LONDON DISABILITY
Advocates for
SOCIAL SECURITY DISABILITY

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House Health and Government Operations Committee
Statement in Support of HB 153
Medical Record Fees – Attorneys Representing Patients

Dear Committee Members:

I am Matthew Fyock, an attorney and Vice President of Disability Advocacy at London Disability based in Owings Mills, MD. I have dedicated my life to helping the disabled navigate the process of qualifying for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefits.

In 2021 the Maryland legislature passed Health General 4-304(c)(5) which required that SSDI/SSI claimants be provided their medical records free of charge. I now firmly support HB 153 which extends this provision to attorneys representing SSDI/SSI claimants.

The process of qualifying for SSDI/SSI benefits is extraordinarily complex. An individual is deemed disabled and qualified for benefits under a convoluted scheme of statutory, regulatory, sub-regulatory, and court-mandated rules on all medical and non-medical aspects of a claim. Applicants must complete many long and confusing forms. For example, an initial application for SSI benefits is itself twelve (12) pages in length. Keep in mind that applicants for SSI are frequently individuals with lifetime disabilities who have limited education, have never been able to maintain a full-time job, are often homeless, and have little or no social support. And that twelve-page application is the tip of the iceberg.

Processing times and denial rates are very high. In FY 2022, out of the over 1.7 million initial applications filed, 62% of those were denied. Out of over 450,000 requests for reconsideration filed, 85% of those were denied. Current processing times in Maryland at the initial and reconsideration levels often exceed one year at each stage, during which any work performed by the claimant resulting in gross monthly earnings over $1550 may result in a summary denial.

It is no wonder that a 2014 study published by the U.S. Government Accounting Office found that claimants who appoint an attorney representative are 3.3 times more likely to prevail on their SSDI/SSI claim. Attorney representation is thus a critical component of a successful claim for disability benefits.

Representation of claimants is particularly important at the third level of the process, a hearing before an administrative law judge (ALJ). At the hearings, claimants are faced with probing questions about their medical history and personal life, and ALJs rely on the testimony of medical and vocational experts, cross-examination of whom is often the deciding factor in a claim. These claimants have already often been in the process for over two years, during which time their personal finances collapse and their health deteriorates.

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Under the law, the claimant has the burden to prove his or her disability and submit medical evidence supporting his or her alleged functional limitations. In 2017, SSA adopted what is referred to as the "all evidence rule," which requires claimants and their representatives to submit all evidence related to disability, and defines "related to" very broadly. In the current healthcare environment, evidentiary files at the hearing level regularly contain thousands of pages of medical records. I myself represented a claimant in a hearing last month who had nearly nine thousand pages of medical records. SSA's own published policy threatens sanctions against representatives who do not obtain and submit medical evidence in support of their clients' claims.

In the state of Maryland and in other states where medical records are not free for claimants' attorneys, medical records costs are a significant barrier to a claimant obtaining necessary legal representation. SSA heavily regulates attorney fees in SSDI/SSI claims. We represent clients exclusively on a contingency basis, and SSA's high denial rates means that we often do not collect a fee on a case we work on for years. For claims that are awarded, SSA caps the fees, and in many cases we do not receive a fee for months or even years after a claim has been decided. Our clients, who are unable to work due to their severe medical impairments, have no funds to pay the exorbitant fees for their medical records during the pendency of their claim, fees which are often hundreds of dollars for each treatment source for on average of five separate treatment sources. Because SSA makes it clear they will sanction attorneys who do not submit medical records, attorneys themselves must advance the cost of medical records, with no guarantee that even a successful claimant – much less an unsuccessful claimant – will reimburse those expenses. Indeed, our office receives reimbursement from less than ten percent of our clients. This environment requires London Disability to carefully screen potential clients and often decline representation where medical records expenses are overly burdensome, regardless of the merit of the claim. I want to make it absolutely clear to the Committee that desperately needy and deserving claimants are often turned down for representation. I further want to make it clear that I in no way harbor ill will for our clients who are unable to reimburse us, because even though successful claimants may be awarded past-due benefits, those past-due benefits are generally put to paying off debt and repairing lives ravaged by being unable to work with no income over the years-long approval process.

I strongly urge the Committee to support HB 153.

Sincerely,

Matthew Fyock, Esq.
Vice President, Disability Advocacy