

# The Changing Profile of Civil Legal Aid

The tough economy has produced changing needs, but the good news is that access to justice has increased for low-income Pennsylvanians

By Sam Milkes



“**M**ay we live in interesting times.” I originally wrote that eight years ago, when I was first asked to contribute to *The Pennsylvania Lawyer*. It was only six months after 9/11 and all of us were still trying to get our bearings. I spoke to the challenges we faced as citizens and as attorneys. And I spoke especially to the challenges faced by low-income Pennsylvanians, clients of the legal aid programs of the Pennsylvania Legal Aid Network (PLAN). Eight years later, we have weathered many challenges. But now we are again recovering, this time from what some would characterize as the near-collapse of our economy. Each of us knows how this has impacted us and our families. I am sure all expect it would impact clients of legal aid — and it has.

Here is how the needs of clients of legal aid have changed over nearly a decade. I am pleased to report that last year PLAN programs handled about 106,000 cases, 8.6 percent more than they did eight years ago.

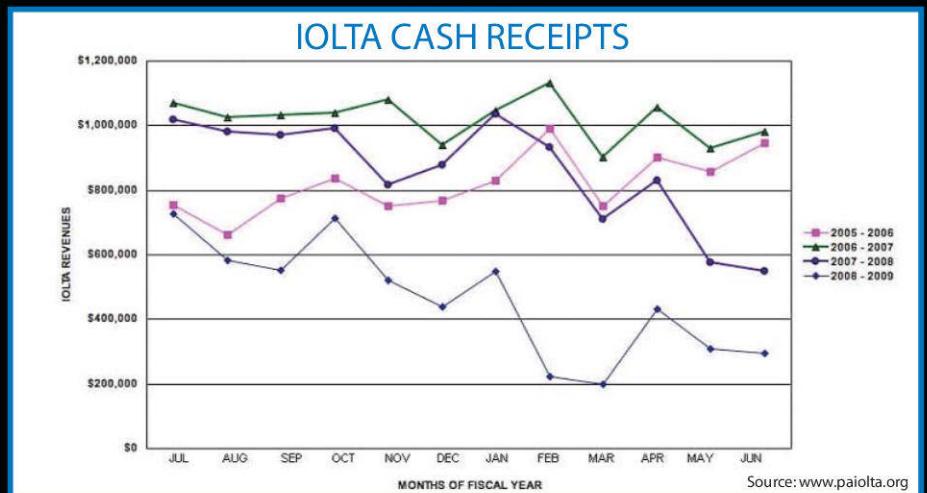
Our ability to help increasing numbers of people is largely the result of two factors. One is that despite the current low interest rates and their impact on revenues of the Interest on Lawyer Trust Account (IOLTA) program, the financial support and favorable responsiveness of the Supreme Court, the Legislature and the bar have had their impact. Eight years ago there was not yet a filing fee to help support legal services. (The current filing fee surcharge of \$3 on many filings helps to support legal aid.) There was not the annual \$25 lawyer assessment that helps fund legal services. There were no rules in

place requiring that IOLTA accounts be held with banks that pay fair and comparable interest rates. And the increased support of legal aid programs by their local bar associations in response to the tough economic times had not yet kicked in. Thanks to the leadership of these partners, access to justice has increased for low-income Pennsylvanians who touch the legal system and have nowhere else to turn.

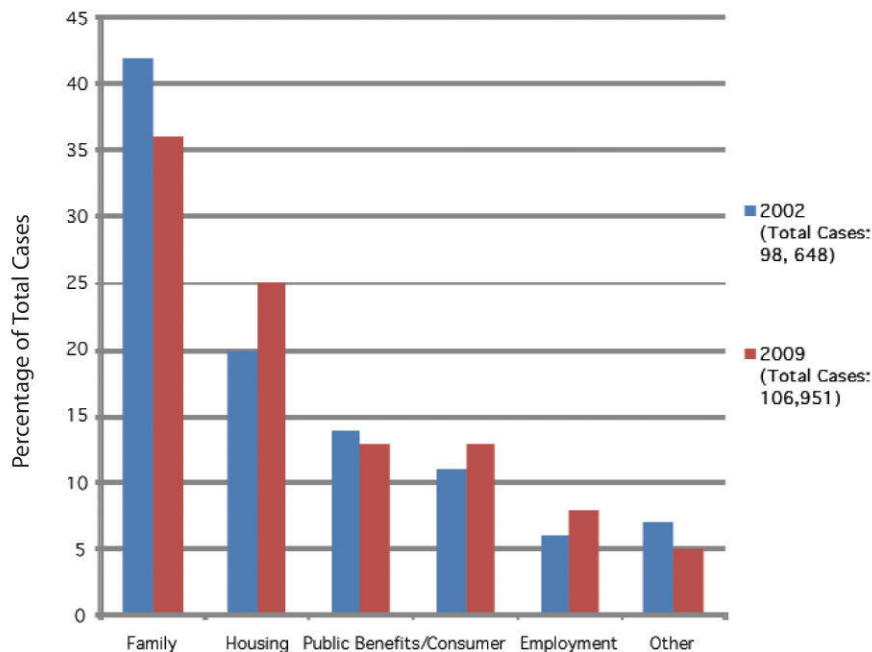
Increased activity has not played out across all areas of practice. The current economy has brought about changes in the types of cases we now handle. The accompanying chart on page 38 displays some of these changes from 2002 to 2009.

Given the high levels of unemployment and the high rate of foreclosures and debt problems, it may not be surprising that

In 2009, PLAN programs handled about 8.6 percent more cases than they did eight years ago.



## THE CHANGING CASE MIX



Source: Pennsylvania Legal Aid Network

the work of legal aid has grown more in areas such as housing, consumer and employment-related representation.

Family law is an area that has always constituted a large portion of the work of legal aid. Last fiscal year, we handled about 12,000 protection-from-abuse cases and 17,000 custody and visitation cases. Still, family law cases have dropped since 2002 as a percentage of cases overall. While our work in this area remains by far our single largest client service, the fact is that clients are increasingly contacting us about problems related to the economy and their desire to keep their housing, to get or keep a job and to defend themselves in consumer debt disputes. We have not in any way de-emphasized our work in family law, but our growth has been striking in these other areas. About 3,000 cases a year, out of more than 100,000 total cases, have moved from the family law area to these other areas.

I should mention that about 70 percent of our clients are female. This has not changed with the changing nature of our

case work. Single-parent heads of household continue to drive the poverty makeup of our state and our nation.

Housing cases grew from 20 percent to 25 percent of our caseload, or an actual increase of more than 5,000 cases. Client need for representation in this area has increased especially because so many more clients now face imminent loss of their housing, either through threatened foreclosure or through eviction. Evictions can result from the tenant's loss of a job and income and they can result from foreclosures upon landlords who own the homes. Often a legal aid program is able to step in to avoid the foreclosure or eviction. At times there are legal defenses to the foreclosure or eviction. At times there are ways to negotiate reasonable settlements that satisfy both parties.

About 7,500 clients are now represented annually in the area of employment. Historically, the only way in which legal aid programs became involved in employment law was through representation in unemployment compensation claims. Of the 7,500 clients, less than half are now

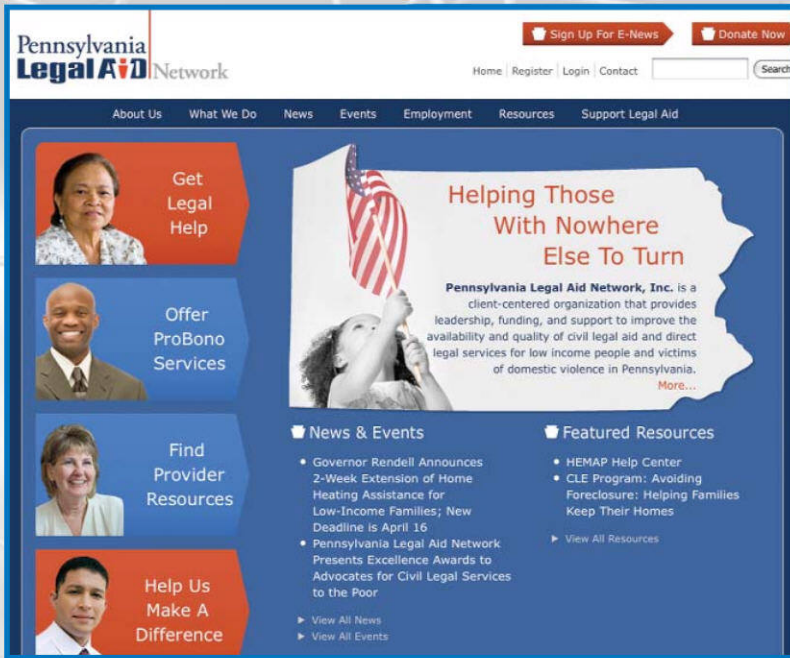
**The current economy has brought about changes in the types of cases we now handle.**

represented in these types of claims. The remainder are mostly clients we help to get or keep jobs. I was surprised when I first came to learn the various ways in which we can help in this area, as with the following examples.

- We obtain expungements of qualifying criminal records so that clients are better positioned for the job market. Clients are denied jobs because of items on their records that shouldn't be there. Some clients have completed requirements to have charges expunged. Others still have charges on their records that never resulted in convictions, but the charges still influence prospective employers. And still others have charges on their records due to identity theft — people using their names and causing their records to become blemished. We are able to help in all of these situations.
- Employers and job training programs sometimes rule out people seeking employment under a mistaken belief that a person is not eligible for the job. While an employer has the right to, and should consider, criminal convictions that are relevant to a person's job performance, employers and job trainers often think that they are required to rule out qualified applicants with certain records when they are not. In such cases legal services is able to intervene and to help clients qualify for jobs.

Even within the past year, as the economy has changed quite a bit, our clients have experienced changing needs. Although the overall caseload for the most recent fiscal year grew by just a fraction of a percent over the prior year, some areas that grew significantly were:

- Utility terminations. Under the financial pressures faced by our clients, it is often difficult to meet utility



# How PLAN Programs Are Helping

## *Keeping the Heat and Electricity On*

Jane Jones lived in an apartment with her two young children. She was barely able to afford the costs of the apartment and utilities because her job only paid a little over minimum wage. But then a workforce reduction caused her to lose her job. She looked for work, but the job market was tight and she had to rely on her unemployment compensation benefits to get by. Electric bills continued to arrive and Jane did her best to pay them, but she just couldn't keep up. She made payment arrangements with the utility company, but until she could get back into the job market, she simply couldn't afford the payments. The utility company notified her that they would be shutting off the electricity due to nonpayment. This would mean she'd have no way of cooking, no lights in the home and, when winter arrived, no heat. She contacted legal services.

The legal services attorney contacted the utility company and persuaded the company that Jane was eligible for the company's customer assistance program (CAP), under which she could make monthly payments that were affordable to her, have collection activity frozen on her outstanding unpaid arrearage and ultimately, after several years, get forgiveness for the arrearage so long as she stayed current with her scheduled CAP payments. Now, nearly a year later, Jane continues to make these CAP payments. She did not lose her power or heat when winter arrived, and it looks like she may have a job prospect in the works. ♦

## *Clearing the Way to a Job*

Legal Aid of Southeastern Pennsylvania (LASP) represented a woman who had successfully completed accelerated rehabilitation disposition for a driving under the influence charge, meaning it was a first-time offense. She was already a student in a local hospital's radiation technology program. To graduate and get a job, she needed this record expunged. The LASP attorney promptly filed a petition, persuaded the district attorney to join in and support this effort, and the client's record was cleared. She successfully graduated and secured a job in her chosen field.

## *Removing an Obstacle to Heart Surgery*

The Pennsylvania Health Law Project (PHLP) represented a 55-year-old woman who was unable to obtain the heart bypass surgery recommended by her cardiologist. Because she had severe dental problems that posed an infection risk, she needed to have 14 teeth extracted before she could have the necessary surgery. The category of Medical Assistance (MA) she had would not cover the dental work she needed prior to the surgery. PHLP researched the benefit limitations of various MA categories and, working with her doctor, helped her establish eligibility for a more comprehensive category that covered the necessary dental procedures and allowed her to have the heart bypass surgery.

expenses, and these costs are on the rise. We are witnessing an increased need for assistance in this area.

- Defense of collections and auto repossessions. Again, not a surprising area of increased need when clients lose their incomes.
- Domestic violence. Sadly, it is not unusual for us to witness an increase in domestic violence during economically challenging times, especially during high unemployment. Tensions in the household can cause physical lashing out, and legal services is able to help protect against this violence in the home.

The legal aid programs of PLAN take pride in our ability to adjust to the changing needs of our clients. As we look back nearly a decade, we can say that we have adjusted to those changes. I'm sure a decade from now we will again observe changes in the needs experienced by our clients. ♦



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