

# Legal Aid Ontario

## Thinking about Legal Aid Eligibility

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LEGAL AID ONTARIO  
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# Today's Presentation

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- In 2011, the Auditor General of Ontario recommended that Legal Aid Ontario (LAO) study financial eligibility guidelines and their impact on low-income Ontarians.
- LAO has prepared an extensive study to respond to this recommendation.
- Today's presentation:
  - Summarizes LAO's empirical and policy research
  - Discusses strategic choices for expanding legal aid financial eligibility

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# Background and Empirical Research






# LAO's Financial Eligibility Guidelines

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- LAO has three financial eligibility guidelines:
  - Certificates
  - Duty counsel and summary legal advice
  - Community legal clinics
- Last eligibility rate adjustments in Ontario:
  - Duty counsel guidelines: 1996 (17 years ago)
  - Certificate guidelines: 1995 (18 years ago)
  - Clinic guidelines: 1993 (20 years ago)
- 1995 certificate adjustment: guidelines were *reduced* 22%
- Financial eligibility rates set by provincial government regulation

# Financial Eligibility for LAO Certificate

## Certificate Eligibility

| Family size   | Will likely qualify financially for a certificate if annual gross family income falls below: | A contribution agreement might be required if annual gross family income is within these ranges: |
|---|--|--|
|    | ↓ \$10,800   | ↔↔ \$10,800 - \$12,500   |
|    | ↓ \$18,684   | ↔↔ \$18,684 - \$22,500   |
|    | ↓ \$21,299   | ↔↔ \$21,299 - \$26,220   |
|    | ↓ \$24,067   | ↔↔ \$24,067 - \$30,120   |
|  | ↓ \$26,714   | ↔↔ \$26,714 - \$33,960   |
| Single boarders<br>(paying and non-paying)  | ↓ \$7,100  | ↔↔ \$7,101 - \$8,200   |

- **No *full* certificate for single person in Ontario if *gross* income is \$10,800/yr or more**
- **\$10,800/yr = \$900/month = \$208/week**
- Duty counsel/clinic law guidelines are somewhat higher

# Environmental Scan – Summary

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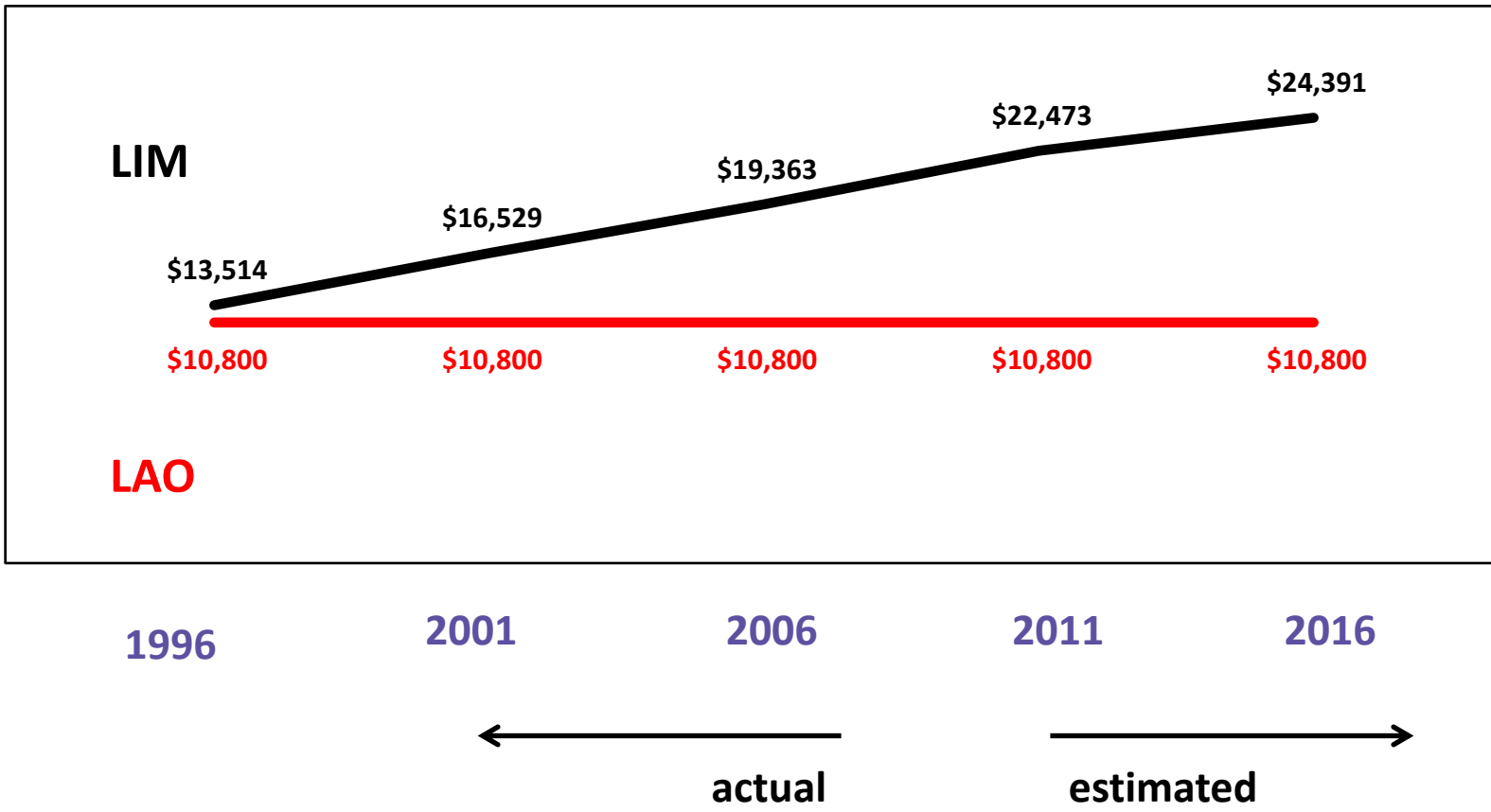
- Since 1990's, LAO's financial eligibility has eroded against all major benchmarks
- LAO's financial eligibility:
  - Has not kept pace with inflation
  - Has not kept pace with LAO's hourly tariff paid to private lawyers
  - Is lower than other major legal aid programs
  - Has not kept pace with other provincial social programs
  - Has not kept pace with minimum wage

# How Many Ontarians Are Eligible for Legal Aid?

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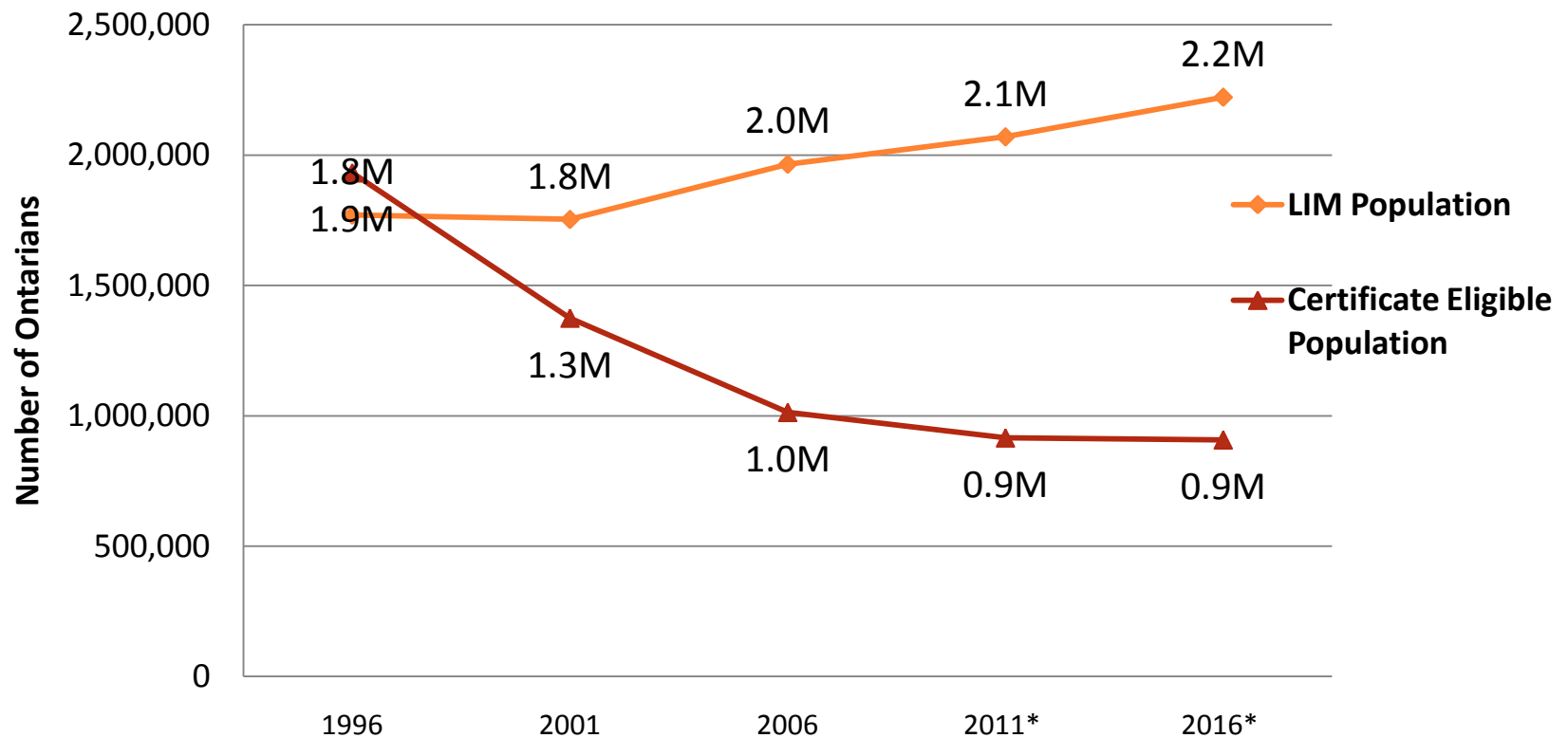
- In 2012, LAO retained Environics Analytics (EA) to:
  - Analyze financial eligibility guidelines against Statistic Canada's Low Income Measure (LIM)
  - Prepare demographic analysis of financial eligibility
    - Numbers of people eligible, family status, regions, social groups
    - Analysis of who is *not* eligible but still low income
    - Historical, current, projected

# Comparison: Certificate Eligibility and LIM (Single Person Household)

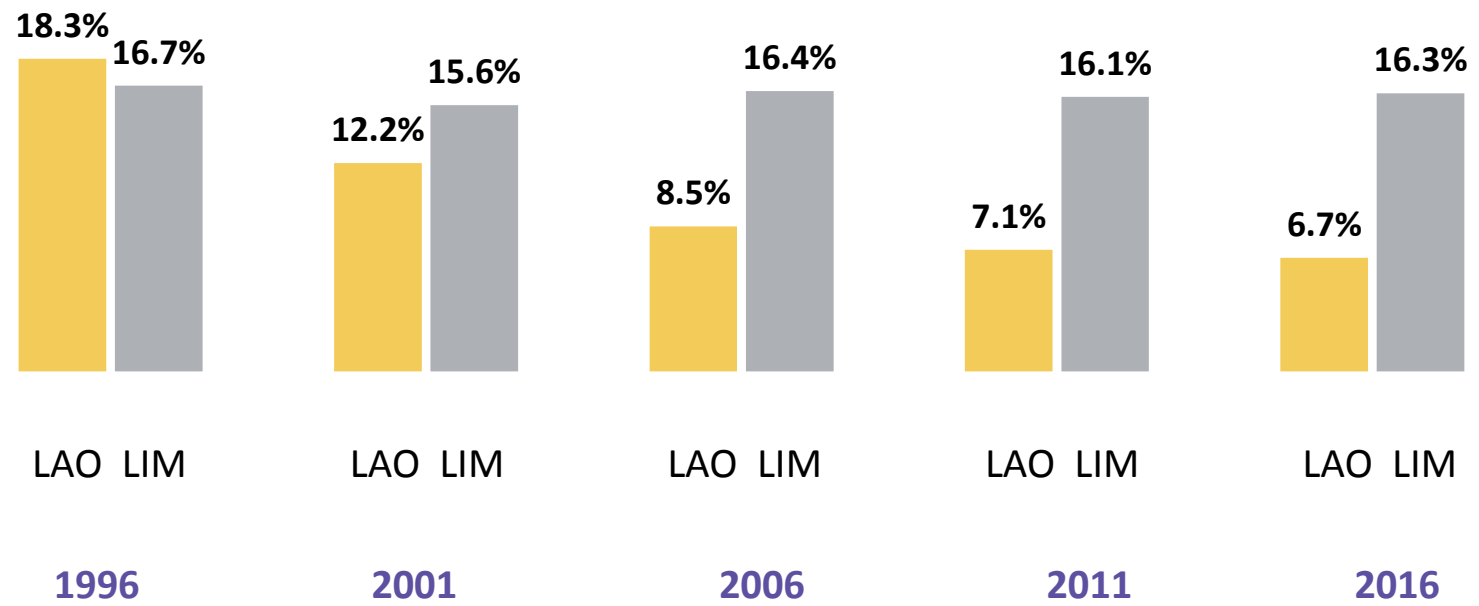




# Comparison: Certificate-Eligible Population to LIM Population 1996-2016



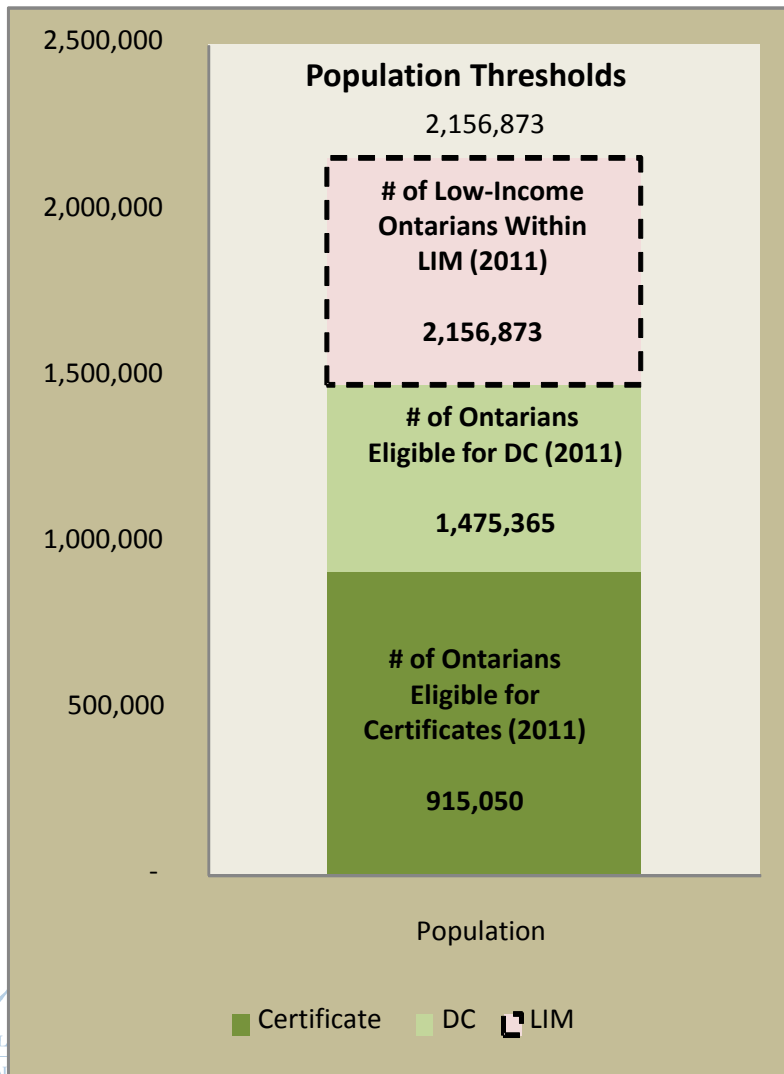
# Comparison: Percentage of Ontarians At LIM and Eligible for LAO Certificate



← actual → estimated →

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# Moving to LIM: How Many More Ontarians?



## Gap Between LIM and Legal Aid Eligibility:

- Duty counsel eligibility and LIM (2011):
  - Approx. 680,000 people
- Certificate eligibility and LIM (2011):
  - Approx. 1.2M people

# Empirical Research – Summary

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- Wide and growing gap between LAO financial eligibility and Low Income Measure (LIM) in Ontario.
- Impact has been significant: LAO estimates there are approx. 1M *fewer* Ontarians financially-eligible for a legal aid certificate today than in 1996.
- LAO estimates that fewer than 7% of all Ontarians are financially-eligible for a certificate. Certificate financial eligibility for families is lower.
- Since 1996, all demographic groups have lost ground relative to LIM.
- Absent corrective action, the eligibility gap could get larger: By 2016 there will be fewer Ontarians eligible, notwithstanding Ontario's growing population.

# What If Financial Eligibility Doesn't Increase?

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- Ontario's low income population is probably increasing
- Failure to increase financial eligibility could mean:
  - Smaller number and % of Ontarians eligible for legal aid
  - More unrepresented litigants in family/criminal courts and at tribunals
  - More courts delays
  - More court ordered-counsel
- More hardship, less access to justice for low-income Ontarians and families
- Challenge to long-term relevance of legal aid

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# Financial Eligibility Strategic Policy Choices

# Strategic Choices and Options

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- **Expanding financial eligibility raises fundamental legal, public policy, service delivery and financial choices, including:**
  - Client needs and legal aid priorities
  - Service models
  - Allocation of limited resources
  - Legal aid’s role in the justice system
- **Expanding financial eligibility does not automatically mean “more of the same.”**

# Financial Eligibility and Legal Needs

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- Stagnant or low financial eligibility restricts access to legal aid and contributes to unmet legal needs in areas within legal aid’s mandate.
- Expanding financial eligibility would make both more people eligible *and* change the nature of legal needs. For example, making more “working poor” eligible could mean:
  - Criminal: Potentially more loss of livelihood needs
  - Family: Potentially more complex property needs
  - Clinic/civil: Potentially more employment, consumer, debt needs



# Financial Eligibility and Legal Needs

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- **Financial eligibility expansion means legal aid plans will have to make choices about what needs will be prioritized.**
  - Current legal aid priorities?
  - “Preventive” or “gateway” needs that create cascading problems?
  - Needs of most vulnerable clients?
- **Expanded financial eligibility *does not* have to be uniform.**
  - Not all services need same financial eligibility threshold
  - Some jurisdictions have “asymmetric” financial eligibility based on nature of client or litigants

# Financial Eligibility and Service Models

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- **Financial eligibility expansion *does not* automatically mean more legal aid services provided by historic service models.**
- **Legal aid plans now have many more “tools” to expand financial eligibility:**
  - Web-based legal information and services
  - Duty counsel/summary legal advice
  - Test cases
  - Clinics/specialized offices with provincial mandate
  - Justice system reforms – paralegals, unbundling, etc.
  - Pilots in high-impact areas

# Financial Eligibility and Legal Aid Costs

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- **Expanding financial eligibility *does not* have a linear or automatic correlation to legal aid costs.**
- **There are *many* complex choices involved in designing and costing financial eligibility expansion.**
- **Costs will be determined by:**
  - Target and speed of increased financial eligibility rates
  - Legal needs to be addressed
  - Choice of service model
  - Range of funding instruments and potential partnerships
- **Financial eligibility expansion can be expansive or incremental.**

# Financial Eligibility In An Age of Austerity

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- Transcendent issues:
  - What is justification for expanding financial eligibility in an age of austerity?
  - What individual, justice system, economic or social objectives are advanced by expanded financial eligibility?
  - How can legal aid plans prove the value/benefits of expanded financial eligibility?

# More Information

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- Questions?
- For more information:

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