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Empire Justice Center

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Joint Legislative Budget Hearing: Human Services

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Introduction

My name is Susan Antos and I am a Senior Attorney in the Albany office of Empire Justice Center. On behalf of my colleagues, I'd like to thank you for the opportunity to testify today about the Executive Budget as it pertains to human services.

Empire Justice Center is a statewide legal services organization with offices in Albany, Rochester, White Plains, Yonkers, Mount Vernon and Central Islip (Long Island). Empire Justice provides support and training to legal services and other community based organizations, undertakes policy research and analysis, and engages in legislative and administrative advocacy. We also represent low income individuals, as well as classes of New Yorkers, in a wide range of poverty law areas including health, public assistance, domestic violence and SSI/SSD benefits.

My testimony today will span three agencies: the New York State Office for the Aging, the Office of Children and Family Services, and the Office of Temporary and Disability Assistance, and will call for:

1. Support for the Managed Care Consumer Assistance Program (MCCAP) appropriation with an additional legislative investment for a total of \$1.962 million.
2. Provide an additional \$100 million investment in child care subsidies to create 13,000 new child care slots.
3. Cap the child care copayment at 10% of gross income.
4. Require social service districts to pay for children's absences, just as private pay parents do.
5. Provide a total investment of \$8 million for the Disability Advocacy Program.
6. Address the inadequacy of Public Assistance shelter and fuel for heating allowances.
7. Eliminate asset limit tests for Public Assistance eligibility: 529 college savings accounts, retirement accounts and vehicles.
8. Introduce legislation to better identify disabilities by requiring the use of the "Modified Mini Screen" and making it available upon application for public assistance benefits.
9. Support efforts to expand access to SNAP benefits for college students and disabled individuals, and adopt seamless transfer of SNAP cases between counties.

OFFICE FOR THE AGING

Invest a Total of \$1.962 million in the Managed Care Consumer Assistance Program (MCCAP)

The Managed Care Consumer Assistance Program (MCCAP), a statewide initiative run through the New York State Office for the Aging (NYSOFA), provides to seniors and people with disabilities critical assistance in accessing Medicare services and reducing health care costs. We are grateful that the Executive Budget provides ongoing funding for MCCAP at its current level, \$1.767 million. However, given that the funding has been at a reduced level for several years, we are asking that the Legislature provide additional funds to get MCCAP funding to its 2008-2009 level of \$1.962 million. This additional investment will return the

program to capacity and respond to the increased demand for Medicare navigation assistance brought about by a growing aging population and changes in the health care delivery and insurance landscape.

The six MCCAP agencies partner with NYSOFA, NYSDOH and CMS to provide training, technical support and assistance to local Health Insurance Information Counseling and Assistance Program (HIICAP) offices and other nonprofit organizations working directly with Medicare consumers across New York State. Additionally, MCCAP agencies work directly with consumers to provide education, navigational assistance, legal advice, informal advocacy and direct representation in administrative appeals. We serve clients in their communities and provide services in their native languages; consumers also increasingly reach us via internet and our telephone helplines, as well as through our educational materials and referrals from HIICAPs.

Now is a critical time to shore up funding for MCCAP. As the aging population increases, so does the number of Medicare beneficiaries in New York who need MCCAP's assistance in understanding and accessing their health benefits. In the last year, MCCAP continued its traditional work helping individuals maximize their benefits under the highly complex Medicare Part D program, as well as assisting dual eligibles and other Medicare beneficiaries with health care access issues apart from Part D. In addition, MCCAP has responded to a range of new needs that have resulted from the changing health care landscape. For example, MCCAP has fielded a high volume of calls from new Medicare beneficiaries in need of assistance transitioning from Qualified Health Plans, Marketplace Medicaid and Medicaid Managed Care plans. These transitions, which are necessary because Medicare beneficiaries are, for the most part, excluded from Marketplace products and Medicaid Managed Care, can seriously disrupt care continuity if not navigated carefully. MCCAP has also experienced an uptick in calls from seniors on Medicare struggling to piece together their health insurance options when their employers eliminate retiree insurance in favor of using private Medicare exchanges. As more and more large employers turn to private Medicare exchanges, MCCAP's advocacy and navigation assistance for the affected retirees will be crucial.

Recommendation: We urge the Legislature to negotiate with the Executive to increase MCCAP funding by \$195,000 for a total investment of **\$1.962 million**.

OFFICE OF CHILDREN AND FAMILY SERVICES

Empire Justice Center joins Winning Beginning NY in asking for a 5 year commitment to meet the needs of all low income working families in New York, beginning with an initial investment of \$100 million which would add 13,000 child care slots.

Low income working families in New York State are facing a crisis of unprecedented proportions, as funding for the state's Child Care Block Grant remains behind the \$999 million investment of SFY 2010-2011. The Governor's budget fails to include any increased funding for child care subsidies compared to last year's budget. At the same time, funding across the state is inadequate to serve all eligible working families.

- NY's increased investments in the 2014-2015 budget brought total funding to \$960M (~80% of which is federal funding) and helped to increase access to high quality education opportunities, but much more needs to be done! **Even with this increase, more than 75% of eligible children still go unserved every year.**¹ Using data from the NYS Office of Children and Family Services, an estimated 600,000 children are eligible for subsidies, but only 22%, or less than 130,000 children, are being served at any time at the current funding level of \$960M.
- Federal reauthorization of the Child Care and Development Block (CCDB) Grant requires states to enhance their health and safety standards, requiring increased investment in safety and quality. An increased investment must be sufficient to meet these standards without compromising the goal of serving all eligible families.

Child care is in crisis

Counties are simply running out of money, even as the need grows. Some are simply refusing to accept new applications. Many are reducing eligibility, falling far short of the state's goal of serving all families at 200% of poverty.

- **Greene County** cuts off eligibility at 100% of poverty (\$19,790 for a family of three), and is currently accepting no new applications.
- **Niagara County** only serves those at or below **120%** of the federal poverty level (\$23,748 for a family of three).
- The eligibility levels in **Dutchess, Ontario, Orange and Rensselaer Counties** are **125%** of poverty (\$24,737.50 for a family of three). *In last year's budget the Workforce Development Institute was awarded Facilitated Enrollment funding for Rensselaer County, which allows some, but not all, families over 125% of poverty to be served.*
- Although **New York City** has technically retained its eligibility levels at 200% of poverty, data show that few families over **135%** of poverty are being served.
- Three social services districts have lowered eligibility to **150%**: **Fulton, Oneida and Schenectady Counties**.
- **Cayuga and Livingston Counties** have lowered eligibility to **160%** of poverty.
- The eligibility level in **Suffolk and Monroe Counties** is set at **165%** of poverty. *In last year's budget the Workforce Development Institute in Monroe County was awarded Facilitated Enrollment funding which allows some families with incomes over 165% of poverty to receive subsidies.*
- In **Cattaraugus and Schoharie Counties** eligibility is at **175%** of poverty.
- **Washington County** is at **185%** of poverty.
- **Nassau County**, which has traditionally maintained high income eligibility levels by supplementing federal dollars with local funds, recently **lowered the eligibility level from 275% to 200%**.

Adequate funding for child care is critical to the success of New York's economic development initiatives and of welfare reform. It makes no sense to guarantee a child care

subsidy to welfare recipients who find a job for one year, and then remove that benefit when their wages remain at a level that is not high enough to promote self-sufficiency.

Investing in child care is critical to economic development

As a result of 1996 Federal Welfare Reform, with its emphasis on “work first,” public assistance rolls have plummeted as families left welfare for low wage jobs. In 1995, there were 1.5 million recipients of cash public assistance in New York State; 1.2 million received Aid to Families with Dependent Children (AFDC, the cash public assistance program before welfare reform). 803,000 of these recipients were children. By December 2014, the number of persons on Temporary Assistance had plummeted to 573,328 (301,043 of those recipients were children)².

However, without assistance in paying for child care, low wage workers cannot make ends meet. The report on the Self-Sufficiency Standard for New York concludes that in order meet basic needs, including child care, a family of three with a preschooler and a school age child needs the following hourly wage:³

- NYC (Northern Manhattan): \$27.38 per hour
- Westchester/Yonkers: \$32.38 per hour
- Erie: \$22.33 per hour
- Suffolk: \$37.37 per hour

These hourly wages are significantly above the wages earned by many families and illustrate how, without a subsidy, the cost of child care is out of reach to low wage families.

Child care must be affordable

Even when subsidies are available to low income families, the inequity in the child care benefit offered to similarly situated families (same family size, same income) varies by as much as 300% depending on the county in which a family resides. This disparity exists because of the regulation of the Office of Children and Family Services (OCFS) that sets forth the formula for calculating copayment amounts. The formula gives social services districts total discretion to choose a multiplier between 10% and 35% that is applied to the family's income above the state income standard (the equivalent of the federal poverty level) to determine the household's copayment amount.⁴ The result is that the larger the multiplier chosen by the county, the smaller the child care benefit received by the family.

It's time to address this inequity. This standardless formula has been in place, unchanged, since at least June 29, 1987, when the New York State Department of Social Services, the OCFS predecessor agency, directed all social services districts to adopt the methodology by June 1, 1988. Because OCFS authorizes each district to select a multiplier without further guidance, child care subsidies and copayment policies vary dramatically across the state. A county can opt to issue child care benefits that are approximately one-third of what the same family would receive in a neighboring county.

The inequity is vast across New York. As indicated by the chart on page 8 of this testimony, in three social services districts parents pay 10% of their income over the poverty level as their child care copayment; in one district parents pay 15% of their income over poverty; in eleven districts, parents pay 20% of their income over poverty; in thirteen districts, parents pay 25% of their income over poverty; in one district parents pay 27% of their income over poverty; in four districts, parents pay 30% of their income over poverty; and in twenty-five districts, parents pay 35% of their income over poverty.

In response to recommendations made by the New York State Assembly Child Care Workgroup,⁵ in the 2014-15 legislative session the Assembly passed A. 8928 (Russell) that would do much to curb copayment disparities between counties and improve affordability by amending Social Services Law § 410-x to limit child care copayments to 20% of a family's income in excess of the corresponding poverty level.⁶

A bill sponsored by Assemblywoman Titus and cosponsored by seventeen other Assemblymembers (A.4207), would ameliorate these inequities by providing that no family could be required to pay more than 10% of their gross income for child care. This bill still permits counties to choose their multiplier, but it imposes a second step in the copayment calculation – if the resulting number exceeds 10% of the family's gross income, the copayment is adjusted downward to that number. New York City actually implemented such a cap from 2007-2009,⁷ but ended up adjusting the cap upward from 10% to 12% in May 2009⁸ and then to 17% in 2011,⁹ rendering the cap essentially meaningless.

Both bills continue to afford Social Services districts some flexibility. Neither bill would take away the authority of a local district to choose its multiplier, but it would require that, if after the calculation, the resulting number was more than the cap as defined in the bill, the copayment would have to be reduced to that number.

The existing delegation created by the regulation has resulted in a system that unequally distributes an important benefit and puts the cost of child care out of reach of some low income working families, but not others. As a consequence, the system is not equitable and not based upon a family's ability to pay.

Recommendation: Empire Justice Center urges the legislature to make copayments equitable and use either the model in the Rosa bill or pass the Titus bill (A.4207), assuring that all parents can afford child care in New York State.

Payment for Absences

When a child of a private fee paying family has to be absent from child care, the family is still required to pay for the day missed, because child care providers incur the expenses even if the child is not in attendance. However, in the case of a subsidized child, New York State allows social services districts to decide whether or not to pay the provider if a child is absent from child care temporarily, such as when a child or the child's parent is ill, or the child has a medical appointment, leaving the child care provider with a financial loss.

Child care providers are small business owners and should not have to bear these additional costs as a penalty for doing business with local government. To level the playing field and address this problem, legislation should be passed that would require local social services districts to make a minimum number of payments to providers when a child is temporarily absent from child care.

The plans of 52 of 58 districts indicate that they will pay the provider for child care when a child is absent on a regularly scheduled care day. However, this number is deceptive for two reasons. First, most of these districts (35) will only pay for absences if the provider has a contract with a district, meaning that far fewer districts actually pay for absences uniformly.

Second, many districts pay below market rate to contracted providers, meaning that the added payment for absences is significantly undercut by lower payment rates. To make matters even more confusing, the numbers of absences that each district will pay for and the categories of providers eligible for payments are wildly inconsistent from district to district. This problem was mentioned specifically in the Assembly Child Care Work Group Report, and as a result, at the end of last legislative session, the New York State Assembly passed A.8926, sponsored by Assemblywoman Gabriela Rosa. This bill requires social services districts to make payments to providers for at least 12 absences in a six-month period, and directs OCFS to promulgate regulations defining the maximum number of absences allowed for reimbursement, in an amount not be less than 24 absences in a six-month period, with more allowable in the case of extenuating circumstances. This legislation, which had a companion bill in the Senate (S.6819/Stavisky), would provide economic stability to child care providers.

State regulations require child care providers to maintain particular child-staff ratios which vary depending on the age of the child. Staff must be paid regardless of whether an enrolled child is out sick or absent for another reason. Many of the expenses of operating a child care program are fixed and are not variable based on the number of children attending; in addition to salary and benefits for personnel, fixed costs include rent and property taxes, utilities, cleaning supplies, liability insurance, advertising and property maintenance. When counties do not make payments to providers for absences, it creates another disincentive for child care providers to accept children whose parents have volatile work schedules.

RECOMMENDATION: Reintroduce and pass the Rosa/Stavisky legislation (A.8926 /S.6819) this session.

COPAYMENT DISPARITIES BY COUNTY FOR A FAMILY OF THREE WITH AN INCOME OF \$39,060/year
(200% of poverty effective 6/1/14)

COUNTY	COUNTY MULTIPLIERS	ANNUAL/WEEKLY FEE
<i>In Cattaraugus, Livingston and Steuben counties</i>	<i>parents pay 10% of their income over the poverty level for a child care subsidy</i>	<i>this means they pay \$1953 per year, or \$37.56 per week (5% of their income)</i>
<i>In Oswego County</i>	<i>parents pay 15% of their income over the poverty level for a child care subsidy</i>	<i>this means they pay \$2930 per year, or \$56.35 per week (7.5% of their income)</i>
<i>In Allegany, Cayuga, Clinton, Columbia, Essex, Nassau, Niagara, Ontario, Putnam, Saratoga and Tompkins counties</i>	<i>parents pay 20% of their income over the poverty level for a child care subsidy</i>	<i>this means they pay \$3906 per year, or \$75.12 per week (10% of their income)</i>
<i>In Albany, Delaware, Hamilton, Jefferson, Madison, Oneida, Rockland, Schuyler, St. Lawrence, Ulster, Warren, Washington and Wayne counties</i>	<i>parents pay 25% of their income over the poverty level for a child care subsidy</i>	<i>this means they pay \$4883 per year, or \$93.90 per week (12.5% of their income)</i>
<i>In Westchester County</i>	<i>Parents pay 27% of their income over the poverty level for a child care subsidy</i>	<i>this means they pay \$5273 per year, or \$101.40 per week (13.5% of their income)</i>
<i>In Chautauqua, Dutchess, Otsego and Suffolk counties</i>	<i>parents pay 30% of their income over the poverty level for a child care subsidy</i>	<i>this means they pay \$5859 per year, or \$112.67 per week (15% of their income)</i>
<i>In Broome, Chemung, Chenango, Cortland, Erie, Franklin, Fulton, Genesee, Greene, Herkimer, Lewis, Monroe, Montgomery, New York City, Onondaga, Orange, Orleans, Rensselaer, Schenectady, Schoharie, Seneca, Sullivan, Tioga, Wyoming and Yates counties</i>	<i>parents pay 35% of their income over the poverty level for a child care subsidy</i>	<i>this means they pay \$6836 per year, or \$131.46 per week (17.5% of their income)</i>

OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

Restore and Build Upon the Investment in the Disability Advocacy Program

For thirty-one years and counting, the Disability Advocacy Program (DAP) has been helping low income disabled New Yorkers who were cut off or denied federal SSI/SSD benefits. Over the course of its first 30 years, DAP providers, who work in every part of the state:

- Assisted over 208,000 New Yorkers.
- Helped put over \$710 million in retroactive benefits in their hands to be spent in local economies.
- Generated over \$205 million in federal funds paid back to New York State and the counties.
- Saved at least \$272 million in avoided public assistance costs.

Consistently successful in at least 75% of all cases, DAP services help stabilize people's incomes, which in turn helps stabilize housing, health and quality of life overall. **For every dollar invested in DAP, at least \$3 is generated to the benefit of New York's state and local governments.**

In last year's final budget, the DAP program was funded at \$7 million, which included an additional investment of \$1.74 million from the State Legislature. With this investment, DAP providers have been able to enlarge their advocate base of attorneys and paralegals, and adjust staffing patterns to handle the increase in capacity. One provider has been able to expand their hotline hours - for the first time in 10 years. The additional funds have enabled programs to open more cases and strive to reduce the number of unserved clients across the state.

While we're happy to report that DAP is funded in the Executive Budget at \$5.26 million, the same level of funding included in the Executive Budget last year, we are disappointed that a total of \$7 million was not included. Clearly, without restoration of the \$7 million funding level, DAP providers will be unable to sustain the gains that have been made in staffing and the ability of providers to increase their caseloads and serve more clients will seriously undermined.

Recommendation: Given the increased investment from the State Legislature last year, and the evidence of increased capacity, we are asking the Legislature to once again invest in DAP to restore last year's level of funding and invest an additional million dollars to bring statewide funding to a total of \$8 million. The additional funding will go a long way toward further stabilizing the long term future of this program and allowing providers to begin to chip away at the unmet need for services. It will also allow DAP to continue the momentum toward generating an estimated additional \$5.4 million in annual savings to state and local governments by 2016.

Address the Inadequacy of Public Assistance Shelter and Fuel for Heating Allowances

New York State has the dubious honor of ranking fourth in the country for the number of people living below the federal poverty line. In our upstate cities, children fare the worst, with over 50% of children in Rochester, 49% in Syracuse and 46% in Buffalo living in poverty. An array of strategies must be undertaken to turn this around; I address here the safety net that theoretically enables our poorest individuals and families to meet their basic needs, that is, our public assistance programs.

It has long been the case that the public assistance grant in New York does not realistically enable a family to meet even their most rudimentary needs. The maximum grant in Onondaga and Erie Counties brings a family to 41% of the Federal Poverty Level; in Nassau County, the grant is equivalent to about 50% of the FPL. Even with a household's SNAP benefits included, a family living on public assistance anywhere in New York State must struggle to make do on income that keeps them far below the poverty level.¹⁰

But as inadequate as the public assistance grant may be in general, the two key components of the grant that relate to housing are perhaps the most dramatically disconnected from the real lives of low income New Yorkers. These are the shelter allowance, which hypothetically enables households to pay the rent or the mortgage, and the fuel for heating allowance.

The Shelter Allowance: In the chart below, we compare the maximum monthly rent a household of 1, 2 or 3 people can receive from public assistance with the HUD-established Fair Market Rent (FMR) for an efficiency, a one-bedroom and a two-bedroom unit.¹¹ This comparison is made for six counties across the state.

County	Public Assistance Grant			FMR		
	1 Person	2 People	3 People	Efficiency	1 Bedroom	2 Bedroom
Albany	\$199	\$231	\$279	\$662	\$750	\$929
Dutchess	\$286	\$292	\$412	\$886	\$1,023	\$1,258
Erie	\$209	\$214	\$301	\$537	\$570	\$710
Monroe	\$257	\$298	\$343	\$563	\$685	\$834
Suffolk	\$310	\$358	\$447	\$1,033	\$1,309	\$1,613
Westchester	\$295	\$314	\$426	\$967	\$1,177	\$1,449

Thus in Albany County, the Fair Market Rent for a one-bedroom housing unit is \$750, but the maximum shelter grant that the Albany DSS will provide for a household of two is \$279. In Suffolk County, the FMR for two bedrooms is \$1613, while the Suffolk DSS shelter grant for three people is \$447. For the counties listed in the chart, some of the most populous outside of New York City, in none of them does the public assistance rent allotment come to even half of the FMR. And in the New York City suburbs, home to many more low income families than is generally acknowledged, the funds for rent that DSS provides is rarely even a third of the local FMR.

The gross inadequacy of the welfare rent allowances is certainly one reason that, for the 2012-13 school year, the Brentwood, Suffolk County, School District identified 357 homeless children, the Syracuse district identified 957 homeless children, and Rochester found 1,820 children to be homeless.¹² And these figures don't take into account the many families living in substandard housing or families doubled up in housing ill-equipped for the number of residents.

The Fuel for Heating Allowance: The inability to keep a home adequately warm, or the need to heat only part of one's home because of unaffordable heating fuel, is a critical problem for low income individuals living in upstate New York. Although the public assistance grant provides a small adjustment for heating costs, it has not been revised since 1987. For low wage earners, the exorbitant cost of heating fuel often plunges them into crisis. In the 2013-14 heating season, the New York State issued more than \$56 million in emergency Home Energy Assistance Program (HEAP) heating benefits to 122,303 households who were unable to pay their ongoing heating costs, even after receiving regular HEAP benefits.

Although HEAP provides families with some relief, it's not enough. New York State provides low income families who receive Temporary Assistance (TA) and pay their own heating costs with a grant that is intended to meet the costs associated with the energy required to heat their home. These fuel for heating allowances are county specific, based on a twelve month heating season, the TA household size and the recipient's primary heat source. The

allowances, which have not changed in almost 30 years, are grossly inadequate. For example, a family of four in Monroe County receives an allowance of \$54 per month, and has since the rates were set in 1987. Since that time, energy rates have increased dramatically, making the allowances inevitably inadequate and resulting in families' inability to pay their bills.¹³ On average, residential natural gas delivery costs have doubled since 1987. The cost of residential electricity has increased by almost 35% since just 2000. Meanwhile, the fuel allowances have not responded to increased energy costs in any way.

A fundamental premise of our advocacy around the inadequacy of the public assistance housing and fuel for heating allowances is the belief that stable and decent housing is of vital importance to the well-being of families and individuals. Even a brief survey of relevant research amply demonstrates that stable housing is crucial for optimal child development, for educational success and for the overall mental and physical health of families.¹⁴ But the current TA housing and fuel for heating allowances not only don't ensure access to stable housing, but rather they vastly increase the risk of unsafe homes, overcrowding, frequent involuntary moves and homelessness. It is essential that New York State address these inadequacies by adjusting benefits to reflect actual costs and to pursue creative solutions that will effectively fight poverty and enable families to thrive. Far too many low income New Yorkers must endure a constant state of crisis in terms of their ability to secure and retain decent housing. Enactment of these proposals would put us on a path towards alleviating this crisis.

Recommendations:

- 1) Pass a bill requiring OTDA to conduct an immediate study of the adequacy of the public assistance grant, beginning with the shelter and energy components. The study should be required to be repeated every 3 years and used to assess the ongoing adequacy of each studied component. The study should be completed within 90 days of passage of legislation and delivered to the Governor, both houses of the legislature and posted on their website within 10 days of completion.
- 2) Increase the shelter allowance to 50% of regional Fair Market Rents around the state as a down payment, a crucial first step in better meeting the housing needs of families and singles on welfare and to proactively avoid the increased costs of homelessness resulting from the inadequacy of the shelter allowance. The shelter allowance should thereafter be increased in accordance with the results of OTDA's studies of shelter costs relative to the shelter allowance. Furthermore, counties should be allowed to increase the shelter allowance up to 100% of FMR to avoid eviction if they so choose.
- 3) Until completion of the study, a moratorium should be placed on the recoupment of energy-related payments that households need because of the inadequacy of welfare grant in meeting fuel and utility costs. Upon completion of the study, the allowance should be raised to a level that is consistent with the actual cost of utilities and heat. If they deem it helpful in achieving administrative efficiencies, counties should have the option to suspend all recoupments during the moratorium period.

- 4) Support the Governor's proposal to establish a Rochester Anti-Poverty Task Force to develop community based ideas and initiatives to combat poverty that can then be replicated across the state if proven to be successful.

Eliminate Asset Limit Tests for Public Assistance Eligibility: 529 College Savings Accounts, Retirement Accounts and Vehicles

While public assistance receipt is limited to those with very few assets, in many states, including New York, some assets are not considered when determining an applicant's public assistance eligibility. Examples of assets that are excluded from New York State's asset limit test are payments from the Earned Income Tax Credit (EITC) and Individual Development Account (IDA) holdings. New York State does, however, include the partial value of a primary vehicle, 529 college savings accounts, and retirement savings when determining whether a person has available resources. If the excess value of a vehicle, or the value of either of these accounts, exceeds the resource level of \$2,000, the family will be disqualified from receiving public assistance. We strongly assert that these three resources should be disregarded when a person applies for public assistance.

529 Accounts are college savings plans that provide incentives for individuals who save money for college for their children. When placed in this special account, the money deposited is deductible from income for state (not federal) tax purposes, and withdrawals are not taxed as long as the withdrawal is used to pay for college. The failure to exempt 529 accounts from asset limit tests for public assistance eligibility functions as a clear savings disincentive to low income families who wish to send their children to college. Low income families have the fewest resources and the least access to the savings platforms that financial institutions offer. Further, children from low income families are less likely to enroll in, attend and graduate from college. In fact, a recent study reported that only 9% of students from low income families obtained a bachelor's degree, compared with 54% of students from wealthier families. Given these circumstances, low income families need more support and assistance - rather than discouragement - in order to develop college savings for their children. New York State should therefore exclude 529 accounts from asset limit tests for public assistance.

Retirement Accounts: For many workers, an Individual Retirement Account (IRA) is the only retirement plan they have. Deposits into IRAs are deductible from income for both federal and state tax purposes. If a withdrawal is made before a person reaches the age of 59 ½, there is a penalty of 10% of the value of the IRA unless the withdrawal is used for the purchase of a home, college tuition or certain medical or health expenses. When a working person loses his or her job, it makes no sense to undercut the person's retirement savings as a condition of eligibility for public assistance. Particularly with the President's announcement of the creation of myRA to encourage retirement savings, it makes no sense to require the liquidation of retirement accounts as a condition of eligibility for public assistance.

Vehicles: The auto resource rule in New York permits a family to own one car per household, valued at up to \$4,650. If that car is used for work purposes, then the permissible

value is \$9,300. The car's fair market value above these amounts counts toward the \$2,000 resource limit a recipient may have and still qualify for benefits. If a family's vehicle exceeds the resource limit, their options are to sell the car or to downgrade the car for one of a lower value. A person with reliable access to a car will be twice as likely to find a job as someone without, and four times as likely to remain employed. New York's Office of Temporary and Disability Assistance acknowledges that "[r]eliable transportation is a critical need to enable individuals to work," and states in its 2012 Local Commissioners Memorandum that "[t]ransportation continues to play a critical role in enabling parents to engage in work preparation activities, and to seek, accept and maintain employment so they are better able to provide financially for their families." When a family is forced to sacrifice or significantly downgrade a vehicle in order to qualify for public benefits, they live in a paradox wherein receiving help to escape poverty requires losing or diminishing the best means to escape poverty. Penalizing families for maintaining reliable transportation is counterproductive to promoting self-sufficiency; automobiles should not be considered resources for eligibility purposes.

Recommendation: New York State should exclude 529 accounts and retirement accounts as well as one car of any value from asset limit tests for public assistance.

Identify and Accommodate Disabilities – Screening Tools

Many families and individuals in New York, despite their urgent need, never receive public assistance benefits for which they are eligible, or receive aid only after repeated efforts, because of undetected disabilities, especially mental disabilities, that prevent them from navigating the welfare system and complying with its myriad rules.

The poor and very vulnerable people who are eligible for public assistance disproportionately suffer from a wide range of disabilities. For example, extensive national research indicates that between 30 and 45 percent of adult TANF recipients report impairments or chronic health problems,¹⁵ roughly double the incidence of disabilities in the general population.¹⁶ Mental disabilities are also considerably more pervasive in the welfare population than in the general population, with estimates ranging from 20 to 40 percent of all adults receiving assistance.¹⁷ The most prevalent mental health conditions are depression, post-traumatic stress disorder and generalized anxiety disorder.¹⁸

It must be noted that mental disabilities are much more likely to evade detection. When disabilities are not recognized, it is inevitable that clients will not be offered appropriate and essential accommodations to access needed assistance. This state of affairs not only offends our sense of fairness and our historical commitment to aiding the needy; it also may well violate the Federal Americans with Disabilities Act, the Federal TANF laws and corollary provisions of State law.

Recent discussions with advocates around the state, from Buffalo to eastern Long Island, reveal that too many local Departments of Social Services engage in practices that often create insurmountable access barriers for people with disabilities. What these practices have in common is a failure to evaluate clients for disabilities at the front end of the application

process. For example, applicants may be required to engage in a job search or to report for multiple appointments or obtain a multitude of documents before there is a meaningful inquiry about their capacity to perform such tasks. For many applicants, this virtually guarantees that they will not manage to even submit a completed application. All local Departments of Social Services have a procedure for evaluating their clients' employability, but those procedures are often inadequate, or are invoked only when the individual claims to have a disability, or take place too late to protect applicants with disabilities. It is imperative that state benefits designed to provide a critical safety net for low-income New Yorkers be truly available to those most in need.

We believe that the most effective means of ensuring that people with disabilities are not denied access to basic public assistance benefits is to offer all individuals, at the front door of the application process, a preliminary screening to assess the likelihood of disability. And if the screening suggests that the person might have a disability, then a more in-depth evaluation should be offered, and appropriate accommodations should be provided. Effective screening tools have been developed that can be administered in a relatively brief period of time by regular front-line workers.

In early 2013, the Office of Temporary and Disability Assistance (OTDA) identified and validated – that is, they successfully tested – a promising questionnaire, known as the “Modified Mini Screen” (MMS). They found it to be “a reliable, accurate, and easy to use tool” to determine whether a public assistance recipient might have a mental disability.¹⁹ We have now waited for two years for OTDA to instruct the local districts regarding the use of the screen. During this period, it must unfortunately be assumed that thousands of people with disabilities have been denied benefits, experienced painful delays in receiving benefits or were simply unable to complete the application process.

It is time for the Legislature to act, to ensure that New York fully complies with the Federal Americans with Disabilities Act and the New York Human Rights Law, and that we afford low-income people with disabilities the assistance for which they are eligible and that they urgently need. It is incumbent upon OTDA that it instruct the counties to employ the MMS or a reasonable equivalent approved by the State. Moreover, while individuals must have the option not to participate, they should be offered the opportunity to be screened as early as possible in the application process and at other appropriate times. If OTDA will not provide the leadership needed to ensure adequate screening throughout the state, then the Legislature should act to fill this void.

RECOMMENDATION: Introduce and pass legislation to require use of the Modified Mini Screen and provide the opportunity to use the MMS at other appropriate times including at application.

Take Action to Fight Hunger

In his opportunity agenda, Governor Cuomo acknowledged that over 3 million New Yorkers are food insecure and we were pleased to see that he allocated an additional \$4.5 million to

the state's Hunger Prevention and Nutrition Assistance Program (HPNAP), bringing total funding for HPNAP to approximately \$34.5 million.

While an increase will certainly help our food pantries and soup kitchens, much broader relief is desperately needed. Due to cuts on the federal level to the Supplemental Nutrition Assistance Program (SNAP), New York has experienced a staggering loss of \$365 million in federal food assistance over the past year. That's \$365 million LESS coming into New York in 2014 than in 2013. These were cuts in household benefits - cuts that resulted in households turning to the already stretched emergency food network.²⁰

How can New York obtain broader anti-hunger relief without tapping out limited state and county dollars? It's simple. New York can take advantage of options available to it to further streamline and expand access to SNAP, which is 100% federally funded.

Recommendations:

- 1) Improve access to SNAP for low income college students.** New York should allow students enrolled in a Perkins-eligible course of study to have their college studies count as a SNAP employment and training activity. Currently, many of these individuals are ineligible because they are not working at least 20 hours per week or receiving work study. Treating college study as an approved employment and training activity would mean that the individual qualifies as an eligible student under SNAP rules. Massachusetts adopted a very successful project targeted specifically toward community college students, which allowed many more of them to access SNAP. New York should follow their lead.
- 2) Further expand categorical eligibility for SNAP (raising the gross income limit) to 150% FPL for all working households.** Right now, working households lose eligibility for SNAP at 130% FPL unless they have child care expenses or contain an elderly or disabled household member. Raising the income limit to 150% FPL would allow more working families to qualify for federal food assistance to help them put food on their table.
- 3) Expand access to SNAP for disabled immigrants.** Adults who have attained lawful permanent resident (LPR) status face a 5 year waiting period before they can access SNAP. Disabled LPRs don't have to wait 5 years if they are getting a disability based benefit. Due to New York's large immigrant population, there are most likely thousands of disabled immigrants receiving Safety Net Assistance and/or Medicaid who could potentially qualify for SNAP, and there are potentially several ways for New York to establish that these individuals are receiving a disability based benefit. One very modest proposal would be to start with immigrants receiving Medicaid community based long term care services, a disability-based benefit which already has a medical assessment process built into it, which could "count" for SNAP purposes. We would be happy to follow up with the Legislature and the Governor's office to discuss this proposal in more detail.

4) Adopt seamless transfer of SNAP cases when families move from one county to another. Over 32,000 households per year across New York State have their SNAP cases closed simply because they move to another county.²¹ New York should adopt a "seamless transfer" policy which would allow their case to be automatically transferred to their new county of residence.

Thank you once again for the opportunity to testify today. If you have any questions, I am happy to answer them.

¹ New York State law provides that working families are eligible for child care assistance if their income is under 200% of the federal poverty line (\$38,180 for a family of three for example.) Per data from the NYS Office of Children and Family Services, an estimated 600,000 children are eligible for subsidies, but only 22%, or less than 130,000 children, are being served at any time.

² New York State Department of Social Services, Social Statistics, December 1996, Table A, p. 29, available at <http://onlineresources.wnylc.net/OTDA%20Caseload%20Statistics.htm> ; Statistics of the Office of Temporary and Disability Assistance, December 2014, Table 5, p. 5, available at <https://otda.ny.gov/resources/caseload/2014/2014-12-stats.pdf> [accessed February 2, 2015]).

³ D. Pearce, The Self Sufficiency Standard for New York State 2010, <http://www.selfsufficiencystandard.org/docs/New%20York%20State%202010.pdf>

⁴ 18 NYCRR 415.3 [e] [3].

⁵ *Child Care in Crisis: A Report from the Assembly Child Care Workgroup*, NYS ASSEMBLY, p.

⁶ <http://assembly.state.ny.us/comm/ChildCare/20131220/index.pdf> (last accessed April 28, 2014).

⁷ A.8928 (Russell) passed the New York State Assembly on March 5, 2014, was delivered to the Senate and referred to the Children and Family's Committee there.

⁸ <http://www.ocfs.state.ny.us/main/childcare/plans/New%20York%20County/New%20York%20County312.pdf>

⁹ <http://www.ocfs.state.ny.us/main/childcare/plans/New%20York%20County/New%20York%20County310.pdf>

¹⁰ <http://www.ocfs.state.ny.us/main/childcare/plans/New%20York%20County/New%20York%20County305.pdf>

¹¹ Even use of the Federal Poverty Level fails to capture the reality of surviving on the public assistance grant. The FPL is often viewed as a highly flawed measure of poverty, one of the reasons being that there is one standard for the entire 48 contiguous states, thereby severely understating what poverty means in high cost states like New York.

¹² The FMR is set at the 40th percentile of rents being paid in a particular area. This is seen as a reasonable measure of the cost of decent, but modest housing.

¹³ This information was collected by the New York State Education Department in the Student Information Repository System.

¹⁴ It is important to note that the recent decline in fuel costs has not remotely compensated for cost increases over the the 28 years since the fuel for heating rates were established.

¹⁵ See, for example, Hannah Emple, *Stable Housing is Unequivocally Good for Children and Families*, Children Health Watch, 2012; Maya Brennan, Patrick Reed, and Lisa A. Sturtevant, *The Impacts of Affordable Housing on Education: A Research Summary*, Center for Housing Policy, November 2014; Rebecca Cohen, *The Impacts of Affordable Housing on Health: A Research Summary*, Center for Housing Policy, May 2011.

¹⁶ Mark Nadel, et al, *Disability, Welfare Reform, and SSI*, Social Security Bulletin, Vol. 65 No. 3, 2003/2004.

¹⁷ 2010 Census data indicated that about 16.5% of adult Americans report having a disability, see Matthew W. Brault, *Americans With Disabilities: 2010 Household Economic Studies*, Current Population Reports, U.S. Census Bureau, July 2012.

¹⁸ LaDonna Pavetti, *TANF Recipients Living with a Disability: Policy Framework, Prevalence and Service Strategies*, Mathematica Policy Research, Inc., July 16, 2009.

¹⁹ See, for example, Michelle Derr, Sarah Douglas, LaDonna Pavetti, *Providing Mental Health Services to TANF Recipients: Program Design Choices and Implementation Challenges in Four States*, prepared by Mathematica Policy Research, Inc., August 2001; and Shinn, Alexander, Lipton, *Pathways through TANF: The impact of unidentified depression, anxiety and PTSD symptoms on employability and successful exits from welfare*, Center for the Study of Issues in Public Mental Health, July 2000, discussing the high level of mental health problems for NYC women receiving public assistance.

²⁰ Mary Jane Alexander, et al, "Validating the Modified Mini Screen as a Mental Health Referral Screen for Public Assistance Recipients in New York State," NYS Office of Mental Health, Nathan S. Kline Institute for Psychiatric Research, January 2013.

²¹ Extrapolated from data available at <http://otda.ny.gov/resources/caseload/2013/2013-12-stats.pdf> and <http://otda.ny.gov/resources/caseload/2014/2014-12-stats.pdf>

²² See *Why New York Should Adopt Seamless Transfer of Cases When Families Move from One County to Another*, available at <http://www.empirejustice.org/assets/pdf/policy-advocacy/seamless-continuation-of-snap.pdf>

