

TESTIMONY OF Kathleen McGarvey
Director, The Legal Aid Society of Columbus
Finance- Health and Medicaid Subcommittee
HB 49
May 11, 2017

Good afternoon Chairman Hackett, Vice Chairman Tavares, and distinguished members of the Finance - Health and Medicaid Subcommittee. I appreciate the opportunity to speak with you today regarding House Bill 49. My name is Kate McGarvey, and I am Director of the Legal Aid Society of Columbus.

The Legal Aid Society of Columbus provides free legal assistance in civil matters to ensure access to justice for economically disadvantaged people in Central Ohio through advocacy, education and empowerment. Our representation includes assistance with accessing public benefits such as Disability Financial Assistance (or DFA).

In the past five years, LASC and our sister program Southeastern Ohio Legal Services have opened over 115 Disability Financial Assistance cases, around 23 a year. Each of these cases were for individuals who had a pending application for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) but had no income or assets in their household while they waited for Social Security to process their disability applications. Our assistance included everything from advising individuals on the availability of the DFA program and how to apply to representing individuals when their application was improperly delayed or denied.

We have had the pleasure of working with individuals like Nichelle Clark whose case we just closed last month. Nichelle is 45 years old, lives alone and had no household income or assets when she contacted LASC. She had a pending SSDI application, but while she waited, she was struggling without any income in the house. We were able to assist her with getting DFA benefits. This \$115 a month benefit provided her with a lifeline while she waits for her SSDI application to be approved which has been pending for over two years so far.

“John” is another example of an individual for whom DFA was an indispensable benefit. After an accident at work, John began to suffer from uncontrolled seizures. Because of those seizures, he lost his truck driving job and after being unable to find other employment, applied for SSDI and DFA. The small \$115 monthly award that he received from DFA helped sustain him for the three years that it took for him to be awarded SSDI benefits after an Administrative Law Judge hearing.

“Steve” applied for SSDI after working as a medical device operator and managing fast food restaurants for over 15 years. He developed Crohn’s disease and was unable to keep up with the demands at work. While waiting for his SSDI benefits, DFA provided him with a small, but much needed, supplement to meet some of his daily needs. He was approved for SSDI four years after he applied. Just like with “John”, a portion of the back award was used to reimburse Ohio for the DFA benefits it provided to him during his time of need.

It has been stated that DFA is no longer needed to support disabled individuals while they are waiting for SSI or SSDI benefits because SSI/SSDI cases are now being processed more quickly with averages around 67 days from date of application to decision. That statement, however, only reflects determinations at the initial level of processing.

According to the Social Security Disability SSI Resource Center, national approval rates for an initial application is 36%. Sixty-seven days for processing applications is the average timeframe for processing applications at this initial level. And, it is this figure that has been given to suggest that determinations are made quickly and therefore DFA is not needed. However, at this point in the application process, it is not uncommon for Social Security to not have received all the applicable records or to have not conducted needed medical evaluations. As a result, many individuals who are eventually found eligible back to their original date of application are improperly denied.

The next level of application level, reconsideration, has the lowest level of approval nationally at around 13%. According to the National Organization of Social Security Claimants' Representatives, the reconsideration determination is usually made within 4 months or 120 days.

After a reconsideration decision is made, an applicant can appeal to an Administrative Law Judge (ALJ). This stage has the highest level of approval with national rates around 62% and 45% in Ohio as of March 2017. The ALJ level provides the most complete review of an individual's case. The agency has had time to collect all the medical evidence, a claimant is able to testify, and hearings often include medical and vocational experts. Data from the Office of Disability Adjudication and Review shows that in Ohio, the average wait time for an ALJ hearing and decision was 535 days as of March 2017. Columbus has a slightly higher average at 625 days.

There are two other levels of appeal – to the Appeals Council and to Federal District Court. But, even without those two other levels of appeal, most individuals in Ohio would wait an average of 67 days at initial application, 120 days at reconsideration and 535 days for an ALJ hearing. This means that most people who are approved for SSI or SSDI benefits wait an average of 1,310 days or over 3.6 years for benefits.

During that time of waiting, those individuals are definitionally unable to perform substantial gainful employment. For the individuals who we see, they have zero income and have exhausted any assets that they had. They are eligible for SNAP or food stamp benefits, but for no more than \$194 a month. Medicaid benefits are available to help with their medical needs. But, they have no cash to pay for housing, for transportation, for personal care items like soap and toothpaste, or for additional food needed beyond what the SNAP benefits will cover. While small, the \$115 per month DFA payment really is a lifeline during those 3.6 years.

The amount of money that DFA costs the State of Ohio is minimal at \$861,000 a month. And, while the program is small, covering only 6,439 people at this point, it provides literally lifesaving assistance to individuals who have been found eligible. For those individuals with income below \$115 a month, zero assets and who have been found disabled for 9 months or more by their physician, DFA is often the one thing that keeps individuals safe, secured and housed while they wait the 3.6 years for an SSI/SSDI decision. As a result, we are asking that the Senate take out the Governor's proposal to eliminate the program.

Thank you, and I'll be glad to take any questions you may have.