

May 18, 2021

Chairperson Linda B Rosenthal  
LOB 844  
Albany, NY 12248

Speaker Carl E. Heastie  
LOB 932  
Albany, NY 12248

Dear Chairperson Rosenthal and Speaker Heastie:

We write to express our strong support for AB7528, filed by Chairperson Linda Rosenthal requiring the Office of Temporary Disability (OTDA) to continue to provide State Supplement Program (SSP) benefits to senior and disabled individuals whose eligibility for Supplemental Security Income (SSI) is for a closed period only. We urge you to pass the measure.

Many senior and disabled New Yorkers rely on SSI, a needs-based program available only to those with very limited or no income. In New York, SSI has a federal component, administered by the Social Security Administration, and a state component, SSP, which has been administered by OTDA since 2014. Currently, New York's SSP portion is either in the amounts of \$23 or \$87 each month for individuals, and \$46 or \$104 for couples, depending on living arrangement.

In January 2021, OTDA implemented a series of so-called "clarifying" changes through rule making. While we supported many provisions proposed by the agency, we strenuously objected to changes now in effect requiring disabled and senior New Yorkers be in active receipt of SSP benefits in order to obtain retroactive SSP benefits.

Due to delays and complexities embedded in the disability benefits applications process, a number of very low-income seniors and disabled New Yorkers are eligible for SSP only for a five-month period while waiting for Social Security Disability Insurance (SSDI) benefits, and are no longer active SSP recipients by the time SSI benefits are awarded. The new OTDA changes deprive very low-

income New Yorkers of a small but important supplement to their income. This includes those who are only eligible for SSP benefits during their five-month waiting period for SSDI, and others whose SSI benefits were suspended for technical reasons, but otherwise would be eligible for SSP.

We point out that the January 2021 regulations' limitation of retroactive payments to only active participants undermine decades of policy and practice. The changes also administratively overrule three court decisions that directed OTDA to pay SSP benefits to people who were eligible for SSI for a closed period. Moreover, previous to the New York takeover of SSP in 2014 from the Social Security Administration (SSA), SSA issued retroactive SSI payments to recipients. But once New York State took over administration of the SSP program, OTDA stopped paying these retroactive benefits, despite being directed by both its own fair hearing bureau and the courts to continue paying them.

Empire Justice Center and the undersigned organizations have appreciated working with OTDA as a partner in advocating for low-income New Yorkers. However, we expressed serious concerns when OTDA took over the administration of SSP. We were especially worried that very low-income seniors and disabled New Yorkers would be left worse off from the switch in spite of savings for the state. At the time, the OTDA commissioner repeatedly reassured advocates and the public that vulnerable New Yorkers who rely on these desperately needed benefits would not be affected by the change.<sup>1</sup> These 2021 January regulations limiting eligibility to an entire subset of applicants do not live up to that promise made by the agency.

For these reasons, we appreciate the Chairperson Rosenthal's support in advocating for very low-income seniors and disabled New Yorkers. While the dollar amounts are modest, they make a world of difference to recipients. We urge the leadership to pass the measure.

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<sup>1</sup> Elizabeth Berlin, Executive Deputy Commissioner, NYS Office of Temporary and Disability Assistance, OTDA Formal Budget Hearing Testimony, November 13, 2012.

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