

**CHAPTER 10**  
**SHOOTING GALLERIES**

**NOTE:** Rule-making authority cited for the formulation of regulations for shooting galleries by the Director of Revenue and Taxation, §8901.3 Government Code (P.L. 15-132).

**CHAPTER 11**  
**PRE-PAID LEGAL SERVICE PLANS**

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**NOTE:** Rule-making authority cited for Pre-Paid Legal Service by the Department of Revenue and Taxation, Public Law 18-006:18.

These Rules and Regulations were filed with the Legislative Secretary on July 22, 1987. **§11101. Title.** These Regulations shall be cited as the Legal Service Benefit Organization Regulations of 1987.

**§11102. Purpose.** These Regulations shall be interpreted liberally to achieve the purpose of encouraging the development of effective and economical methods for making legal service plans available to the people of Guam; and to protect the interests of the public as consumers of legal service plans by the regulations of legal service plan providers.

**§11103. Definitions.** (a) *Legal Service Benefit Organization (LSBO) or organization* means any person or group of persons authorized by this statute to provide or offer a legal service plan or plans.

(b) *Legal Service Plan* means a contract between an enrollee or group of enrollees and a person whereby the person undertakes to provide, arrange for, or pay for the cost of preventive, basic, and/or comprehensive legal service benefits and related expenses in exchange for a fixed prepaid sum or per capita payment.

(c) *Legal Services* means any service normally provided by an attorney, as well as the payment of related expenses and court costs incurred in the exercise of any legal right; but not including the payment of fines, penalties, judgments, or assessments.

(d) *Enrollee* means a participant who is entitled to receive legal services under a legal service plan.

(e) *Affiliated Provider* means any attorney licensed or otherwise authorized to practice law in the territory of Guam having a written contract with a Legal Service Benefit Organization to provide authorized legal services to an enrollee or group of enrollees under a legal service plan which pays the attorney a prepaid sum or per capita payment in exchange for all or a portion of those services.

(f) The *Act* refers to the Prepaid Legal Service Programs Law of 1986, enacted by Public Law 18-6 and amended by Public Law 18-49.

(g) *Sales Representative* means a person authorized by a Legal Service Benefit Organization to issue, deliver and sign Legal Service Plans, to accept service of process on behalf of the Legal Service Benefit Organization, and vested with full authority to consummate a contract on behalf of the Legal Service Benefit Organization, to transact all other necessary business of the Legal Service Benefit Organization on Guam, and authorized by the Legal Service Benefit Organization to solicit applications, receive proposals, receive payments or premiums due under the Legal Service Plan and delivery Legal Service Plans.

**§11104. Exemptions.** These Regulations shall not apply to:

(a) Retainer contracts made by an attorney with individual clients with fees based upon an estimate of the nature and amount of services to be provided to a specific client and similar contracts made with a group of clients involved in the same or closely related legal matters.

(b) Not-for-profit bar association sponsored or approved lawyer referral services.

**§11105. Establishment of Legal Services Organizations.** (a) Any person may apply to the Director of Revenue and Taxation to obtain a Certificate of Authority to establish and operate a Legal Service Benefit Organization in compliance with these Regulations.

(b) No person shall sell or offer to sell, solicit offers to purchase or receive any form of consideration for a Legal Services Plan on Guam unless the provider of such plan holds a Certificate of Authority under these Regulations.

(c) Every Legal Service Benefit Organization wishing to do business on Guam on or after the effective date of these Regulations shall submit an application for a Certificate of Authority under Subsection (4) of this section. In the event an application is denied under Section 7, the applicant shall thereafter be treated as a Legal Service Benefit Organization whose certificate of Authority has been revoked.

(d) Applications for a Certificate of Authority shall be made on a form prescribed by the Director of Revenue and Taxation and shall be executed under oath by an officer or authorized representative of the applicant and shall contain or be accompanied by:

(1) A copy of the basic organizational documents of the applicant, including Articles of Incorporation, partnership agreements, trust agreements, or other applicable documents;

(2) A copy of the By-Laws, regulations, or similar documents, regulating the conduct of the internal affairs of the applicant;

(3) A list of the names, addresses and official capacities within the organization of all persons who are responsible for the conduct of the affairs of the applicant, including all members of the governing body, the officers and directors in the case of a

corporation; the partners under a partnership the trustees under a trust agreement and the members of owners under any other organizational form;

(4) A statement generally describing the organization; its enrollment process; its administrative operations; any cost and quality control assurance mechanisms, its complaint mechanism and procedures, the method it proposes to use to enroll members, the geographic area or areas to be served, the location of its office or offices, the number of providers to be utilized, and the record keeping system which will provide documentation of the utilization of plan benefits by enrolled participants;

(5) Copies of all contract forms the organization proposes to furnish to enrollees;

(6) Copies of all contract forms the organization proposes to enter into with affiliated providers;

(7) Copies of the forms of evidence of coverage to be issued to enrolled participants;

(8) Copies of the forms of group contracts, if any which are to be issued to employers, unions, trustees or other organizations;

(9) A statement of the financial condition of the organization, including balance sheet, showing working capital of at least two hundred and fifty thousand dollars, as required by Section 7 below, certified to by an independent certified public accountant;

(10) A description of the proposed marketing techniques and copies of any proposed advertising materials;

(11) A schedule of rates;

(12) The statement of reserves accompanied by the affidavit of an Actuary as required by Section 7 below; and

(13) Other information requested by the Director

of Revenue and Taxation necessary to make the determinations under Section 7.

(e) Every Legal Service Benefit Organization already doing business in Guam as a Legal Service Benefit Organization as of the effective date of these Regulations must obtain a Certificate of Authority under this section.

**§11106. Certificate of Authority.** (a) The Director of Revenue and Taxation shall issue to any person filing an application, within 30 days of the filing, a Certificate of Authority; or

(b) The Director of Revenue and Taxation may refuse to issue a Certificate of Authority, if he notifies the applicant during that time that the application is not complete or sufficient and the reasons therefore, that payment of the fees required by Section 16 has not been made or that he is not satisfied that:

(1) The basic organizational documents of the applicant when combined with the powers of enumerated in Section 8, permit the applicant to conduct business as a legal Service Benefit Organization; or

(2) The organization has demonstrated the intent and the ability to provide the services in a manner which insures their availability and accessibility; or

(3) The organization is financially responsible and may be reasonably expected to meet its obligations to is enrolled participants; or

(4) The organization has met the requirements of these Regulations.

**§11107. Working Capital and Reserves.** (a) The Legal Service Benefit Organization must have and maintain minimum working capital of two hundred and fifty thousand dollars (\$250,000.00). If it is shown in the application or in the annual report that an organization's working capital has been less than \$250,000.00, then the organization's Certificate of Authority shall be suspended.

(b) The Legal Service Benefit Organization must have and maintain adequate reserves in accordance with generally accepted actuarial practices. Each application for a Certificate of Authority under Section 5 and each Annual Report under Section 10 shall be accompanied by an affidavit by an Actuary as defined in sub-section (3) below, that in his or her professional opinion the reserves of the Legal Service Benefit Organization meet with generally accepted sound actuarial practices.

(c) Actuary as used in sub-section (2) of this section means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under sub-section C of Title II of the Employee Retirement Income Security Act of 1974.

(d) The reserves required by this section shall be kept on deposit in such bank or banks, or other financial institutions, located in Guam, as are approved for such purposes by the Director of Revenue and Taxation. Such deposits shall at all times include lawful money of the United States equalling at least twenty-five percent (25%) of the reserves; the remainder of such deposits may consist of lawful money of the United States or securities of the types allowable as investments for domestic insurers under 22 GCA §15317, or any combination of such money and such securities.

(e) The reserves required by this section shall not be expended except when necessary to pay a claim against the organization, in which event the reserves shall be replenished by the organization in such time as sound generally accepted actuarial practices require.

**§11108. Powers of a Legal Service Benefit Organization.** The powers of a holder of a Certificate of Authority issued pursuant to Section 6 shall, in addition to any other powers conferred by the law under which the legal services benefit organization is organized, include the following:

(1) The purchase, lease, construction, renovation, operation, or maintenance of facilities and property reasonably required for the delivery of services or for

such purposes as may be considered reasonably necessary to the operation of the organization;

(2) Marketing and administering a Legal Services Plan or Plans, as defined in Section 3(2), or contracting with any person for the performance of these functions on its behalf.

The above powers are subject to other requirements of law such as permits, licenses, etc.

**§11109. Contract Forms.** (a) All forms of contracts issued by the organization to enrollees and marketing documents purporting to describe the organization's Legal Service Plan shall contain:

(1) A complete description of the legal services to which the enrollee is entitled, including a statement as to whether the following specific legal services are included in the services to be rendered:

(i) - costs of appeals of an action to higher courts

(ii)- the costs of an action, i.e., court costs, deposition costs, expert witness fees

(iii.)- administrative level actions

(2) The predetermined periodic rate of payment for legal services which the enrollee is obligated to pay per month and per year. The rate per year shall be set forth in the contract in bold print in the following manner:

"These legal services will cost you \$\_\_\_\_\_ per year.

(3) All exclusions and limitations on services to be provided, set forth in the contract in the following manner:

"The following services are not covered: \_\_\_\_\_ ... "If excluded, the following services must be specifically mentioned as excluded:



(i) - divorce, child custody and domestic matters

(ii) - bankruptcy

(iii) - DWI's, DUI's and other alcohol related incidents

(iv) - debt collection

(v) - criminal proceedings

(vi) - intentional torts, i.e., assault, battery.

(vi) - drug related incidents.

(4) A list of affiliated providers. If the list of affiliated providers is changed by the Legal Service Benefit Organization, such amended list must be provided to each enrollee within thirty days after such change and to the Director of Revenue and Taxation within 15 days after such change.

All criteria by which an enrollee may be disenrolled or denied re-enrollment.

(b)(1) In addition to any right otherwise to revoke an offer, the enrollee has the right to cancel a home solicitation sale of a Legal Service Plan until midnight of the third calendar day after the day on which the enrollee signs an agreement or offer to purchase a Legal Service Plan.

(2) Cancellation occurs when the enrollee gives written notice of cancellation to the Sales Representative at the address sated in the agreement or offer to purchase.

(3) Notice of cancellation, if given by mail, is given when it is deposited in a mail box properly addressed and postage prepaid.

(4) Notice of cancellation given by the enrollee need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the enrollee not to be bound by the home

solicitation sale.

(5) In any sale of prepaid legal services, the Sales Representative must present to the enrollee and obtain his signature to a written agreement or offer to purchase which designates as the date of the transaction the date on which the enrollee actually signs and contains a statement of the enrollee's rights which complies with subsection (f).

(6) The statement must:

(i) - appear under the conspicuous caption: "ENROLLEE'S RIGHT TO CANCEL",

(ii) - contain the name and mailing address of the Sales Representative in the place prescribed by paragraph (b), and

(iii) - say the following: "If you do not want the services you may cancel this agreement by mailing a notice to the Sales Representative before midnight of the third day after you sign this agreement. The notice should be mailed to the following address (insert a mailing address of Sales Representative). If you cancel, the Sales Representative may keep up to the first monthly payment for these services".

(7) Until the Sales Representative has complied with this section the enrollee may cancel the home solicitation sale by notifying the Sales Representative in any manner and by any means of his intention to cancel.

(c) No contract between a Legal Service Benefit Organization authorized to do business under the Act and any Affiliated Provider shall contain any provisions which require enrollees to guarantee payment (other than co-payments and deductibles) to the Affiliated Provider in the event of non-payment by the Legal Service Benefit Organization for any services which have been performed under contracts between the enrollee and the Legal Service Benefit Organization.

(d) A Legal Service Benefit Organization shall assume full financial risk on a prospective basis for providing legal services to the enrollee. However, the organization may require in its contract with any Affiliated Provider that the Affiliated Provider assume financial risk, obtain insurance, or make other arrangements for the cost of providing to an enrollee legal services in the event that the Legal Service Benefit Organization's coverage of the enrollee ends.

(e) No contract between a Legal Service Benefit Organization and a Sales Representative may disclaim the legal relationship or consequences of an agency relationship, and the Legal Service Benefit Organization remains liable for all statements and representations of any kind made by Sales Representatives if such statements or representations were made under the implied or express direction of or with the implied or express approval of the Legal Service Benefit Organization.

(f) No contract form or amendment shall be issued unless it is approved by the Director of Revenue and Taxation.

(8) Professional fees will be paid directly to the attorney by the Legal Service Benefit Organization, and no refunds will be made to the enrollee. The affiliated provider shall not accept any fees from the enrollee for covered benefits under the legal Service Benefit Plan.

**§11110. Annual Report.** (a) All Legal Service Benefit Organizations subject to these regulations shall annually, on or before the date when the Legal Service Benefit Organization's Certificate of Authority expires, file a report with the Director of Revenue and Taxation, verified by an appropriate official of the organization.

(b) The report shall include:

(1) A financial statement of the organization, including its balance sheet showing maintained working capital of at least two hundred fifty thousand dollars (\$250,000.00) as required in Section 7, above,

certified to by an independent certified public accountant;

(2) An affidavit by an Actuary as that term is defined in paragraph 7(3) above, that the reserves of the Legal Service Benefit Organization continue to be adequate under generally accepted sound actuarial practices; and

(3) Such other information related to the performance of the organization as the Director of Revenue and Taxation may specify in order to enable him to carry out his duties under these Regulations.

**§11111. Complaint System.** Every Legal Service Benefit Organization shall establish and maintain a complaint system, which has been approved by the Director of Revenue and Taxation, to provide reasonable procedures for the resolution of complaints initiated by enrollees concerning any aspect of the Legal Services Plan or plans operated by the organization.

**§11112. Prohibited Practices.** (a) No Legal Service Benefit Organization, or representative thereof, may cause or knowingly permit the use of advertising or solicitation which is false, fraudulent, misleading or deceptive or any form of evidence of coverage which is deceptive for the purpose of these Regulations.

(b) A statement or item of information shall be considered to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee, or a person considering enrolling in a legal services plan.

(c) A statement or item of information shall be considered to be misleading, whether or not it may be literally untrue, if, in the total context in which such statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person, not possessing special knowledge regarding legal service coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage of possible significance to an enrollee,

or person considering enrolling in a legal services plan, if such benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist.

(d) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole and with consideration given to a typography and format and language, shall be such as to cause a reasonable person, not possessing special knowledge regarding legal service plans and evidence of coverage thereof, to expect benefits, services or changes which the evidence of coverage does not provide or which the legal services issuing such evidence of coverage does not regularly make available for participants covered under such coverage.

(e)(1) An enrollee's coverage may not be cancelled or non-renewed except for the failure to pay the charge for such coverage, or for such other reasons as maybe presented to the Director of Revenue and Taxation and approved in writing by the Director of Revenue and Taxation or his delegate.

(2) Notice to insured. No cancellation or refusal to renew an enrollee's coverage shall be effective unless the Legal Service Benefit Organization shall deliver or mail, to the named enrollee at the address shown in the Legal Service Plan, a written notice of the cancellation or refusal to renew. Such notice shall:

(i) - Be approved as to form by the Director of Revenue and Taxation prior to use;

(ii) - State the date, not less than fifteen (15) days after the date of such mailing of delivering on which such cancellation or refusal to renew shall become effective;

(iii) - State the specific reason or reasons for cancellation or refusal to renew;

(iv) - Advise the enrollee of his right to request in writing, within ten (10) days of the receipt of the notice of cancellation or intention not to renew, that the Director of Revenue and

Taxation review the action of the Legal Service Benefit Organization.

(3) When a Legal Service Benefit Organization denies coverage or denies a benefit to its enrollee, the Legal Service Benefit Organization must have good faith belief that the enrollee is not entitled to such coverage or benefit, and must state, in writing at the time of the denial, the reason for the denial. Any such denial will be considered to be in bad faith if such denial is not accompanied by written reasons.

(4) No Legal Service Organization shall use in its name, contracts, or literature any of the words "insurance," "casualty," "surety," "mutual," or any other words descriptive of the insurance, casualty, or surety business or similar to the name of description of any insurance or surety corporation doing business in this territory.

**§11113. Regulation of Sales.** (a) It shall be unlawful for any person to do or perform any act in Guam as a Sales Representative of a Legal Service Benefit Organization, or to hold himself out as such, without holding a valid license issued by the Director of Revenue and Taxation for one year, and renewable after the expiration of one year. The fee for such license and the renewal thereof shall be fifty dollars (\$50.00).

(b) A Sales Representative holding a valid license under this section shall be considered to have complied with 11 GCA §70101 through §70127.

(c) **Endorsement of qualifications.** The Director of Revenue and Taxation shall investigate the qualifications of any person applying for a LSBO Sales representative license or renewal. For the purpose of his investigation, he shall require the applicant to file with him a statement, verified under oath, as follows:

(1) The name, age, business and residence address of the applicant, and if the applicant is a firm or corporation, the name and address of each person thereof designated to act for him;

(2) Insurance experience of the applicant, if any, together with the names and addresses of all insurers or agents whom he represented or was employed by;

(3) A statement revealing any other jobs held by the applicant at the time of the application and for 5 years prior to the date of application, and the name and address of each current or prior employer.

(4) Such other information as the Director of Revenue and Taxation shall specifically request of the applicant.

(d) Same: refusal, suspension, revocation.

(1) The Director of Revenue and Taxation may, for the reasons contained herein, refuse to issue or renew a license, or may suspend or revoke a license, for any of the following reasons:

(i) - The person has willfully violated any provision of this Title;

(ii) - The person has intentionally made a material misstatement in his application;

(iii) - The person has been guilty of fraudulent or dishonest practices;

(iv) - The person has misappropriated or converted to his own use or illegally withheld monies held in a fiduciary capacity;

(v) - The person has misrepresented the terms and conditions of benefit contracts;

(vi) - The person has conducted business in such a manner as to cause injury to the public or to those with whom he is dealing;

(vii) - The person does not meet the necessary qualifications to act in such capacity.

(2) A license may be suspended for not more than sixty (60) days. A person whose license has been revoked shall not be eligible to apply for a new license

for a period of three (3) months.

(3) Any refusal, suspension, or revocation under this section shall be pursuant to the Administrative Adjudication Law.

(4) Notice of any refusal, suspension or revocation of a license under this section shall be given to the Legal Service Benefit Organization and to the Sales Representative.

**§11114. Examinations.** (a) The Director of Revenue and Taxation may conduct periodic examination of the operations of any Legal Service Benefit Organization. Such examination shall include, but not be limited to, all contracts, agreements and arrangements for the operation of the legal service plan or plans and shall be made as often as the Director of Revenue and Taxation considers necessary.

(b) No examination by the Director of Revenue and Taxation shall be undertaken which would in any way violate the attorney-client privilege, except with the express written consent of the enrollee.

**§11115. Administrative Findings and Sanctions.** (a) The Director of Revenue and Taxation, consistent with the provisions of Guam Administrative Adjudication Law may initiate proceedings to determine if a Legal Service Benefit Organization has:

(1) Operated in a manner that materially violates its organizational documents;

(2) Materially breached its obligations to furnish the legal services specified in its contracts with enrollees;

(3) Violated any provision of the Act or these regulations promulgated hereunder.

(4) Make any false statement with respect to any report or statement required by the Act, these regulations, or by the Director of Revenue and Taxation under this Act;



(5) Advertised or marketed, or attempted to market its services in a manner which misrepresents its services or its capacity to deliver services, or engaged in deceptive, misleading or unfair practices with respect to advertising or marketing; or

(6) Attempted to prevent the Director of Revenue and Taxation from the performance of any duty imposed by the Act or these regulations.

(b) After providing written notice and an opportunity for a hearing, pursuant to the Administrative Adjudication Law, the Director of Revenue and Taxation shall make administrative findings and, as appropriate, may suspend or revoke the Certificate of Authority or may order that the Legal Service Benefit Organization:

(1) Cease or modify inappropriate conduct or practices by it or any of the personnel employed or associated with it;

(2) Fulfill its contractual obligations.

(3) Provide a service which has been improperly denied;

(4) Take steps to provide or arrange for any services which it has agreed to make available; or

(c) If its Certificate of Authority is suspended, the organization, during the period of such suspension, shall not enroll any additional enrollees and shall not engage in any advertising or solicitation whatsoever.

(d) If its Certification of Authority is revoked, the organization shall proceed under the supervision of the Director of Revenue and Taxation immediately following the effective date of the revocation, to conclude its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of such affairs; provided that the Director of Revenue and Taxation may, by written order, permit further operation of the organization as he finds to be in the best interest of the enrollees, to the end that the enrollees will be afforded the greatest

practical opportunity to obtain continued legal services coverage.

**§11116. Fees.** Every organization subject to this Act shall pay to the Department of Revenue and Taxation the following fees:

(1) For filing a copy of its application for a Certificate of Authority or Amendment thereto, \$75,000.

(2) For filing an annual report pursuant to Section 13, \$35.00.

(3) The costs of any examinations conducted pursuant to Section 17.