

February 10, 2017

TO: Senator Sara Gelser, Chair
Senate Human Services and Early Childhood Committee
From: Melissa Haggerty, Attorney
RE: SB 275

As a disability attorney, I see that the process for obtaining federal disability benefits is a time-consuming and complicated process. Those who need these benefits most are least equipped to navigate the deadlines and coordinate obtaining medical records. They are often limited by physical, cognitive, organizational or linguistic barriers. Due to their impairments, people seeking disability need the assistance of attorneys and non-attorney legal representatives to obtain medical records.

When Senate Bill 710 passed in 2015, Oregonians seeking disability were given a critical tool in their fight to reduce their reliance on state benefits and receive federal benefits. SB 710 removed the financial burden that came with obtaining the medical evidence necessary to prove why they cannot persist in full time work.

The current proposal seeking to amend the existing statute would negatively impact Oregonians seeking disability, which in turn negatively impacts Oregon's budget. The proposed amendment limits the time frame during which free medical records can be obtained from the date of the "initial denial" through the date of the hearing.

There are many reasons why a person seeking disability might need to obtain medical records for the time prior to their initial disability denial. These two most common reasons are:

1. The claimant failed to list a key medical provider in their application material due to memory issues, cognitive impairment or challenges reading or writing English.
2. The claimant listed a medical provider on their application, but the Disability Determination Service did not obtain the medical records. This often happens if a medical provider's office has moved, or a provider has passed away. It can take intense effort to find these records, and the state agency does not always have capacity to perform this search. Often, an initial determination is made without the outstanding records.

Frequently, it is not until a person is at the hearing stage, has hired an attorney, and that attorney has carefully reviewed the case file that it becomes clear that the file is missing key medical records dating between a person's "alleged onset date" and the date of their initial denial for benefits. These records can make the difference between a person being approved, with the resulting self-sufficiency based on federal benefits, and a denial, which results in ongoing need for state and county-level services.

Please do not modify the existing statute in a way that would negatively impact people seeking disability. To do so is short sighted and could result in a heavier burden on state finances to support people who could otherwise be provided for under a federal program.