

September 24, 2019

Commissioner Steven Banks
Department of Homeless Services
Office of the Commissioner
33 Beaver Street, 17th Floor
New York, NY 10004

Re: Proposed amendment to Title 31 of the Rules of the City of New York to include a new Chapter 4 establishing a new income savings program for DHS shelter residents with earned income

Dear Commissioner Banks:

On behalf of the New York Legal Assistance Group (“NYLAG”) and its Shelter Advocacy Initiative, we offer the following comments on the proposed amendments to Title 31 of the Rules of the City of New York to include a new Chapter 4 establishing an income savings program for DHS shelter residents with earned income (“proposed amendment”). As advocates working directly with impacted communities, we seek to share our experience and provide relevant feedback regarding the proposed amendment. The below letter provides some background on our work and specific comments about the proposed amendment.

NYLAG’S Shelter Advocacy Initiative

NYLAG serves some of New York’s most vulnerable communities, including single adults and families experiencing homelessness, immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, and domestic violence victims. The Shelter Advocacy Initiative at NYLAG provides legal services and advocacy to low income people who are both in and trying to access the shelter system. Our clients often come to us with questions about the shelter transfer process, facility conditions and resources, and fair hearings. By offering legal advice and representation throughout each step of the shelter application process, we work to ensure that every New Yorker has a safe place to sleep.

Based on our experience working with individual adults and homeless families as they move through the shelter system, we submit the following comments to the proposed amendment.

Comments:

As stated in the *Notice of Public Hearing and Opportunity to Comment on Proposed Rule*, the purpose of the proposed amendment “***is to help clients exit DHS shelters by budgeting for and developing savings to facilitate their transition to permanent housing upon shelter exit.***” The income savings plan set forth in the proposed rules, however, will not decrease New York’s homeless population and will in fact increase New York City’s street homeless population.

1. The proposed amendment will result in an increase in street homelessness.

Each night thousands of unsheltered homeless people sleep on New York City streets, in the subway system, and in other public spaces. There is no accurate measurement of New York City’s unsheltered homeless population, and recent City surveys, putting the number at about 3,700, significantly underestimate the number of unsheltered homeless New Yorkers.¹ The proposed amendment will only increase those numbers, as many shelter residents will be unable or unwilling to comply with the administrative burdens imposed by the new program. The penalty for failure to comply is eviction from shelter, and the most vulnerable of New York City’s shelter residents will be most affected. Proposed rule §4-04. NYLAG strongly opposes any policy where the penalty for non-compliance is forced street homelessness.

The proposed rule is a “one size fits all” approach. There are no stated exemptions and as such the rule will simply be impossible for many shelter residents to comply with. This proposed rule will likely result in an increase in street homelessness for at least two distinct reasons.

First, The proposed rule will necessarily involve new onerous administrative and paperwork requirements for shelter residents. Many shelter residents are already overwhelmed by the myriad amount of paperwork and meetings they are required to attend as a condition of placement, and our clients frequently have their programming or assigned placement discontinued purportedly due to administrative and paperwork failures on their parts. Additionally, shelter residents living with mental or physical disabilities and/or addiction often have additional barriers to keeping track of and submitting necessary paperwork. Such challenges around organizing paperwork and maintaining administrative deadlines will only be exacerbated by the proposed amendments.

Second, many shelter residents are barely surviving on their existing income due to financial obligations such as childcare costs, mandatory child support, garnishment of wages for other debt, and outstanding medical bills. For example, 71% of the New

¹ <https://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city/>

York's shelter population is comprised of families, and the heads of household in nearly one-third of those families work.² Moreover, in the aggregate, low income families with one or more parent who works pay over one-third of monthly income on child care.³ Many of these shelter residents do not have disposable income to place in the savings account that would be required by the proposed rule. These families would thus lose their shelter benefit under this amendment.

As a result, the burden of compliance and the penalty for non-compliance provided in the proposed rules will result in more New York City residents living on our streets.

2. The proposed rule does not address the fundamental cause of homelessness.

It has long since been established that the primary cause of homelessness in New York City is the lack of low cost housing.⁴ Rising rents,⁵ landlords unwilling to accept vouchers⁶ and long waiting lists for low-cost housing⁷ all contribute to the scarcity of affordable housing. A savings account is meaningless if permanent low cost housing not available to shelter residents.

3. The proposed rule will be difficult to implement because it fails to take into account the lived realities of a homeless individual or family.

It is often difficult for a shelter resident to find consistent employment.⁸ As shelter residents lose and find new jobs, their income varies from month to month. Similarly, the homeless are often in and out of shelter over a period of years.⁹ The proposed rules do not take into account the instability inherent to the lives of shelter residents. For example, under the proposed rules, program participants are required to report every change in income, potentially imposing a new, significant burden on shelter residents as well as program administrators. Proposed rule § 4-03(e). In addition, the proposed rules provide for the release of savings to a shelter resident who has been

² <http://nymag.com/intelligencer/2017/03/nyc-homelessness-crisis.html>

³ <https://www.americanprogress.org/issues/early-childhood/reports/2019/06/20/471141/working-families-spending-big-money-child-care/>

⁴ <https://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city/>

⁵ <https://comptroller.nyc.gov/reports/the-gap-is-still-growing-new-york-citys-continuing-housing-affordability-challenge/>

⁶ <https://www.nytimes.com/2018/06/20/nyregion/nyc-government-vouchers-lawsuit.html>

⁷ "Approximately 5,000 apartments become available each year inside developments managed by NYCHA, which translates to a vacancy rate of less than one percent. In addition, as of May 2018, there are 209,180 families on the public housing waitlist." <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/03/NYCHA2020.pdf>

⁸ <http://nymag.com/intelligencer/2017/03/nyc-homelessness-crisis.html>

⁹ "Many families struggle with housing instability after leaving the shelter system and eventually must re-enter. In June 2016, almost half (46%) of families that were entering shelter were "repeat" families, meaning they had previously entered the city shelter system." <https://www.icphusa.org/wp-content/uploads/2019/07/Shelter-DynamicsFinal07819.pdf>

out of a DHS shelter or 30 consecutive days, potentially resulting in the creation of multiple savings funds over the course of even a single year. Proposed § 4-05(a).

In conclusion, we do not believe the proposed Income Savings Plan Program would achieve its stated goal of facilitating the transition to permanent housing for shelter residents. Instead, we believe the proposed amendment would increase the street homeless population, as it does not address the root cause of homelessness and would additionally be challenging to implement and maintain.

Sincerely,

Beth Goldman, Esq.
President and Attorney-in-Charge
New York Legal Assistance Group
7 Hanover Square
New York, NY 10004
(212) 613-5000