99046008017000

Modul	Sachverhalt
Leistungsschlüssel	99046008017000
Leistungsbezeichnung I	
Leistungsbezeichnung II	Legal aid or legal aid; application
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Bayern
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	20.08.2024

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Fachlich freigegen durch	Bayerisches Staatsministerium der Justiz (Bavarian State Ministry of Justice)
Handlungsgrundlage	http://www.gesetze-im-internet.de/famfg/BJNR258700008.html#BJNR258700008BJNG000900000 http://www.gesetze-im-internet.de/famfg/BJNR258700008.html#BJNR258700008BJNG000900000 http://www.gesetze-im-internet.de/famfg/__113.html http://www.gesetze-im-internet.de/famfg/__113.html http://www.gesetze-im-internet.de/famfg/__246.html http://www.gesetze-im-internet.de/famfg/__246.html http://www.gesetze-im-internet.de/arbgg/__11a.html http://www.gesetze-im-internet.de/arbgg/__11a.html http://www.gesetze-im-internet.de/sgg/__73a.html http://www.gesetze-im-internet.de/sgg/__73a.html http://www.gesetze-im-internet.de/vwgo/__166.html http://www.gesetze-im-internet.de/vwgo/__166.html http://www.gesetze-im-internet.de/zpo/BJNR005330950.html#BJNR005330950BJNG052302301 http://www.gesetze-im-internet.de/zpo/BJNR005330950.html#BJNR005330950BJNG052302301
Teaser	Legal aid is granted upon application.
Volltext	Litigation costs money - for both the plaintiff and the defendant. Anyone who cannot afford the costs may be entitled to legal aid. If legal aid is granted, the applicant only has to pay the fixed installments to the court cashier. This also applies to the costs incurred if the court appoints a lawyer to represent the applicant. However, it does not release the applicant from the obligation to reimburse the costs incurred by the opponent in the event of losing the case. Legal aid is decided separately for each instance. In family matters and in matters of voluntary jurisdiction, legal aid is called "legal aid". It is essentially based on the same conditions as legal aid. Legal and procedural cost assistance is subordinate to an advance on legal and procedural costs. The spouse entitled to maintenance may have a claim against the

spouse obliged to pay maintenance to advance the costs of a legal dispute in personal matters (so-called advance claim under maintenance law). This claim is a consequence of the maintenance obligation. It only exists for legal disputes that are closely related to the person or needs of the spouse entitled to maintenance (e.g. proceedings concerning the marriage, but also care matters, proceedings concerning honor or freedom, the restoration of health, etc.). The same applies to adult children vis-à-vis their parents who are liable to pay maintenance. If this advance claim exists and can be enforced promptly, there is no entitlement to legal aid.

The family court responsible for the maintenance case can, at the request of the maintenance creditor, oblige the maintenance debtor, e.g. the spouse, to pay an advance on costs for the court proceedings by means of an interim order.

In labor court proceedings , the provisions of the Code of Civil Procedure on legal aid apply accordingly.

In social court proceedings , the provisions of the Code of Civil Procedure on legal aid apply accordingly, although the proceedings are free of charge in most cases and representation is only mandatory for proceedings before the Federal Social Court. At the request of the party involved, the court can select the lawyer to be assigned itself. Legal aid will not be granted if the party involved is represented by another authorized representative (e.g. member or applicant of a trade union or association).

In administrative court proceedings , the provisions of the Code of Civil Procedure on legal aid apply accordingly.

Erforderliche Unterlagen

Voraussetzungen

The prerequisite is that the applicant cannot afford the costs of litigation, or can only afford them in part or in installments, based on their personal and financial circumstances. The intended prosecution or legal defense must also offer sufficient prospect of success

and must not appear to be unreasonable.

In order to determine the financial capacity of the applicant, the so-called income to be used must be determined. This is the net income less certain amounts that must be available to the applicant and their family for living expenses, the costs of accommodation and heating and any extraordinary expenses. Of the remaining amount of monthly income, up to 48 monthly installments amounting to half of the income to be used must be applied. The applicant must also use his/her assets, insofar as this is reasonable.

Legal aid will not be granted if the costs of litigation are not expected to exceed four monthly installments plus the partial amounts to be paid from assets.

There is a reasonable prospect of success if the court considers the legal position of the applicant to be justifiable and is convinced of the possibility of providing evidence.

The prosecution or legal defense is deemed to be frivolous if a party not claiming legal aid would refrain from prosecuting or defending the case on a reasonable assessment of all the circumstances.

Kosten

Verfahrensablauf

The application for legal aid must be made in writing, via electronic legal communication or orally on the record at the court registry. It is not permitted to submit an application for legal aid by e-mail. Information on how to communicate digitally with the court can be found on the website of the respective court.

The competent court is the trial court, the court dealing with the enforcement proceedings or - if the enforcement is carried out by the bailiff - the district court responsible for the debtor's place of residence.

The application must include a description of the dispute and the evidence. A fully completed

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	declaration of personal and financial circumstances (in particular income, assets, maintenance obligations and other liabilities) and supporting documents relating to the information provided must be attached. A form must be used for the declaration, which can be obtained from the court or on the internet via the federal and state justice portal. The court may carry out inquiries to assess the prospects of success and to assess whether the legal action appears to be frivolous. In particular, it may order the production of documents and obtain information. Witnesses and experts are only heard in exceptional cases. Before legal aid is granted, the applicant's opponent must generally be given the opportunity to comment.
Bearbeitungsdauer	
Frist	
weiterführende Informationen	https://justiz.de/service/formular/index.php https://justiz.de/service/formular/index.php https://justiz.de/service/formular/dateien/zp1a_hinweisblatt.pdf https://justiz.de/service/formular/dateien/zp1a_hinweisblatt.pdf
Hinweise	The party in need must inform the court immediately of any change of address. If the financial circumstances of the party in need improve, they must also inform the court immediately. An improvement in income is to be regarded as significant if the difference to the gross income previously taken as a basis does not exceed EUR 100 on a one-off basis. The same limit is to be applied if eligible expenses no longer apply. If a party's financial circumstances deteriorate, a new application may be appropriate if the application for legal aid has previously been rejected.
Rechtsbehelf	The granting of legal aid can only be contested by the state treasury to a limited extent. The party concerned can challenge the refusal or withdrawal of legal aid

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	under certain conditions by lodging an immediate appeal.
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	BayernPortal, BayernPortal