

**Testimony by New York Legal Assistance Group**

**Before the Joint Senate Standing Committee on Housing, Construction and  
Community Development and Standing Committee on Social Services**

**February 28, 2020**

Senators Kavanagh and Persaud, and other committee members: Thank you for the time to speak today and for the opportunity to submit recommendations on issues related to homelessness, housing insecurity and affordable housing. My name is Abby Biberman and I am a senior supervising attorney with the New York Legal Assistance Group (NYLAG) working in our Public Benefits Unit. NYLAG is a not-for-profit legal services organization serving low-income New Yorkers. NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves those in need of government assistance, seniors, people with disabilities, the homebound, patients with chronic illness or disease, low-wage workers, immigrants, veterans, families facing foreclosure, renters facing eviction, low-income consumers, children in need of special education, domestic violence

victims, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free legal services.

We encounter New Yorkers directly impacted by the housing affordability crisis in our City in all areas of our practice. In my work in particular, where the high cost of living is coupled with a level of benefits insufficient to meet one's needs, we serve clients with the intertwined problems of food scarcity, housing instability, and homelessness. An adult recipient of public assistance with one dependent child is maximally eligible for the basic shelter allowance of \$283, an amount that will not even rent a private room for this family in any of our five boroughs. This same family will have been forced to deplete any savings they may have had in order to apply for public assistance, thereby putting them in the almost impossible position of transitioning off of benefits. And finally, because this family's benefit level is so low, and the cost of living so high, they are also even more likely to encounter the shelter system at one time or another. I offer the following recommendations to help address these issues.

## **I. KEY ISSUES**

The key issues I want to bring to your attention and for which I will provide recommendations are eviction prevention, homeless shelter access and services, and broadening the public assistance eligibility rules. New York City in particular is faced with a shortage of affordable housing, and a growing homeless population. We

are grateful for the passage and implementation of the Housing Stability and Tenant Protections Act which strengthened tenant protections and is helping to maintain affordable housing. Our clients now need access to rental assistance programs that will better serve them long term. Our homeless clients need assistance moving out of the shelter and into permanent housing. And our clients who have managed to secure permanent and affordable housing are often on the brink of financial crisis at any moment, if they lose their jobs or experience family emergencies that necessitate seeking government assistance. They need access to services that will help keep them out of the cycle of poverty and on the road to long-term financial stability.

## **II. RECOMMENDATIONS**

### **a. Continue and improve upon rental assistance programs**

#### *i. Yes to Home Stability Support*

NYLAG strongly supports implementation of the Home Stability Support (“HSS”) Program. One critical component of enabling public assistance recipient families to find safe housing and avoid eviction is an ability to cover the cost of rent, which can either come from an increase in the public assistance shelter allowance, an allowance that has not been changed since very minimal increases in 2003, or a program that will bridge the gap between the inadequate shelter allowance and the rising cost of rent. A family of three in New York City that includes a minor

dependent child in the public assistance household will receive a maximum of \$400 in shelter allowance.<sup>1</sup> In addition to New York State's constitutional obligation to provide "aid, care and support of the needy," statutory law requires the State to provide adequate allowances for legally responsible relatives to support the physical and emotional well-being of minor dependent children.<sup>2</sup> Without adequate housing or even the potential for adequate housing under the current shelter allowance and rental subsidy scheme, New York State grossly fails to meet its obligations. HSS would provide a much needed bridge to assist people in exiting the shelter system and entering permanent housing, providing rental assistance to help them maintain their affordable apartments, and reducing the multitude of costs associated with homelessness, including payments to shelters and increased medical spending.

The Family Homelessness & Eviction Prevention Supplement (FHEPS) and CityFHEPS are often the only options for public assistance families being threatened by eviction, and these programs have helped so many New York City families avoid eviction, maintain affordable housing, and exit the shelter system. However, these subsidies are issued on top of the shelter allowance, but still fail to bring the total shelter grant anywhere near the current fair market rent in NYC.

Further, rent caps that are too low and other eligibility rules tied to the current programs make it even more difficult for families to secure and maintain

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<sup>1</sup> NY SOC. SERV. LAW § 131-a; 18 NYCRR § 352.3(a).

<sup>2</sup> N.Y. CONST. ART. XXVII, § 1; N.Y. SOC. SERV. LAW §350(A).

their apartments, and the household composition rules create complications in family living situations and public assistance budgeting that can lead to more benefits problems, loss of benefits, and loss of the subsidy entirely. HSS will eliminate many of these problems, by pegging the subsidy to the fair market rent, and for this reason NYLAG supports its implementation.

*ii. Pass the amendment to the Public Housing law in relation to  
establishing the housing access voucher program*

Many of the current housing subsidies are tied to receipt of public assistance or require an individual to have a Public Assistance case in “Single Issuance” status, even if the person is not eligible for ongoing benefits. In New York City, for example, we are grateful for our CityFHEPS supplement, which broadens eligibility to some people who are working and earning at or below 200% of the Federal Poverty Level. Setting aside some of the barriers to accessing the program for homeless families that I will discuss below, eligibility for CityFHEPS for people who are facing eviction in order to maintain an apartment is limited. In addition, the program is administered by the Human Resources Administration, which we applaud in making itself available to advocates on an as needed basis to work creatively to assist our clients, but we are concerned that it is difficult to administer on a widespread basis, especially for people without advocates. This can lead to more clients ending up back in housing court because of problems with the voucher.

The housing access voucher program proposed by Senator Kavanagh would be a welcome supplement, coupled with HSS, to provide much needed rental assistance to low-income families who are not in receipt of public assistance, or who seek to transition off of public assistance.

**b. Addressing Homelessness**

*i. Improve Case Management Services for homeless clients.*

NYLAG also wants to bring to light the importance of access to case management services for homeless shelter residents. We urge the state to recognize the vulnerability that comes with homelessness and the ways in which it can do more to support our homeless neighbors. However, simply providing case management to the people who want it is not enough. There must be infrastructure in place to ensure that this case management is effective. NYLAG's clients report that their Department of Homeless Services ("DHS") caseworkers are under informed or misinformed about available benefits and programs, that their caseworkers are so overloaded that they cannot be relied upon for any form of assistance, that their caseworkers do not attempt to help them, and, in some instances, that their caseworkers antagonize them.

For example, caseworkers do not or only minimally assist our clients with obtaining housing vouchers, and do not inform our clients when their housing vouchers will expire. Clients are thus left with expired vouchers and with no

information about the voucher process. On top of that, clients need more support than just being given a voucher, they need effective assistance finding apartments and using the vouchers effectively.

The most widely available voucher for clients exiting shelter is CityFHEPS. We are grateful for the existence of the rental voucher, but there are still some problems, as exhibited in part by the fact that it is being under-utilized. In 2019, nearly 60% of homeless families who received a CityFHEPS shopping letter were still in a shelter at the end of the year.<sup>3</sup> In addition to the reasons mentioned above, we suspect there are other reasons that this is happening. Rental limits on most vouchers are very low, and, even if an apartment in the voucher's rent range is available, many landlords will not accept vouchers due to source of income discrimination. In many instances, without assisting clients to find housing, the voucher by itself is useless. Expanding the role of caseworkers would allow more people to exit shelter more quickly.

I urge this committee to be cognizant of the ways in which the expansion of case management services can be overseen and further resourced to ensure that these services are helpful to our clients. Providing more case management to homeless clients is just the first step in ensuring that shelter is an accessible and helpful resource on the path towards permanent housing.

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<sup>3</sup> WIN, MAKING CITYFHEPS A MORE EFFECTIVE TOOL 5 (2020), [http://winnyc.org/wp-content/uploads/2020/01/Making\\_CityFHEPS-JAN\\_15.pdf](http://winnyc.org/wp-content/uploads/2020/01/Making_CityFHEPS-JAN_15.pdf)

*ii. Improve the Shelter Eligibility Process*

A discussion about barriers to entry to the DHS shelter system would be grossly inadequate if it does not include the ways in which the eligibility process is itself purposely designed to be a major barrier for people experiencing homelessness. First, clients at DHS family intake centers for shelter placement must provide a complete history of all the places they have lived in the last one or two years. For the chronically homeless, this burden is especially onerous. And secondly, this process then requires each place listed to be verified by outside contacts. Even for periods of street homelessness, clients are expected to provide contacts so that DHS can verify that the client was living on the street at a listed time. If the verification contacts do not answer the phone, or if DHS cannot speak with them, then the client is found ineligible for shelter for “not cooperating” with the investigation and they have to reapply, returning to an intake center every ten days and spending ten to twenty hours waiting for a new temporary shelter placement. Additionally, if DHS determines in their investigation that clients have an alternative housing option, even if clients have proof that the purported option is not available to them, DHS will deny them shelter and the clients cannot return to intake for thirty days. This means that when DHS believes clients have another place to sleep, even if the clients have been forbidden from returning to the suggested address or if that



address poses health risks or is out of state, the clients are forced into street homelessness for thirty days.

This happens daily to our clients and can occur repeatedly for months before DHS can verify their housing history. If someone were not in fact homeless, they would not seek shelter, nor would they subject themselves and their loved ones to the trauma of the shelter intake process. NYLAG has clients who have gone through intake every ten days for the last year and still have not been found eligible because of this process. Additionally, we have several clients who found the eligibility process so traumatizing and degrading that they have ultimately opted for street homelessness, put their children into kinship foster care, or opted for unsafe housing. We have seen clients with mental and physical disabilities face noticeable and tangible deteriorations in their health because of the shelter eligibility process.

**c. Broadening Public Assistance Eligibility Rules**

*i. Eliminate the Public Assistance Resource Test*

Finally, I want to reiterate that I am grateful for this opportunity to present recommendations based on my experience serving clients in the area of public assistance and homeless advocacy. My final recommendation is that the state eliminate, or in the alternative raise, the asset limit for public assistance recipients. This would be beneficial to applicants and recipients of public assistance, and would promote saving and economic self-sufficiency.

New York State law currently imposes strict limits on the amount of assets a person may have in order to receive public assistance.<sup>4</sup> Generally, a person may not have cash savings of more than \$2,000 or \$3,000 if there is a household member who is sixty years or older.<sup>5</sup> The state law is complex, and incorporates a number of income and resource exemptions.<sup>6</sup> Needless to say, it can be confusing to both clients and to social services benefits administrators. As a result, our clients are routinely faced with frivolous fraud investigations due to bank matches, only to have the Agency concede that the triggering money in a person's account was an exempt resource, such as a Low Income Tax Credit or a school scholarship or grant. These investigations are stressful and traumatizing to clients, take time from their work and childcare responsibilities, and can result in clients, particularly those who are unrepresented, agreeing to repay for benefits that they were not in fact overpaid, or end up with a judgment in civil court and possible wage garnishment.

Data from states that have eliminated the asset test shows that it does not cost the state more due to an increase in public assistance recipients.<sup>7</sup> Further it actually decreases the cost of administering benefits.<sup>8</sup> In New York, in 2014, less than 1% of

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<sup>4</sup> NEW YORK SOC. SERVS. LAW § 131-n.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> CLASP, ELIMINATING ASSET LIMITS: CREATING SAVINGS FOR FAMILIES AND STATE GOVERNMENTS 4 (2018), [https://www.clasp.org/sites/default/files/publications/2018/04/2018\\_eliminatingassetlimits.pdf](https://www.clasp.org/sites/default/files/publications/2018/04/2018_eliminatingassetlimits.pdf). See also MARTHA MOSKOWITZ, ESO. AND SUSAN ANTOS, EMPIRE JUSTICE CENTER, DRIVEN INTO POVERTY: HOW NEW YORK'S ASSET TESTS KEEP PEOPLE POOR 10-11 (2015), <https://empirejustice.org/wp-content/uploads/2018/01/driven-into-poverty-2015.pdf>

<sup>8</sup> *Id.*

applications were denied for being over the resource limit.<sup>9</sup> It is safe to conclude the resources spent conducting investigations into the assets cost the state more than the increased benefit roll.

Finally, the asset limit being so low forces our clients into a state of financial crisis in order to be able to apply for benefits, and makes it nearly impossible for them to dig their way out of it.

### **III. CONCLUSION**

Please consider NYLAG's recommendations regarding rental assistance programs, homeless services, and an increase to or elimination of the public assistance asset limit. Thank you again for your invitation on behalf of New York State residents in need of social services. I welcome further conversation about any of these recommendations in the near future.

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<sup>9</sup> [MARTHA MOSKOWITZ, ESO. AND SUSAN ANTOS, EMPIRE JUSTICE CENTER, DRIVEN INTO POVERTY: HOW NEW YORK'S ASSET TESTS KEEP PEOPLE POOR 10-11 \(2015\), https://empirejustice.org/wp-content/uploads/2018/01/driven-into-poverty-2015.pdf](https://empirejustice.org/wp-content/uploads/2018/01/driven-into-poverty-2015.pdf)