Expanding Differentiated Case Management: Triaging Services for Self-Represented Litigants

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Outline

- The Problem
- Types of Triage
- Triage Examples
- Southern California Project
- Workshop Example – Small Claims
- Questions and Discussion
- Resources and Plugging In
The Problem
The three types of protocol

- Litigant Choice Protocol
- Court Track Protocol
- Litigant Service Protocol
Factors for Consideration

- Case type
- Case facts/complexity
- Oppositional situation
- Litigant capacity
- Services/tracks available
Protocol Relationships

- The problem
- Order of protocols depends on issue
- Dynamic Processes
Inadequate Resources in the Real World

• Adjustable protocols concept
• Need to track/report
• Changes in one sub-system can save resources in other sub-systems
Sample protocol logic
Family -- Litigant

• Step One: What the Litigant Wants
  – Decision planner
  – Relationship to Outcome Statistics

• Step Two: Litigant is Asked Reasons/Justifications for Any Non-Standard Choices.

• Step Three: Additional Data is sought

• Step Four: Prediction

• Step Five: Litigant Decision

Triage as the Access and Efficiency Key
Sample protocol logic
Court Track – Family

• Formalization Track
• Detail Finalization Track
• Decision Making Track
• Intensive Attention Track
Court Track Algorithms - Family

- Identify Decision ready and Almost Ready from litigant positions
- Identify Intensive Attention Track from positions and backgrounds (files)
Sample protocol logic
Family - Litigant Services

• Formalization and Finalization get self-help services only – except maybe atty on other side
• Decision Track gets unbundled interview and presumptive ongoing unbundled assistance, especially for complex discovery
• Decision Track with low capacity gets atty
• Intensive Track presumptively gets counsel
• Diagnostic interview needed for the triage
Sources and types of Data

- Algorithmic Process
- Review of Papers
- Human Interview
Data available and collection

- Court files
- Interviews
- Other agency computer systems
Southern California Project
Workshop Example – Small Claims -- Litigant

- What choices does the litigant face?
- What does the litigant need to know to decide what to do?
- Where might that information come from?
- How should it be presented to the litigant?
Workshop Example – Small Claims -- Court

• What services might be helpful?
• How might they be structured into tracks?
• What information would the court need to decide what track to put cases in?
• What rules might be applied?
• Where might the needed information come from?
• How might track assignments change, and based on what information?
Workshop Example – Small Claims – Litigant Services

• What modes of help might be available?
• What factors would an organization consider in deciding how to handle the case?
• Where might the information come from?
• How might decisions change?