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Testimony Before the Ohio Senate Government Oversight and Reform Committee Oppsing Senate Bill 17

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Chair Roegner, Vice Chair McColley, Ranking Member Craig and members of the Ohio Senate Government Oversight and Reform Committee, thank you for the opportunity to testify about Senate Bill 17 and how it would impact Ohio's public benefits programs. My name is Ashley Socha and I am the managing attorney of the Legal Aid Society of Columbus (LASC)'s public benefits team. We are a non-profit law firm that provides free legal assistance in civil matters to low-income individuals, families, and seniors throughout Central Ohio, covering six counties.

On behalf of LASC and the thousands of clients we serve each year, I oppose the changes proposed in Senate Bill 17. At a time when Central Ohio residents and businesses are struggling to stay afloat, the programs addressed in this bill – unemployment compensation, Medicaid, and food assistance– have provided a source of stability to families, and important financial support to Ohio's economy. They remain essential programs to Ohio's ongoing recovery. Each time an Ohio resident receives unemployment compensation, a recipient of food assistance purchases food, or a Medicaid recipient sees the doctor, that individual benefits, but also, those dollars are funneled into Ohio's economy.

Senate Bill 17 is focused on reducing fraudulent payments associated with these public benefit programs. While we agree that individuals should be held accountable for obtaining benefits fraudulently, Senate Bill 17 would place cumbersome and unnecessary barriers in the way of the vast majority of children, families, working adults and seniors who receive these benefits and who are not committing fraud. Additionally, Senate Bill 17 would result in new and expensive administrative burdens on the county and state offices that administer these programs, ultimately at a cost to tax payers.

In 2020 LASC saw a 600% increase in the number of unemployment cases that came through our doors, and so far in 2021 the number of cases is not decreasing. We have seen firsthand how obtaining benefits can change people's lives – preventing families from being evicted, allowing a senior to pay the gas or electric bill, or maintaining a sense of stability during a prolonged job search. Some of these clients have been overpaid unemployment compensation benefits as a result of agency and other errors – through no fault of their own and not due to fraud. These clients did not intend to be overpaid and, especially during this time, they cannot afford to repay those benefits.

After the passage of the 2020 CARES Act, Ohio implemented a new Pandemic Unemployment Assistance (PUA) unemployment insurance system, which is separate from its long-standing traditional unemployment compensation system. Unfortunately, a significant number of fraudulent unemployment claims have been attributed to the new system, as the perpetrators have used stolen identity information and exploited the expedited payments available under the Act. With fewer checks and balances in place, the number of fraudulent claims in the PUA system is far higher than under Ohio's traditional unemployment system. However, many overpaid PUA claims were not due to fraudulent acts, but because of other reasons.

For instance, one LASC client, Breanne, completed an application for PUA. The PUA application asked her to report her 2019 wages as well as her business income and losses for 2019. Breanne had both wages and business income, totaling just under $20,000 and reported that amount. She listed the total amount on her application under wages and her business income as $14,000. She also timely submitted a copy of her 2019 federal income tax forms to confirm the accuracy of what she reported, as is required. Many months later the Ohio Department of Job and Family Services (ODJFS) reviewed her tax return and notified Breanne that she was overpaid benefits because she completed the application incorrectly. Breanne's mistake was not due to fraud, but rather an application error. To make matters worse, the significant delay in confirming her weekly benefit amount resulted in a much larger overpayment that could have been avoided and was not her fault. Requiring Breanne to repay the entire amount she was overpaid would be financially devastating and would prevent her from moving forward toward rebuilding her business.

Another client, Christine, had just recently graduated with a degree in education and was working as a substitute teacher when the pandemic started. As schools closed and her substitute teaching assignment disappeared, she was left with no income to support herself and her two children. She applied for jobs at grocery stores, distribution centers, and retail shops, but could not find employment. Finally, she applied and was approved for unemployment benefits, which she received for several months over the summer. The benefits brought her the relief of being able to pay her bills and support her family. Only later did ODJFS inform her that she had been approved incorrectly because she expected to return to a teaching position in the fall, which would disqualify her from receiving unemployment. She was left with a several thousand-dollar overpayment. As it stands, Christine will be required to repay those benefits if she receives unemployment compensation going forward. For the next three years, any future benefits she receives will be reduced until the department collects the full amount that she was overpaid. If Senate Bill 17 passes, ODJFS would be required to more aggressively pursue collection of the money that Christine was overpaid, despite no allegation of fraud or any wrongdoing on her part.

Senate Bill 17 would require the director of job and family services to develop a written policy regarding the recovery of unemployment benefit overpayments to the fullest extent permitted under state and federal law, regardless of whether the overpayment resulted from fraudulent misrepresentation or reasons other than fraudulent misrepresentation. The existing law, Revised Code 4141.35, already requires the director to seek repayment of unemployment benefits through various measures, including from unemployment benefits otherwise payable, if the director determines an applicant received those benefits to which they were not entitled for reasons other than fraudulent misrepresentation. Additionally, the U.S. Department of Labor Employment and Training Administration Office of Unemployment Insurance's Handbook 401 provides that a "state may authorize a waiver when or if the overpayment was not the fault of the claimant and requiring repayment would be against equity and good conscience or would otherwise defeat the purpose of the UI law."[1] Additionally, the Federal Consolidated Appropriations Act of 2021 provides Ohio with the ability to waive PUA overpayments if an applicant was not at fault for the overpayment and repayment would be contrary to equity and good conscience.[2] Ohio Senators Sherrod Brown and Rob Portman support PUA repayment waivers.[3] However, Senate Bill 17's proposal to recover non-fraudulent overpayments to the fullest extent permitted under state and federal law would not allow for waivers unless it was due to a typographical or clerical error in the director's prior decision, or an error in an employer's report – historically, unlikely scenarios.

Similarly, the proposed provisions related to the Medicaid and food assistance programs create unnecessary and problematic changes. One particularly troubling provision of Senate Bill 17 is the elimination of Presumptive Medicaid eligibility. Presumptive eligibility allows uninsured individuals time-limited access to Medicaid coverage without having to wait for their application to be fully processed, which can take weeks or even months.[4] Qualified entities, including many hospitals and federally qualified health centers, are able to make a preliminary determination of whether their patients might be eligible for Medicaid, which is then followed by a full Medicaid eligibility determination. In the meantime, patients are able to access medically necessary care, and hospitals are able to provide the care, knowing that Medicaid is in place and without worrying about the patient having to face huge medical bills or the hospital having to provide uncompensated care.

LASC has seen presumptive eligibility play an important role among clients who are pregnant and seeking prenatal care, who were not previously receiving Medicaid. Being able to apply for Medicaid at the time of their doctor's visit ensures that the patients have begun the process to obtain Medicaid and that they can receive the prenatal care necessary to ensure a healthy pregnancy. Presumptive eligibility also benefits individuals who, up until their hospital visit, may not have required significant medical care – for example, a previously healthy individual who is suddenly fighting COVID-19. Without presumptive eligibility, individuals are left to seek out Medicaid coverage at some later date (after they've recovered from whatever brought them to the hospital), which carries with it the risk that their application may be delayed or that their bills may go unpaid. Senate Bill 17's prohibition of presumptive eligibility, along with the proposed changes to the Medicaid renewal process – such as the removal of prepopulated renewal forms - will lead to longer waiting times, more paperwork, and less certainty for individuals in need of care and the medical providers that treat them.

Further, eliminating "simplified reporting" and categorical eligibility from Ohio food assistance program will inflate the state's bureaucracy and be detrimental to recipients who rely on the assistance. Implementing change reporting rather than simplified reporting for food assistance would require recipients who work to report even minor changes to their household's income within ten days of the change, rather than at regular 6- or 12-month intervals currently in place. This may sound like a simple administrative fix, but for many hourly workers, this change would mean being required to report their income every month, an unnecessary step that unduly burdens food assistance recipients who work.

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1 ETA 401 Handbook (doleta.gov)
2 Text - H.R.133 - 116th Congress (2019-2020): Consolidated Appropriations Act, 2021 | Congress.gov | Library of Congress
3 Ohio's senators support waiver for PUA overpayments (wcpo.com)
4 Ohio Administrative Code 5160:1-2-13 Medicaid: presumptive eligibility

Our client Lora, her husband, and their four children lost their food assistance for five months after she struggled to report a name change and a change in her employment earnings to her county Department of Job and Family Services. She took the necessary documents to her local JFS office, but nevertheless her case was denied. When she attempted to follow up by phone, she waited on hold multiple times, but was unable to actually speak to anyone about her case. In frustration, she gave up and attempted to make do without the assistance. Finally, LASC stepped in and helped Lora complete a new application and resubmit the verifications to the department. She and her family were ultimately found eligible for assistance, but only after 5 months of hardship, trying unsuccessfully to find additional work, and not always knowing if they would have enough food for their growing kids. These are the challenges Lora faced under the existing law. If Senate Bill 17 is passed, Lora and thousands of working families like hers could be forced to jump through these types of bureaucratic hoops every single month in order to report minor fluctuations in income – costing them time away from work to gather and submit paperwork over and over again.

In conclusion, while we support the goal of reducing and eliminating fraud in Ohio's public benefits programs, we oppose Senate Bill 17 because of the unintended consequences it would have on Ohioans and their families who rely on these programs. Simply put, the Ohio economy is strengthened when people can afford to pay their rent, purchase groceries, and see the doctor. The changes proposed in Senate Bill 17 do not solve problems – they create them. Rather than saving money and reducing fraud, they will create unnecessary bureaucracy and cost taxpayers. Even if the changes proposed in this bill made sense - which they do not - now is not the time to implement them, as Ohio faces recovery from the worst pandemic in a century and a devastating economic recession for the foreseeable future. We urge you to oppose Senate Bill 17.

Thank you for the opportunity to testify.

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