisTAF 2008-2009 Civil Legal Services State Appropriation Grants). WisTAF used existing 2008 grant applications as the basis of the board's grant decisions, supplemented by additional budget and updated program information from 2008 grant applicants interested in applying for state appropriation grants.

### **Grant Funding Cycle**

State appropriation grants were to be used for direct civil legal services provided from July 1, 2008 through December 31, 2009. The WisTAF board made the decision to extend the funding through a full eighteen months in the first cycle of the new program because the grants were applied for and received in the middle of the majority of applicants' fiscal year, which meant that the services provided under the new funding were not included in most fiscal year programs. Therefore, additional time was given in order to ensure that all grantees had the opportunity to incorporate the resources needed to provide the funded services. This action was approved by the Department of Administration as part of the 2008-2009 allocation plan.

### **Eligible Client Populations**

The WisTAF Board used its existing eligible client criteria definitions to ensure that funds were used to provide services to the most vulnerable poverty populations. The criteria established for financially eligible clients and client groups are as follows:

1. A financially eligible client must be one whose income is no higher than 125 percent of the poverty level established by the U.S. Department of Labor; or,
2. A financially eligible client must be part of a group whose membership includes 50 percent or more eligible clients or whose primary purpose is assistance to low-income persons (ex: inner city populations, food stamp recipients, etc.).

### **Grant Applicant Eligibility Criteria**

To be eligible to apply for 2008-2009 state appropriation funds, applicants needed to fulfill the following requirements:

1. The applicant had to demonstrate that it provided, planned to provide or caused to be provided civil legal assistance to financially-eligible clients or client groups; and
2. The applicant had to be a civil legal assistance organization or be an organization that qualified as a 501(c)(3) exempt organization; or
3. The applicant had to otherwise demonstrate the charitable purpose of the organization and project.

### **WisTAF Grant-Making Process**

In determining which agencies would receive grants, the WisTAF board emphasized several considerations:

- State appropriation funds should be used exclusively for the provision of direct civil legal services to low-income residents of the state of Wisconsin.
- The organizations funded should maximize the geographic reach of legal services for low-income persons throughout Wisconsin.
- Existing services should receive priority over requests to cover budget shortfalls, expansions or new programming.
- With the exceptions of underserved rural areas and parts of Milwaukee County, duplicative services overlapping geographic areas of the state should not be funded.

- Recipients should have the ability to use a state appropriation grant to leverage additional private or federal funding for direct legal services or to provide private or federal direct income for clients whenever possible in order to expand the impact of the state funding.
- The historical level of support provided to the applicant by WisTAF should be noted, to ensure that funds go to programs with a proven record of efficient and effective service provision.
- All grant recipients should have a demonstrated history of sound and effective fiscal management.

### **Disbursement of Funds**

On July 1, 2008, WisTAF received the first annual disbursement of civil legal services funds from the state appropriation. The WisTAF Board of Directors voted unanimously that WisTAF should absorb the cost of administering the appropriation, enabling the entire \$1,000,000 to be directed to statewide civil legal services for low-income Wisconsin residents.

The state appropriation grants were disbursed on July 2, 2008.

### **WisTAF Grant Oversight Measures**

With a relatively small pool of regular grantees covering the entire state, WisTAF is able to stay in frequent contact with grantees on an informal basis. This helps us to learn about individual grantee agency problems before they develop into serious issues, and direct grantee agencies to appropriate assistance when needed.

Formally, WisTAF monitors grantee use of funding through regular reporting, reviews of financial documents and on-site visits to grantee agencies for candid, in-depth discussions about the civil legal services each grantee agency provides. We require grantees to track demographic information about their clients and to conduct regular client satisfaction surveys to ensure that client needs are met and that clients are satisfied with the quality of the services provided.

WisTAF formally gathers information from its grantees through grant applications, mid-year grant reports, end-of-year grant reports and site visits.

**Grant application oversight.** Before a grant applicant is considered for WisTAF funding, all applicant agencies must provide WisTAF with extensive documentation showing their stability and on-going viability. That information includes:

- The agency's officers and directors list with addresses;
- Most recent audited financial statements, or most recent unaudited financial statements for those agencies without the means to conduct an annual audit;
- The agency's strategic plan;
- The agency's current and proposed budgets;

- A copy of the agency's 501(c)(3) letter or other official document showing the charitable purposes of the agency;
- Current agency bylaws;
- Written description of the safeguards used to ensure the funding is not used for criminal law, political lobbying or clients with incomes that exceed 125% of the federal poverty level. The safeguards must include specific record-keeping and accounting procedures.

Once an agency has received a WisTAF grant, they are required to sign a grant conditions contract agreement, which provides clear guidelines for the agency's use and management of the funds.

Grant application materials are reviewed by staff and WisTAF's Grants/Evaluations Committee. Applications are made available for all WisTAF Board members to review, as needed.

**Mid-year and end-of-year grant reports.** Grantees are required to submit two written reports each grant year.

In their mid-year reports, grantees are asked to provide information about any program or management changes that have taken place since the start of the grant period, to describe any new challenges that they may face, and to tell WisTAF about any new client or case trends that they have encountered, such as a rise in bankruptcies or increases in disputed medical care claims. They are also required to file financial reports showing the first six months of their use of the grant funds. Mid-year reports are reviewed by staff. If any problems are identified, staff refers them to the Grants/Evaluation Committee for review and follow-up.

End-of-year reports are more extensive than the mid-year reports. In addition to providing detailed information about program, administrative and financial management, agencies are required to give final client demographic and closed case statistics for the grant funds, including financial outcomes of cases. They must also provide final financial income and expense statements for the grant and, as appropriate, the agency. End-of-year reports are reviewed by staff and the WisTAF Board of Directors.

**Site visits.** After every grant cycle is completed, WisTAF schedules on-site visits with each grantee agency. Prior to the visit, staff and WisTAF Board members review each agency's end-of-year report and financial statement, and any audited statements that might be available. WisTAF staff members and board members attend each site visit and meet with senior provider agency management staff, during which we have the opportunity to ask questions and learn more about the agency's fiscal and administrative management. Board members from the grantee agency often attend the meeting to provide governance information.

### ***2008-2009 Civil Legal Services Appropriation Outcomes***

#### **Geographic Distribution of Funds**

*Client story: Susan had to flee her home when her abusive husband threatened to destroy their house and kill the entire family. She worked successfully with police and the district attorney, and her husband was sent to prison. While he was in prison, Susan attempted to secure a divorce on her own because she couldn't afford an attorney. She filed the motion pro se and received a judgment of divorce. However, she made some errors in the process and her husband was able to reopen the case and vacate the judgment. He began to demand visitation rights and property. Susan turned to a civil legal services provider that was able to provide full representation to Susan for free, and to secure a complex settlement for her that protected her and her children, in addition to a new (and binding) divorce judgment.*

Family law cases involving domestic violence are among the most complex legal cases an attorney can undertake. Statewide, many private attorneys refuse to take them because of the long hours they require to complete and the emotional circumstances that accompany them. The 2008-2009 low-income civil legal services appropriation provided legal services providers to take on cases similar to Susan's in every Wisconsin county.

The 2008-2009 low-income civil legal services appropriation reached all 72 Wisconsin counties, in amounts roughly approximating the poverty populations of each judicial district.

(Please see Appendix Chart 2: Distribution of Low-Income Civil Legal Services Funds by Judicial District.)

#### **Clients Served**

*Client story: A disabled woman, incapacitated with HIV and cancer, needed help with multiple legal issues, but couldn't afford an attorney. A legal services provider assisted her with drafting a will, setting up powers of attorney for health care and finances, finding suitable housing, and recovering stolen property.*

Lack of money isn't the only factor that prevents clients from being able to access the civil law courts. Other factors such as disability or lack of transportation can also play a factor. Many private attorneys don't have the resources to undertake cases that include such complicating factors. In addition, many poverty law legal cases are complex, simply because legal problems are rarely addressed in a timely fashion and continue to build due to lack of funds available to pay a private attorney.

In its first year, the Wisconsin low-income civil legal services budget appropriation helped more than 6,400 individuals and closed over 5,000 legal cases ranging from limited advice to representation in civil litigations.

Ethnic demographics of clients served<sup>1</sup>:

African American/Black: 21%  
Asian/Pacific Islander: 3%  
Caucasian/White: 53%  
Latino/Hispanic: 12%  
Native American/American Indian: 2%  
Unknown or Mixed Race: 9%

Age demographics of clients served:

Under 18: 3%  
19-59: 80%  
60+: 17%

Gender demographics of clients served:

Female: 67%  
Male: 32%  
Transgender: 0%  
Unknown: 1%

In order to provide the most accurate information about case outcomes, WisTAF requires grantees receiving state appropriation civil legal services grants to track only the individuals directly served, and only cases closed, not active or pending, for any given time period. This means that any reporting is necessarily conservative, since there are always open cases carried from one time period to another, many for several years, which receive funding from multiple state appropriation grants during that period of time. It is reasonable to assume that the actual impact of the state appropriation is therefore greater, since there are many unreported clients served or unreported services provided within any given reporting period.

The outcomes for state appropriation grants for civil legal services are tracked differently than other grant programs at WisTAF. In order to best determine the number, type and financial impact of services provided with state funding, WisTAF devised an outcome-based reporting system based on similar systems used to report civil legal services to the federal Legal Services Corporation.

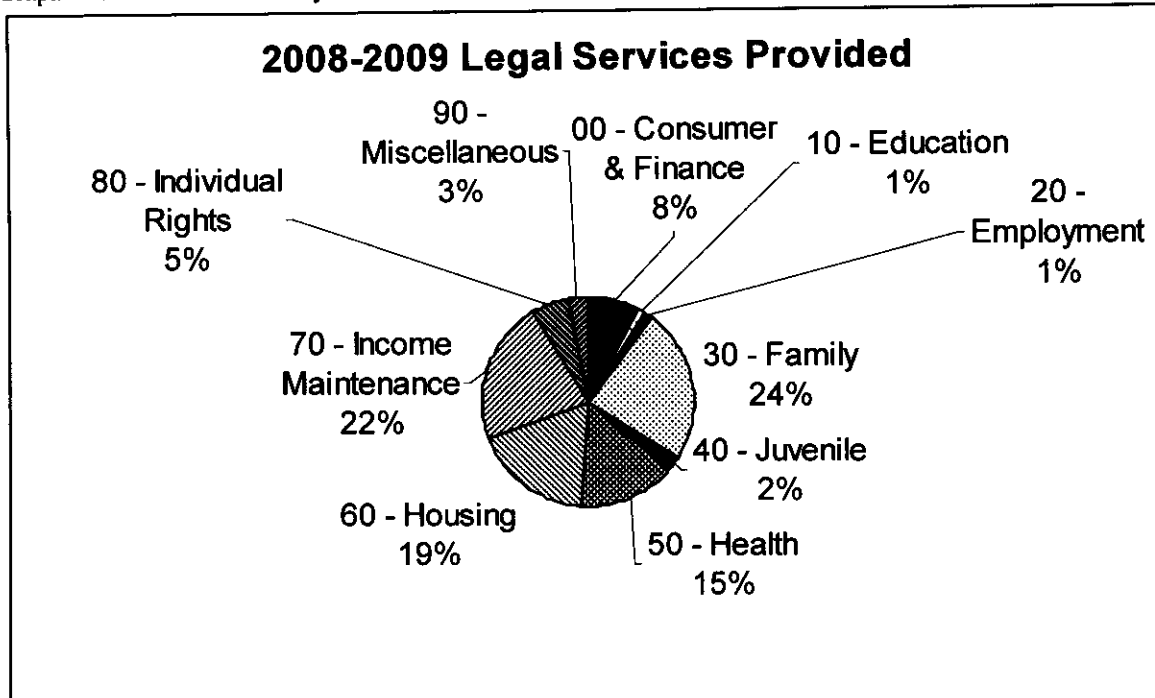
Eight of the eleven agencies receiving civil legal services state appropriation grants were able to put outcome tracking system in place in part or in whole in 2008. All agencies report that the systems have been put in place as of January 1, 2009.

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<sup>1</sup> Demographic information is collected every spring. Numbers quoted in this report are for the period from January 1, 2008 through December 31, 2008.

WisTAF broke the outcome measurements into ten civil legal services categories, each of which measured multiple case outcomes for services provided and funds successfully received or recovered for clients (see Graph 1. Service Outcomes by Area of Law).

Graph 1. Service Outcomes by Area of Law



The following are the most common types of services provided in each of the ten categories of civil legal law (though many additional outcomes are tracked as well).

1. Consumer/Finance – halted debt collection; prevented foreclosures; prevented or overcame utility termination.
2. Education – obtained right to special services (including special education); at risk programming and IEP plan; obtained services for transition from school to work.
3. Employment – overcame job discrimination.
4. Family – provided representation in litigation on a family matter; obtained custody or visitation rights; obtained, preserved or increased child support.
5. Juvenile – obtained guardianship or adoption for a dependant child; obtained benefits for a relative caretaker.
6. Health – obtained, preserved or increased Medicare or Medicaid benefits/rights; obtained payment reimbursement or write-off of Medicaid costs and/or private health insurance providers costs; obtained health or disability insurance.

7. Housing – prevented evictions, prevented homelessness, and prevented denial of tenants' rights.
8. Income Maintenance – assisted with, obtained, preserved or increased SSI/SSD benefits, Medicaid and food stamps.
9. Individual Rights – obtained autonomy of living or decision-making rights, primarily for disabled and/or institutionalized persons.
10. Miscellaneous – assisted with wills, living wills, health proxy or power of attorney; retained driver's license for access to employment purposes.

**Financial Impact: Funds Received or Recovered**

*Client story: Bob, a single parent raising two teenagers in northern Wisconsin, contacted a legal services provider because he couldn't afford an attorney and his private insurance provider denied his daughter's medical claim. His daughter's congenital bone disease had caused her to lose most of her teeth, so she was unable to eat and too weak to attend school. She needed oral surgery to rebuild her bone structure and support new teeth, but the insurance provider denied the procedure, saying it was dental and not medical in nature. The legal services provider reviewed the insurance policy and the daughter's medical records. The attorney then drafted a demand letter to the insurance company based on the medical necessity of the procedure. The insurance company reversed their denial and provided \$50,000 so that Bob's daughter could have the surgery she needed.*

In 2008-2009, civil legal services providers receiving state appropriation grants closed cases that generated financial outcomes for clients of over ten million dollars (see Graph 2: Funds Recovered or Received by Area of Law). The sectors from which the funds were generated were:

**Private sector** (individuals, primarily in child support increases or tenant security deposit recoveries): \$1,965,323

**Private sector** (businesses or corporations, primarily through recoveries from predatory lending practices, and wrongful denials of private health insurance benefits): \$2,043,814

**Public sector** (SSI/SSD, Medicaid/Medicare, food stamps): \$3,353,233

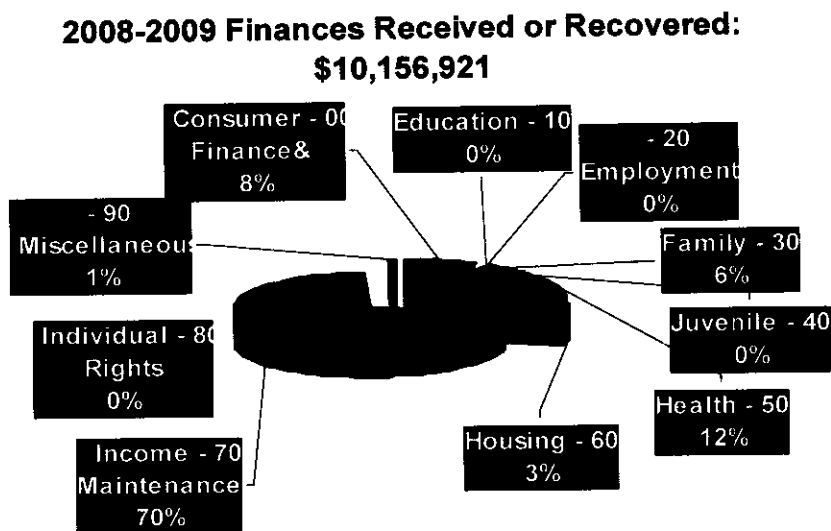
There was an additional \$2,794,551 of financial recoveries reported, but not designated by detailed area of law, so financial sectors could not be determined. One agency corrected previously reported funds.

Four agencies carried over 2008-2009 civil legal services appropriation dollars to fund programs through December 31, 2009, as allowed during this first cycle. The additional client outcomes will be reported in March 2010.

Since only five of eleven agencies were able to fully track financial outcomes during the time period covered in this report the actual recoveries were likely greater. Most grantees reported that they have implemented financial outcome tracking as of January 1, 2009.

In 2008-2009, eleven agencies have used their portion of the one million dollar appropriation to help thousands of clients and generate over ten million dollars in civil relief, not to mention the saved homes, the retained jobs and families seeking stability for dependent children. The program has demonstrated its value.

Graph 2. Funds Recovered or Received by Area of Law



Looking ahead into 2009 and beyond, the program seems well-situated to provide cost-efficient and effective services as well as to track the services provided to clients and funds recovered or received on their behalf. All grantees report that since the summer of 2008 and the start of the current economic crisis, the number of requests for civil legal services has sky-rocketed, while funding for civil legal services has dramatically decreased. State funding is more important than ever to help Wisconsin residents get the civil legal help that they need to retain their homes, their jobs, their families and their right to access the state's justice system.

*Note: All client stores contained in this report have had their name and/or gender changed to protect individual identities.*

Submitted by:

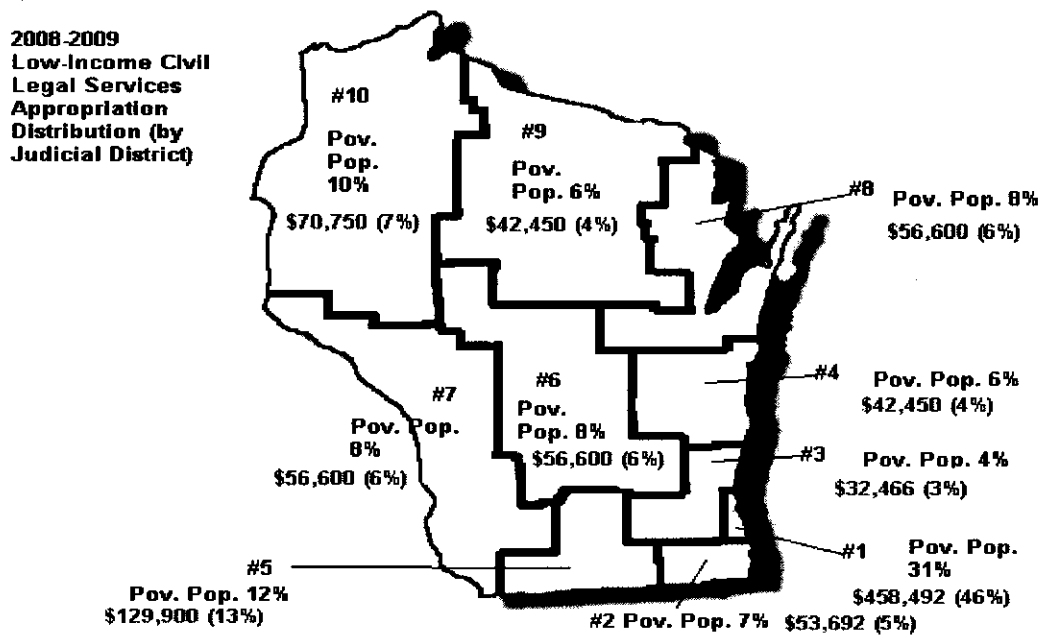
Date: August 17, 2009

De Ette Tomlinson, Executive Director

Attached: 2008 WisTAF Audited Financial Report

**Appendix Chart 1: WisTAF 2008-2009 Civil Legal Services State Appropriation Grants**

Agency	Requested	Received
ABC for Health	107,400	75,000
Aids Network	25,000	25,000
Aids Resource Center of Wisconsin	40,000	10,000
Catholic Charities of the Arch. Of Milwaukee	675,916	12,500
Centro Legal por Derechos Humanos	50,000	50,000
Community Justice	40,000	20,000
Disability Rights of Wisconsin	167,500	155,000
Interfaith Coalition for Worker Justice	10,000	-
Kids Matter Inc.	50,000	20,000
Legal Action of Wisconsin	376,000	350,000
Legal Aid Society of Milwaukee	167,600	155,000
Nonprofit Legal Services of SE WI	57,294	-
People Against Domestic Violence/Jefferson Cty	15,000	-
Portage County Legal Aid Society	5,000	-
WI Coalition Against Domestic Violence	70,875	-
WI Judicare	139,000	127,500
<b>Total Applicants: 16 Applicants</b>	<b>\$ 1,996,585.00</b>	<b>\$ 1,000,000.00</b>



**Appendix Chart 2: Distribution of Low-Income Civil Legal Services Funds by Judicial District**