

**TESTIMONY OF JAMIE R. SHIER  
MANAGING ATTORNEY, PUBLIC BENEFITS TEAM,  
THE LEGAL AID SOCIETY OF COLUMBUS, REGARDING  
DISABILITY FINANCIAL ASSISTANCE AND SUBSTITUTE HOUSE BILL 49,  
TO SENATE FINANCE COMMITTEE  
June 7, 2017**

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Good afternoon Chairman Oelslager, Vice Chair Manning, Ranking Member Skindell, and distinguished members of the Senate Finance Committee. I appreciate the opportunity to speak with you today regarding Substitute House Bill 49. My name is Jamie Shier, and I am the Managing Attorney of the Public Benefits Team at the Legal Aid Society of Columbus.

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

As you may already know, DFA is only intended to be a temporary disability benefit of just \$115 per month to provide disabled individuals with some form of income while they are simultaneously seeking Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits from the Social Security Administration. While the monthly benefit may not seem to be a significant amount to others, the amount is extremely important to those disabled individuals who have no income and are facing major financial instability. Further, everyone who applies for DFA benefits is required to sign a contract to repay the State of Ohio from their SSI or SSDI back award payments the full amount of DFA benefits they receive.

LASC and our sister program, Southeastern Ohio Legal Services, opened over 115 DFA cases over the past 5 years; this equates to about 23 DFA cases per year. Each of these cases were for disabled individuals who had applications pending for SSI or SSDI benefits and had no income or assets in their household to meet their basic needs while they waited for Social Security to process their disability applications. Our assistance ranged from advising individuals on the availability of the DFA program and how to apply to representing individuals when their DFA applications were improperly delayed or denied.

We have had the pleasure of working with individuals like Nichelle Clark whose case we just closed in April. Ms. Clark 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. She had no money to purchase toiletry items like toothpaste, deodorant, and toilet paper. We assisted Ms. Clark with getting DFA benefits so that she could purchase those necessary items. This \$115 a month benefit provides her with a lifeline while she waits for her SSDI application to be approved which, so far, has been pending for over two years.

“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, continually failed at finding other employment due to his health conditions, and had to come to grips with reality – he needed disability benefits and had to apply for SSDI and temporary help through DFA. The small \$115 monthly DFA payment that

he received helped sustain him for the 3 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 4 years after he applied. Just like with “John”, a portion of the back award was used to fully 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 poor, disabled individuals while they are waiting for SSI or SSDI benefits because these cases are now being processed more quickly with averages around 67 days from the date of application to a decision. That statement, however, only reflects determinations at the initial decision level and does not account for the additional steps and additional wait time most individuals face with the SSI and SSDI process.

While 67 days is the average timeframe for processing initial applications, the national approval rate for these initial applications is only 36% according to the Social Security Disability Resource Center. This low approval rate requires the remaining individuals to start navigating the Social Security appeals process. It is also worth noting that many individuals who are initially denied and appeal will, in fact, be found eligible for SSI or SSDI back to their original date of application. The denial at the initial decision level is not uncommon because Social Security likely made the decision without receiving and reviewing all relevant medical records and without conducting proper medical evaluations.

The first level of appeal of an initial application, referred to as “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.

With the high likelihood that the reconsideration appeal level will also be denied, an applicant can then appeal for a hearing with an Administrative Law Judge (ALJ). This stage of the appeal process has the highest level of approval with national rates around 62%; Ohio’s approval rate was only 45% as of March 2017. This increased approval rate at the ALJ level is because the process provides the most complete review of an individual’s disability case. Social Security has had the time it needs to collect all the medical evidence, the applicant is also able to testify, and the hearings often include medical and vocational experts. However, while this level of appeal has a higher approval rate, 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.

If an individual needs to appeal an ALJ decision, there are two additional levels of appeal – to the Appeals Council and to Federal District Court. But, even without considering the time to get decisions at these levels of appeal, most individuals in Ohio will wait an average of 1,310 days or 3.6 years before they are approved for SSI or SSDI benefits.

During this long waiting period, these individuals are definitionally unable to perform substantial gainful employment and their treating physicians have verified that their disability has lasted or will last for 9 months or longer. For LASC clients, these individuals have zero

income and have exhausted any assets that they once had. They are eligible for food assistance benefits, but receive no more than \$194 a month, and for Medicaid benefits to help with their medical needs. But, these disabled individuals have no cash to pay for other basic needs such as housing, transportation, personal care items like soap and toothpaste, or additional food. While the amount of DFA is small, the DFA payment really is a lifeline for disabled individuals during the 3.6 years of waiting for a positive decision from Social Security.

Lastly, the DFA program costs the State of Ohio a minimal amount—\$861,000 a month. Again, these costs are expected to be recouped through SSI and SSDI back awards once appropriate eligibility decisions are made. While the DFA program is small, currently covering only 6,439 individuals, it does provide lifesaving assistance. For these individuals, DFA is often the only benefit that keeps them safe, secure, and sheltered while they wait the 3.6 years for an appropriate SSI or SSDI decision. As a result, we are asking that the Senate remove the Governor's proposal to eliminate the DFA program.

Thank you, I am happy to take any questions you may have.