

## The NYS Disability Advocacy Program

The Disability Advocacy Program was established by the New York State Legislature in 1983 to provide legal representation to individuals whose federal disability benefits had been denied or about to be discontinued. The program, which is written into our Social Services Law, is authorized in part to reduce the economic impact of denials on the taxpayers in the State who bear the burden of supporting the state-funded public assistance programs that otherwise support persons found ineligible for federal disability benefits. The State acknowledges that legal services provided under this program results in a much higher rate of success for federal disability claims than if the applicants proceed on their own. Overall funding for the State is \$5.74 million, which also covers a grant to a technical assistance project. The DAP program is usually supplemented by TANF funds as well.

Legal Services for New York City modeled the pilot disability advocacy project before 1983 that lead to the highly successful DAP program, and we have served tens of thousands of clients under the DAP program. We partner with two other providers to serve the New York City area. Currently, the contract requires a success rate of at least 50% for Safety Net cases and at least 65% for non-Safety Net cases, and in the past three years, we achieved an average overall success rate of 92% for Safety Net cases and 87% for non-Safety Net cases. From 2004 through 2006, which are the past three full years of the DAP contract, we collectively served more than 9,585 clients.

From January 2004 through December 2006, LSNY alone served 5,613 clients, obtaining monthly benefits for 1,802 of them and retroactive benefits for 1,631 of them. LSNY's success rate for Safety Net clients is 90% for the full three-year period and 84% for non-Safety Net clients in the same period. LSNY recovered a total of \$1,230,501 in monthly benefits for its clients (calculated as the sum of each client's monthly benefit in the month the client became eligible) and \$24,724,927 in retroactive benefits, while \$6,201,888 in interim assistance was returned to the State of New York from these clients.

Few government grantees can claim to have returned to the government revenues that far exceed government expenditures. Yet,

throughout the 25 years the DAP program has existed, we have consistently saved the State significant amounts by getting disabled people transferred from State welfare rolls to Federal disability payments; by helping people retain their federal disability benefits when threatened with termination; and by returning to the State, in interim assistance reimbursements (“IAR”), more than the State has paid out in DAP funding. From 2004 through 2006, LSNY, along with its contract partners, returned to the state \$10,725,953 in interim assistance benefits, and we received \$8,568,600 in DAP funding, a net gain to the state of \$2,157,353. The DAP Program provides an additional significant benefit to low-income New Yorkers: that portion of retroactive SSI or SSD awards which go back to recipients make them less vulnerable, allowing them to pay off debts, including rent arrears, to spend money in local economies and to provide them, possibly for the first time, with a small cushion against disaster.

Our high success rate is but one measure of our commitment to providing quality services. Another measure is the provision of a full range of legal advocacy services by our committed and experienced staff including: intake, case evaluation, gathering evidence, preparing the client, presenting the case, taking appeals, and any needed post-determination services. We are also well-known for our ability to provide our staff with the many tools and skills necessary to achieve excellence such as comprehensive support and training services, computers with high-speed internet access, and the full variety of legal research resources.

Representation services are provided by a mix of attorneys and paralegals. All paralegals receive close supervision by attorneys and must comply with the same code of professional responsibility. Each office has a DAP supervisor or unit coordinator.

Responsibilities for legal representation include the following:

- Intake (by telephone and in person) for initial screening
- Identify public assistance clients, including Safety Net
- Accept clients for representation
- Develop the record and gather evidence, especially medical evidence
- Prepare clients
- Complete case analysis, research legal issues, and prepare legal arguments
- Present cases at administrative hearings

- Present cases to the Appeals Council
- Appeal to federal court
- Post-determination services as needed

Other related responsibilities include the following:

- Sponsor pro se clinics, provide full range of self-help materials
- Continue community outreach, maintain network of local connections
- Provide full range of training opportunities for advocates
- Work with Statewide Legal Support coordinators to identify systemic problems in disability application processing
- File class action lawsuits to address systemic problems
- Continue to monitor large class action lawsuits in post-settlement phases (reviewing SSA's screening processes and determinations; negotiating post-settlement issues; advising potential class members of their rights; and representing these claimants at new administrative hearings).

We understand that clients may face a range of hurdles to access our services, we have developed strategies that effectively eliminate and/or reduce those hurdles, as follows:

- We conduct outreach and intake at sites in the region other than our neighborhood offices, such as senior centers, social services agency sites, homeless shelters and settlement houses.
- We offer intake at different hours of the day, both in person and by telephone. In particular, telephone intake provides access to our services by anyone who cannot easily come in to our offices.
- We offer intake in many languages. We also use Language Line to provide translation services on demand so that non-English-speaking callers are not delayed in reaching our expert help. We have a Language Access policy which details when and how to respond to clients who are identified as having limited-English proficiency. We routinely translate written correspondence for clients who are more comfortable reading in their native language. When we cannot do the translation ourselves, we hire translators, most of whom provide same-day services