

**New Mexico Commission on Access to Justice
May 7, 2020 Meeting Minutes
Remote Meeting Via Zoom**

In Attendance: Janice Kauer (NMLA); Karen Meyers (City of Albuquerque); George Chandler (ATJ Commissioner); Grace Spulak (AOC); Rachel Rodriguez (Equal Access to Justice); Quiana Salazar-King (New Mexico Immigrant Law Center); Jennifer Foote (ATJ Commissioner); Renee Valdez (Metro Court); Gary Housepian (Disability Rights NM); Torri Jacobus (City of Albuquerque); Noah McKinney (ATJ Admin Assistant); Aja Brooks (Second Judicial District); Maria Griego (New Mexico Center on Law and Poverty); Mary Smith (CLS Commissioner); Lewis Creekmore (NM Legal Aid); Ellen Leitzer (Senior Citizens Law Office); Melanie Fritzsche (NM Legal Aid); Chris Morganti (State Bar of New Mexico); Laura Bassein (JEC); Susan Givens-Mulvaney (Youth Heartline); Debbie Norman (United South Broadway); Carla Martinez (President-Elect State Bar of NM); Mark Pustay (United South Broadway); Pamelya Herndon (KWH Law Center for Social Justice and Change); Hon. Jane Levy (2nd Judicial District); Juan Abeyta (ATJ Consultant); John Greacen (ATJ Consultant); Siresha Manne (NM Center on Law and Poverty); Teague González (NM Center on Law and Poverty); Bette Fleischman (Pegasus Legal Services); Blanca Perez (Phoenix Assault and Domestic Violence Research Center); Hon. Nan Nash (Co-Chair ATJ Commission); Celia Yapita (Catholic Charities); Kaitlyn Luck (ATJ Commissioner); Tina Cruz (President of NM State Bar)

Provider and Court Updates/Challenges/Discussion

NMLA

-NM Legal Aid is getting fewer domestic violence referrals, as many DV victims are referred through shelters and shelters are not seeing a lot of new admissions

-Also not seeing a lot of unemployment cases; people may not be aware that they are being inappropriately denied so working on outreach and education

-NMLA doing outreach to people who may not be aware they qualify for Legal Aid services, SCLO and NM Center on Law and Poverty working with Legal Aid on this).

Stimulus Issues

-Time deadlines have been a big challenge for dependent children, very tight and not a lot of notice, advocates working to extend this time. NMCLP doing some media outreach to make sure people have information, put together fact sheet; NMLA sending out information by twitter;

-Catholic Charities using WhatsApp groups to inform people about stimulus money

-credit unions working on free check cashing in some locations; Rio Grande, Guadalupe, NMCLP working on a map

Foreclosures

- On May 18 GSEs and other private mortgage lenders lifting stays on foreclosures;
- Also on May 18, the Foreclosure Settlement Program in the Second will begin referring people to settlement again
- there are forbearances available but people have to ask for them
- anticipate lots of foreclosures by end of summer; both in terms of new cases and activity on existing cases
- Foreclosure Settlement Program in the Second is trying to get information about forbearances etc. during settlements (Erin Olson in the 13th is also doing this as well)
- resources Urban Development and Housing Website, servicer guidance; forbearance program not in that directive; CFPB website; Mark Pustay will send information to Grace who will get out;
- Aja Brooks also has information about forbearances that she will provide to Grace as well
- City of Albuquerque website will have info and sending info in water bills about forbearances
- Foreclosure Settlement Program may have funding limitations in the near future;
- United South Broadway will develop a factsheet so that people don't have to go to various websites and track information; Grace will send this to everyone

Evictions

- remote appearances work better when advocates/attorneys are involved
- Maria Griego with the Center on Law and Poverty had a situation where the judge in one of her hearings wanted a COVID-related reason for non-payment of rent; didn't understand that the Supreme Court Order applied even then there was not COVID-related reason for non-payment; may need more training/information for judges
- lots of CARES Act resources at national level—[Consumer Financial Protection Bureau](#) has lots of information as well as the [National Consumer Law Center](#) and the [National Housing Law Project](#);
- ATJ Commission will send a letter to the Supreme Court asking for a rule or order requiring landlords to certify that their property is not subject to the CARES Act moratoria

Metro Court Telephone Clinic

-Metro Court is holding their monthly legal clinic telephonically; the first telephonic clinic will be on May 8, 2020 and will continue to be held telephonically every second Friday of the month; they have attorneys available to call people and provide telephonic advice

Metro Court Landlord Tenant Settlement Program

-this program is designed to help landlord and tenants come to an agreement about repayment of back rent and tenants being able to stay in their homes in cases where there has been a stay of eviction due to the Supreme Court Orders regarding non-payment of rent cases

-Metro Court has referred approximately 100 cases to settlement facilitation (these are cases that went to hearing after March 24); once get through this backlog of cases that have had a hearing between March 24 and now, Metro will start assigning cases as they come in; cases that are just non-payment cases will not be set for hearing until go to facilitation; have about 10 volunteer facilitators to address;

-one challenge has been getting in touch with people in backlog cases; one particular problem if landlord doesn't call back or won't engage;

-issue with CARES Act cases that have been filed and how this interfaces with the settlement program; working on helping facilitators determine how to address this

-trying to get this going in other parts of the state; Judge McElroy is working to have this run through the ADR Commission

New Mexico Center on Law and Poverty SSI Initiative

**Sireesha Manne /
Teague Gonzalez**

-Teague Gonzalez with the New Mexico Center on Law and Poverty presented about a new initiative the Center is working on with CYFD and HSD to assist people in receiving SSI. The presentation is attached to these minutes.

-Gary Housepian mentioned how the proposal is a win-win for clients, as they are able to get back all their backpay, receive increased income, linkage to Medicaid, and advocacy under this model is greatly accelerated. This program is currently aimed at young people aging out of CYFD custody but the hope is to expand the program to other groups as well.

-George Chandler suggested cooperation with the Community Engagement team, as you do not have to be an attorney to handle these cases. Training non-lawyer advocates in rural areas is a goal both initiatives share in common.

-Juan Abeyta asked if this sort of program has been launched in the state before. No, this would be an innovative program. Alameda county is akin to NM to terms of its budget.

-Pamelya Herndon asked if the program could be one that the Pro Bono Bar could help with going forward, and if someone on the staff is willing to provide training for attorneys who are willing to help with these types of cases.

-Yes, working with the Pro Bono Bar is something to explore.

-Grace asked who would be undertaking the case management? In the CYFD program it would be CFYD workers. In others, legal services have been given funds to hire case managers. Staff of Federally Qualified Health Centers have also been utilized in the San Francisco model.

2020 ATJ Commission Meeting Schedule (meetings will be conducted remotely until further notice):

-May 21

-July 17

-September 11

-November 6

A Plan for Statewide SSI Advocacy in NM

A Medical Legal Partnership for Disabled Adults and Children



What is SSI?

- Very low-income disabled people who can't work are eligible for federal benefits called SSI, a monthly cash assistance benefit of \$783.
- While this amount keeps one below the Federal Poverty line, the monthly benefit can be enough to pay for some type of housing.
- Currently, individuals without SSI are only eligible for the state administered program, General Assistance, a monthly benefit of \$245. More on this later.
- The most recent HSD data shows that there are 3,446 disabled people on the GA rolls.

Why Is It So Hard to Get SSI?

- It can be extremely difficult to get SSI benefits. The application process is long and complicated. The disabilities that make people eligible for SSI tend to make them unable to successfully navigate the application process.
- Individuals who try to apply on their own are denied in the majority of cases, and those who do get the benefits have often had to wait through two years of appeals.
- Most applicants will have trouble getting SSI without the active assistance of an advocate to navigate the bureaucracy, develop the medical record, and encourage them to hang in there during the long, frustrating process.

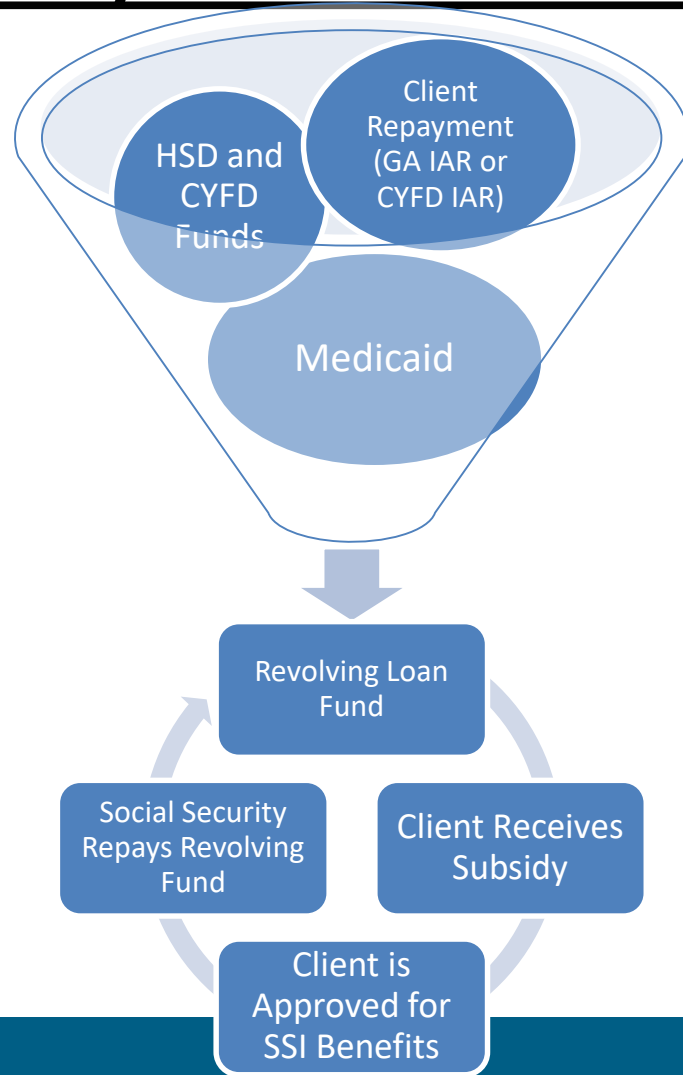
What is General Assistance (GA)?

- General Assistance (GA) is a cash assistance program administered by the Human Services Division. Eligibility is for dependent needy children and disabled adults who are not eligible for any other cash assistance program.
- GA provides a meager \$245/month for one person. The vast majority of individuals receiving GA are adults who receive GA for years until they give up on losing their SSI cases. The GA participant who is lucky enough to win their SSI claim sees an increase in their income from \$245 to \$783 per month.

What is General Assistance (GA) Interim Authorization Reimbursement (IAR)?

- Every GA participant signs a paper form contract promising to reimburse the state for GA dollars received if they win their SSI claim.
 - Most recent data: GA was funded for \$10,300,300, with annual program costs of \$5,292,981. HSD recouped only \$1,473,250 in IARs.
- Providing legal advocacy to all GA participants who must apply for SSI will see these recoupment numbers greatly increase.
- There is a proven cost-positive method to provide SSI advocacy that includes recouping IAR payments & billing Medicaid for services.

Why a statewide plan makes sense



- The state bears 100% of the cost for General Assistance.
- Right now, New Mexico is converting very few people to SSI.
- There is a gap in attorney representation of SSI-only claims.

CYFD: SSI Advocacy Pilot Program

- CYFD seeks to screen and refer 12-13 children every quarter for SSI legal advocacy. One full time attorney could expect to spend 50% of their time on this project.
- CYFD doesn't recoup GA IAR dollars because their children don't receive General Assistance, but the pilot program will take advantage of billing Medicaid for legal and case management services.
- Billing Medicaid will offset 50% of SSI advocacy.

CYFD: SSI Advocacy Pilot Program

- CYFD is in a process of Medicaid optimization and will offset half the cost of SSI legal and medical advocacy by seeking reimbursement from Medicaid quarterly.
- Opportunity: The Interim Assistance in IAR is defined very broadly – if CYFD decided to create a new interim assistance program akin to General Assistance's IAR program then CYFD could create their own form contract for IAR. At this point the program would become cost-positive.

Proposal

- CYFD will create SSI advocacy programs that co-locate legal assistance, medical treatment, and case management.
- This program will be offset 50% through billing Medicaid for services for CYFD.
- Legal services can work with CYFD to support the pilot.
- CYFD may grant funds to legal services organizations to perform SSI legal advocacy.

New Mexico Center on Law and Poverty Role

- Provide technical assistance to CYFD and HSD to establish an SSI revolving loan model of advocacy in New Mexico.
 - Coordinating with statewide legal services offices to train up SSI attorneys at their statewide offices.
 - Unique challenges for NM: Large geographic area, mostly rural; reaching clients outside Albuquerque and Santa Fe.

Coordinating and Expanding Advocacy Services

- HSD and CYFD will work to coordinate SSI advocacy services and to expand capacity of advocacy for disability benefits.

Funding for Advocacy

- After the initial state investment, advocacy services become sustainable through the recovery of interim assistance payments and billing Medicaid for services.

Financially Sustainable Treatment Model

- Using Federally or Rural Qualified Health Centers to provide treatment for recipients of SSI Advocacy creates a self-sustaining model.
- Under the FQHC and RQHC model, the payment rate is determined by dividing total medical costs by number of visits. This means that if all of the clients served have Medicaid or Medicare, the costs of the services are 100% covered.

Benefits of Case Management

Case management helps to increase engagement with clients and to coordinate advocacy and treatment. This helps increase the overall success rate by reducing the amount of clients who disappear during the application process. It also will help improve the treatment outcomes for clients by making sure they attend their appointments, which ultimately will help their underlying disability claim. By providing additional funds for housing (stability payment), case managers can also help clients find housing.

Funding for Case Management

Case management services will be funded through Medicaid. Clients awaiting SSI benefits should be eligible for the Medicaid Expansion, which gives heightened reimbursement rates.

Funding Streams

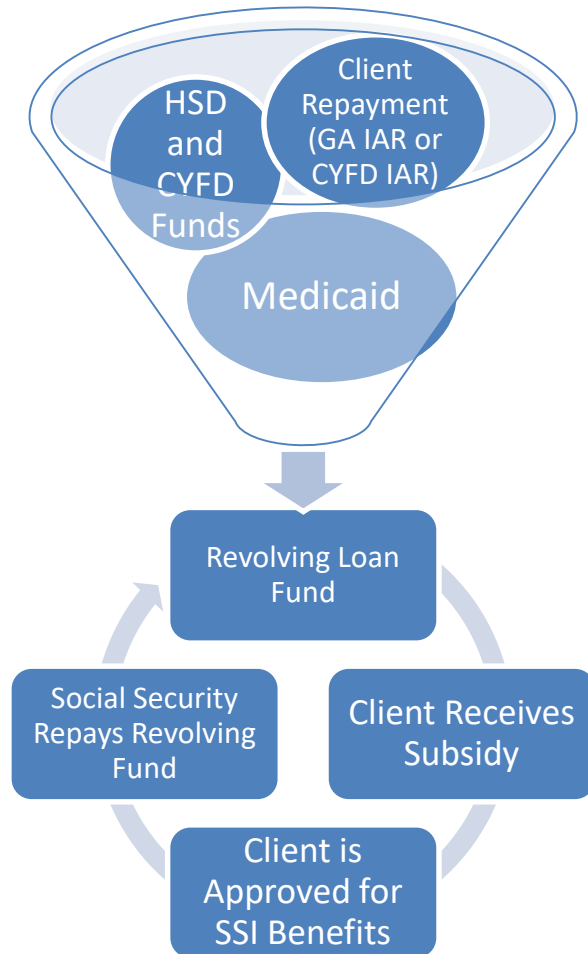
State Funding

- CYFD and HSD Fund
- General Assistance Reimbursement

Federal Funding

- Medicaid
- Specialty Mental Health
- Medicaid Administrative Activities (MAA) – federal match rates for admin activities.

SSI Trust Advocacy Model



- There are three main sources of federal funding: SSA repays State and bill Medicaid for services (MAA & FQHCs and RQHCs).
- HSD and CYFD initially seed the SSI project and then quarterly invoice Medicaid. GA IAR reimbursement is sent to HSD as SSA.
- HSD and CYFD grant nonprofit legal services offices to provide SSI advocacy.

Questions?

Teague González

teague@nmpovertylaw.org