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Low-Income Consumers Face Utility Crisis

by Harry Geller, Esq.
Director, Pennsylvania Utility Law Project

Gas, electric, water and the telephone are among the necessities which are figured into the budgets of all households. However, for many of the low-income, the need to connect to and maintain these essential services requires that a significant percentage of the family income be dedicated to utilities. While the typical Pennsylvania utility consumer living at the median income level pays approximately 4% of gross income for energy costs, those who are dependent on public benefits such as TANF must pay almost one-quarter of their income for the same commodity.

In times of rising prices, colder winters, lay-offs, or illness the family is inevitably forced to choose between a number of essential items. For these individuals the "heat or eat" dilemma is chillingly real. Last year, approximately 200,000 households had their electric or natural gas service involuntarily disconnected and an equal number lost their phone service for varying periods of time. Advocates are often called upon for assistance at a point when

the situation appears to be incapable of resolution.

This winter, the financial burdens of utility payments as a result of the additional increases in natural gas prices means that all practitioners should be acquainted with the steps which may be undertaken and the programs which are available to assist the people who are most severely affected. In legal service utility practice there are several goals which should be pursued simultaneously to prevent a crisis: usage control, billing stability, and securing financial assistance.

The *Weatherization Assistance Program*, which is funded by the Department of Energy and administered in Pennsylvania by the Department of Community and Economic Development, and the *Low-Income Usage Reduction Program (LIURP)* administered by the regulated electric and gas companies under the jurisdiction of the Public Utility Commission, are the two most effective methods of controlling and reducing energy usage in low-income homes. An individual who applies for assistance from either of these programs will

receive relatively the same services. An energy usage audit will be conducted to assess where the greatest inefficiencies exist within the housing shell and the heating system. Following this initial review, a series of customized measures for each household (for example, insulation, caulking, hot-water heater wraps, and furnace retrofitting) may ensue. In some situations, out-dated and inefficient appliances may be replaced with those which are more conservation and budget

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PALawHELP.org

This month Pennsylvania Legal Services and the Southwestern Pennsylvania Legal Services Consortium launched a new website, PALawHELP.org. This website is a collaborative project of the Pennsylvania Legal Aid Network, LSC, and probono.net. It has been made possible through the leadership of Pennsylvania Legal Services and Neighborhood Legal Services Association, which has actively participated in its development through a technology grant from the Legal Services Corporation.

PALawHELP is the first phase in a two-step project aimed at providing technological assistance both directly to low-income people and to pro bono attorneys who are representing those individuals. PALawHELP is a single, easy to navigate web site that contains the best, most up-to-date legal information for individuals. It furnishes information about legal rights, links to social services and government agencies, and referrals to free legal aid programs. It also provides self-help and educational material in ten different areas of law. The website can be accessed directly or from NLSA's website at www.nlsa.us.

The second phase of the website project, ProBono.net, is aimed at assisting attorneys who are volunteering for legal service agencies. This site, which is currently in the planning stages, will support increased pro bono involvement by providing online resources for pro bono attorneys handling cases. It will also provide a clearinghouse or matching service, listing civil legal aid programs with cases in need of representation for pro bono attorneys who are looking for cases for which to volunteer.

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NLSA is a member of the Southwestern Pennsylvania Legal Services Consortium. Established in 1997, the fourteen county Consortium is a functional integration of Laurel Legal Services, Neighborhood Legal Services Association, and Southwestern Pennsylvania Legal Services. Together, these programs serve a poverty population that is greater than the individual eligible populations of sixteen other states. SPLSC was formed in response to an ongoing era of reduced governmental funding and the rising need of low-income people for professional legal services. The Consortium model enables the organizations to function in a coordinated manner throughout the region. At the same time, each program retains its own individual structure and identity permitting them to optimize the benefits of that coordination within their local communities.

“Older & Wiser” Off To Successful Start

by Laurie Mansell Reich
Older & Wiser Project Coordinator

Protection Through Powers of Attorney and Living Wills,” the first series of presentations in the Older & Wiser program, came to a successful close at the end of January.

The Older & Wiser seminars are presented free of charge through a cooperative project sponsored as a public service by the 14-county Southwestern Pennsylvania Legal Services Consortium and local state senators and representatives. The target audience for the Older & Wiser program is elderly adults and their families or caregivers.

The project, which was developed and is being piloted by Neighborhood Legal Services Association (NLSA), is a response to the great number of questions relating to aging which legislative offices throughout southwestern Pennsylvania receive. The legal topics provide practical information that attendees can put to immediate use.

The Older & Wiser series has been a cooperative one in many ways. NLSA has worked closely with the Elder Law Committee and Probate and Trust Committee of the Allegheny County Bar Association to recruit pro bono speakers for this first presentation. The response from both committees was overwhelming, with over 30 attorney volunteers signing up. Attorney Heidi Stewart, Chair of the Elder Law Committee and Senior Attorney at Houston Harbaugh, assisted Joe Olimpi, NLSA Managing Attorney, with the development of the presentation materials. Ms. Stewart was also the first presenter in August, 2003.

Support for the Older & Wiser program has come in the form of financial and in-kind contributions from both the legal and non-legal communities. Legal departments, law firms,

corporations, and a foundation have provided brochures, booklets, pro bono trademark work, buttons, and other items.

In addition, NLSA Board members have become involved in the project, volunteering to introduce the legislators and speakers at the seminars and discussing NLSA and the Older & Wiser program with various groups.

Legislative feedback regarding the program has been excellent. Survey forms completed by attendees at each of the seminars have been consistently positive. Responding to these comments, legislators are already asking about scheduling the second and third round of seminars in the series. The second cycle of presentations, “Dealing Effectively with a Healthcare Facility,” will be offered beginning in April.

If you are not already on the list to volunteer and would like to be a presenter for the second seminar, please e-mail Laurie Mansell Reich at reich@alltel.net or call her at 724-763-9049.

NLSA also needs additional financial and in-kind sponsors to underwrite printing and other costs for the second presentation. If your company or firm is interested in making a contribution to this worthwhile program or would like to partner with a client or copy company, please contact Laurie Mansell Reich.

Participation in the Older & Wiser program expands NLSA’s ongoing efforts to assist the elderly. This concern has long been evidenced by our Elder Law Program (ELP), in which NLSA attorneys visit various senior centers in the area to advise and assist elderly clients on legal matters. We are happy that “Older & Wiser” now enables us to reach out to even more elderly citizens and their families.

PALawHELP.org *(Continued from page 2)*

Private attorneys or firms can help in the project by volunteering to help develop the body of content in one of the substantive areas. Those attorneys or firms which have already agreed to develop a chapter for NLSA’s Helpline Manual might find this work especially worthwhile, as the material prepared for the Manual can also be used for this project.

If you would like more information on how these websites can benefit you and the legal services clients whom you represent, please contact Christine Kirby via email at ckirby@palegalservices.org or Hank Leone, Web Project Coordinator at palawhelp@palegalservices.org.

Recipient of PLS “Striving Toward Excellence” Award: An Employee Spotlight on Gerry Redmond

by Barbara Kern

On March 10, 2004, Gerry Redmond will receive one of the Pennsylvania Legal Services awards as an outstanding staff member in a legal services organization. NLSA is proud that it is our staff on which Gerry serves.

Gerry Redmond began working in the Butler office of NLSA on August 1, 1974, the date on which the office first opened. During the almost thirty years since that date, she has remained in the Butler office, first as a secretary and then as a paralegal and office manager.

Today Gerry is truly a “jack of all trades.” As office manager, she keeps accounting records for the Butler office, helps organize recognition dinners, prepares meeting agendas, and generally sees that the office runs smoothly. As a paralegal, Gerry represents clients in welfare cases, handles negotiations with utility companies, runs the custody clinic, and assists the attorneys in their case work in all other areas. She is also responsible for the volunteer attorney program and the CLE seminars held out of the Butler office.

When asked about her work at NLSA, Gerry will always reply, “I love it.” And that fact may well be what makes her work so outstanding. Over almost thirty years she has retained not only her concern for the clients we serve, but also the enthusiasm which enables her to be on the lookout for innovative ways of serving those clients at times of reductions in funding and in staff.

Her referral work with the private bar has grown increasingly successful because of the reputation she has developed with these attorneys over the years. She has built a relationship of trust based on her honest and fair dealings with the attorneys who do volunteer work for the Butler office. One attorney recently commented that Gerry does not make attorneys feel guilty when they cannot

accept referrals. She is understanding of their personal situations, which may at times make it more difficult for them to devote time to volunteer work. At the same time, she has worked extremely hard to develop a successful referral program in the Butler County office.

Gerry, the mother of three grown sons, also assists NLSA clients through her membership in the Health and Human Services Council of Butler County and the committee for the Butler County Community Action Program.

But for her commitment and dedication, thousands of Butler’s indigent families would not have received representation on matters of great urgency and importance to them, i.e. preventing illegal lockouts, sales of their personal belongings, or foreclosures on their homes; stopping snatches of their children; obtaining unemployment and SSI benefits. She has truly made every effort to “leave no client behind.”



Gerry Redmond

Ms. L. – A Case Study

by Barbara Kern

NLSA represents many Section 8 tenants who have received termination notices from Section 8. These cases are extremely important, because the Section 8 housing subsidy is a vital aid to low income families who are trying to stretch minimum wage or public benefit incomes to cover all family expenses.

Helping the client retain his or her Section 8 is also critical because of the limited number of Section 8 vouchers now available and the long waiting list for the program. HACP's Section 8 application list is now closed. ACHA, which has a merged public and Section 8 application list, is taking applications but has no vouchers.

Ms. L, a single mother with two children, is currently supporting her family on a small monthly unemployment compensation income. Her case is a good example of how NLSA helps low-income clients retain vital subsidies.

Ms. L first came to NLSA after she had gone to a grievance hearing herself and received a decision letter denying her grievance. The first step in helping her was to obtain a new hearing. Her attorney, Margaret Fried, reviewed the decision letter and noted that the hear-

ing officer had used information gained outside of the hearing to reach his decision. She contacted an attorney for the Housing Authority, who agreed that this had been improper and ordered a new hearing.

This was a significant achievement, in that an appeal of the original decision would have had little likelihood of success because of the limited record the client had been able to create for herself as a pro se grievant in that hearing.

The termination was based on complaints of two neighbors, who frequently called the police and complained to Section 8 that the client and her family were causing problems and were thus in violation of their family obligations under Section 8.

The first witness presenting evidence to support the termination was a police officer, who testified that the police department had received a call from the local councilman as well as the two neighbors and that two citations had been issued pursuant to those calls. The officer admitted under questioning by Ms. Fried that she had not issued the citations, nor did she know if the officer who had written them

had actually gone out to investigate the complaint.

The second witness was a Section 8 investigator who testified that the extent of her investigation was merely to call the police and the neighbor who had complained.

Ms. Fried's investigation, conducted by NLSA Legal Intern Eric Davis of the University of Pittsburgh School of Law, indicated that this problem was clearly a matter of prejudice.

The client presented testimony on her own behalf as well as the testimony of her Section 8 landlord (who had taken a day off work to come in for the hearing). He testified that even with young children Ms. L kept the house in excellent condition. He said that he had investigated the neighbors' complaints himself and found no basis for them. He further testified that this was a mixed neighborhood and that three previous African-American tenants to whom he had rented (one of whom was a minister) had been forced out by the same problems.

The decision was favorable to the client. She has retained her Section 8 subsidy and she and her family remain in their home today.

Utility Crisis *(continued from page 1)*

friendly. Both tenants and home-owners may be eligible for each of these services.

Consumers who are on tight budgets always need to avoid monthly billing surprises. The best way to do this is to arrange *budget or annualized billing*. The utility will analyze the usage patterns of the past year, determine what the annual costs have been and then spread the bills over 12 similar payments. Although there will be periodic adjustments to account for variations in usage and costs, the effect will be to avoid the dramatically steep increases in bills which may occur during high usage periods.

During the past decade, utility restructuring in Pennsylvania, brought about by the Electric and the Natural Gas Choice legislation, also resulted in the mandatory creation of *Universal Service Programs*. These programs, which are administered by each local electric and natural gas distribution company, are specifically designed to assist low-income rate-payers. Enrollment in any one or all four of the universal service program components may make a substantial difference. Universal service programs each consist of:

- A conservation program (the *Low-Income Usage Reduction Program* discussed above);
- A payment assistance program known as a *Customer Assistance Program*. A CAP attempts to create an affordable payment based upon either a fixed percentage of the bill or a percentage of the household income or through a percentage rate discount;
- A *CARES* program designed to provide special assistance through referral, budget counseling, case management and other appropriate services to selected payment-troubled customers who have special health or disability concerns or who are experiencing unique temporary difficulties; and
- A *Hardship Fund*, which solicits community and rate-payer contributions and combines those contributions with company matching funds to develop a resource to assist individual customers who face imminent service shut-off. In each community a non-profit agency, such as the \$ Energy Fund in western Pennsylvania, administers the distribution process.

Each cold weather season, during the months of November through March, the *Low-Income Home Energy Assistance Program (LIHEAP)* operates throughout Pennsylvania. Although eligibility requirements, the specific amount of financial assistance and the length of the program

may vary from year to year (depending on the level of the federal appropriation), the program has shown itself to be an essential form of annual assistance to more than 300,000 households who depend on these benefits to provide energy payment stability.

LIHEAP provides three types of benefits: a *Cash Grant* to eligible households with heat-paying responsibilities; a *Crisis Grant* to eligible households who have a heat related emergency, who have lost service, or who are in imminent danger of losing service; and a home heating repair component for consumers who require emergency heating system repairs. An individual may apply for as many of these benefits as is appropriate.

This year the LIHEAP is scheduled to be open from November 12, 2003 to March 25, 2004. The eligibility level is set at 135% of the federal poverty income guidelines, which translates to a gross income of \$24,840 for a household of four. The Cash grant amount will vary depending upon the family income, household size, the primary source of heat and the degree-day region of the state in which the applicant lives. However, the grant will be no less than \$50, will average about \$226 per household, and for many of the lowest income applicants will be significantly higher. The Crisis Grant is set at a maximum of \$300.

This year the most significant change in the program administration is within the home heating system repair component known as the *Crisis-Interface*. Any LIHEAP eligible individual who is without heat due to the need for a home-heating system repair may now receive that repair through application at the county LIHEAP office and referral to the local county weatherization provider.

LIHEAP funds are limited and it is always sound practice to advise your clients to apply as early as possible. In past years, additional funding has been received from the federal government and distributed to those who have already been determined eligible.

On February 5, 2004, HHS Secretary Tommy G. Thompson announced the release of an additional \$191.5 million in LIHEAP funds for states, territories and tribes. The release brings the total amount made available so far this winter to almost \$1.65 billion. Pennsylvania will receive an additional \$10,696,360 in LIHEAP emergency contingency funds. This amount, combined with the increase of projected LIHEAP funding as a result of the passage of the omnibus funding package totals \$16,804,102.

The Pro Bono Corner

Attorney **R. Bruce Ralston** has been awarded the 2002 Pro Bono Publico Award by the Court of Common Pleas of Butler County and the Butler County Bar Association. He was honored for his time and expertise in helping needy citizens. Mr. Ralston has been practicing law in Butler County for approximately 27 years.

NLSA particularly appreciates his outstanding service to our clients in that area. He has accepted pro bono and reduced fee referrals from NLSA for nineteen years. In the year 2002, NLSA referred 44 cases to him in the areas of custody, divorce, and support.

Because of his outstanding commitment to equal justice under the law, Mr. Ralston has also been a recipient of the Pennsylvania Bar Association's Pro Bono Award.

At the same luncheon at which Mr. Ralston received his award, President Judge Thomas Doerr presented certificates of appreciation to 26 attorneys who practice in the county and help low-income families.

Receiving certificates were Cathy Boyer, Maryann

Bozich-DiLuigi, S. Joseph Brydon, Ronald Coyer, David Crissman, Jackie Dimun, Katrine Erie, Leonard Grence, Wesley Hamilton, Laurel Hartshorn, Marion Laffey-Ferry, Mark Lope, Susan Lope, Joy Maffei, Matthew Marshall, Leslie Mathis, Dennis McCurdy, John Morgan, Christine Nebel, Lynn Patterson, Gerry Paulisick, Gwilym Price III, Dai Rosenblum, Elisabeth Smith and Robert Spohn.

We congratulate all these attorneys and thank them for their assistance to NLSA and its clients.

NLSA would like to thank the attorneys who have assisted us at our two Wednesday evening clinics during 2003. Our goal at each clinic is to have two private attorneys in addition to one NLSA staff attorney.

One hundred fifty-three clients attended our 23 Debt Advice Clinics. They received legal advice from 27 attorneys, who were recruited by Attorney Francis Corbett. Mr. Corbett not only scheduled the other attorneys to work at the clinic; he also volunteered at 7 clinics himself.

During the same period, 97 clients attended 23 Fam-

ily Law Clinics and were given advice in divorce, custody, and support issues by 26 attorneys. Paralegals Heidi Weber and Bobbi Kramer from the law firm of Kirkpatrick & Lockhart are in charge of scheduling attorneys for this clinic

We have also been fortunate to have the assistance of paralegals recruited and scheduled by Lynn Wyant from Eckert Seamans Cherin and Mellot LLC. In addition, Ms. Wyant is a frequent volunteer at the clinic herself.

Comments that we consistently receive from the clients who come to the clinics ("Everyone treated me so nice"; "You were all so helpful"; "The attorney explained things to me so that I understand what to do now.") clearly indicate not only the value of the work being performed at these clinics, but also the concern of the volunteers.

**NLSA NEEDS
YOUR SKILLS,
TALENTS, AND
COMPASSION**

**Please call us
to volunteer!**



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NLSA's mission is to meet the civil legal needs of poor and vulnerable individuals by securing the rights and obtaining the benefits to which they are entitled through effective legal representation of eligible individuals and groups.



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The NLS Press

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