



Civil Practice Law Reform Unit  
199 Water Street  
New York, NY 10038  
(212) 577-3300  
<https://www.legalaidnyc.org/>

Alan Levine  
*President*

Twyla Carter  
*Attorney-in-Chief*  
*Chief Executive Officer*

Adriene L. Holder  
*Chief Attorney*  
*Civil Practice*

### **TESTIMONY OF THE LEGAL AID SOCIETY**

Joint Legislative Public Hearing on the 2023 Executive Budget Proposal:  
Human Services

February 13, 2023

Thank you to Majority Leader Stewart-Cousins, Senate Social Services Committee Chair Persaud, Speaker Heastie, Assembly Social Services Committee Chair Davila, the New York State Finance Committee, and the New York State Assembly Ways and Means Committee for holding this very important hearing. We welcome the opportunity to submit testimony on behalf of The Legal Aid Society concerning fiscal priorities for the coming year in the area of human services. We are eager to work with the Committees to ensure that New Yorkers across the state have access to the support they need to rebuild from the disruption and destruction caused by the COVID-19 pandemic, particularly in New York City, where the low-income communities we serve have suffered disproportionately in respect of health impacts and economic losses.

While we welcome many of Governor Hochul's proposals, the Governor's 2023-2024 Budget ignores our critical priorities in the area of human services, in particular, her failure to fund long overdue increases in the Cash Assistance program grants. We also urge the Legislature to continue to make crucial investments in the Statewide Disability Advocacy Project (DAP) which serves to give low-income New Yorkers with severe disabilities increased economic stability

through the receipt of federal Social Security Disability (SSD) and Supplemental Security Income (SSI) benefits. We look to the leadership in the Legislature to fill these gaps and ensure that funding for these priorities so critical to low income New Yorkers are included in the final budget.

New York is facing an urgent choice – whether, after decades of neglect, to make meaningful increases in the amount of assistance available to eligible New Yorkers or to continue to relegate thousands of New Yorkers to continue to live in a state of deep poverty, with income that is less than 50 percent of the Federal Poverty level. The Legal Aid Society urges the Legislature to conclude that there is only one choice that makes sense for New Yorkers, our communities, and the State itself – to take immediate action to increase the amount of assistance available to recipients of the Cash Assistance program and to adopt additional reforms that would expand access to those benefits.

This testimony will present a brief summary of the recent work of The Legal Aid Society and background on the impact of COVID-19 and inflation on the communities we serve; and discuss the primary problems facing our clients, and solutions we urge the Legislature to adopt in the final budget.

### **THE LEGAL AID SOCIETY**

The Legal Aid Society (LAS) is the nation's oldest and largest not-for-profit legal services organization. LAS provides comprehensive legal services in all five boroughs of New York City for people who cannot afford to pay for private counsel. Since 1876, LAS has advocated for low-income families and individuals and has fought for legal reform in City, State, and Federal Courts across a variety of civil, criminal and juvenile rights matters. LAS takes on 300,000 cases annually, including thousands of cases in which we fight for the rights of tenants in regulated and unregulated

apartments across the City. LAS also takes on law reform and appellate cases, the results of which benefit more than 1.7 million low-income New Yorkers; the landmark rulings in many of these cases have a state-wide and national impact.

The Legal Aid Society's Civil Practice has worked to address the health and economic impacts of COVID on the client communities we serve on a variety of fronts. Our housing practice steps in to prevent evictions and homelessness for tenants with arrears stemming from periods of unemployment, fights discrimination against tenants based on the income source they are using to pay rent (referred to as "source of income discrimination") that contributes to lack of affordable housing and homelessness,<sup>1</sup> and supports crucial legislation like good cause eviction and the Housing Access Voucher Program (HAVP), which, among other things, will be the subject of our Housing Budget Testimony on March 1. Our Homeless Rights Project works to ensure that unhoused people with disabilities obtain shelter that is appropriate to their needs,<sup>2</sup> that Wi-Fi is available to children residing in shelter who need it for school,<sup>3</sup> and to safeguard the right to shelter. Meanwhile, our City-wide government benefits practice continues to work to ensure that our clients maintain access to benefits as they face record delays when they attempt to apply or recertify for Cash Assistance or SNAP benefits administered by the New York City Human Resources Administration (HRA) in the face of the agency's understaffing.<sup>4</sup> Our Disability Advocacy Project (DAP) practice has also continued to ensure clients who are eligible for federal disability benefits obtain them as expeditiously as possible.

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<sup>1</sup> See, e.g., *Housing Rights Initiative v. Compass Inc.*, 21-cv-2221; *Housing Rights Initiative v. Corcoran Group LLC.*, 154010/2022; *Robert Williams v. J.K Management Corp.*, 451077/2022.

<sup>2</sup> Order, *Butler v. City of New York*, 15-CV-3783 (S.D.N.Y. July 13, 2021).

<sup>3</sup> Stipulation and Order of Settlement, *EG. v. City of New York*, 20-cv-9879 (S.D.N.Y. April 6, 2021).

<sup>4</sup> *Forest v. City of New York*, 1:23-CV-00743 (S.D.N.Y. filed Jan. 23, 20203).

### **Recommendations of The Legal Aid Society**

#### **A. Adopt Long-Overdue Increases to the Cash Assistance Grant Levels to Reduce Deep Poverty in the Near Term**

The Legal Aid Society is grateful to the Legislature for sponsoring legislation introduced last year, that, for the first time in decades, would increase the amount of money that Cash Assistance recipients receive to meet their basic needs, including rent. The legislative leaders who sponsor these bills and chair the Social Services committees all recognize that for New York to neglect the needs of the lowest-income New Yorkers is inhumane and unjust. Governor Hochul ignored these needs in her proposed budget, choosing instead to focus on longer term solutions. But New Yorkers need help now. We look to the Legislature to address this problem in this year's budget.

Specifically, we ask the Legislature to:

1. include an increase in the basic needs Cash Assistance grant to reflect inflation, and keep the grant levels indexed to inflation going forward;
2. help New Yorkers facing housing instability and homelessness by adopting HAVP, Good Cause Eviction, and forcing OTDA to update the Cash Assistance shelter allowance for the first time in decades – amounts for adult only households have not been increased since 1988; and amounts for households with minor children have not been increased since 2003;
3. update the grants afforded to certain homeless shelter residents who need more support;
4. adopt other amendments to the social services law that would both enable more low-wage workers to access help from the Cash Assistance program to help them achieve longer-term economic stability; and
5. encourage New York State and New York City to exercise their discretion to extend benefits to New York residents regardless of immigration status.

Each of these priorities is described in more detail below.

**1. Increase the Cash Assistance Grant for Basic Needs Because Nobody Can Live on \$6 a Day. *Estimated Investment: \$192,500,000.***

The basic needs allowance is designed to help people pay for necessities like clothing, diapers, hygiene products, over the counter medication, transportation, and to defray utility expenses. But because the basic needs allowance has not been updated since 2011 and has never kept pace with inflation, it is woefully inadequate to cover these essential expenses. The utility supplement portions of the basic needs grant have also not been updated since they were established, in 1981 and 1986 respectively.

Increases introduced in the Assembly and Senate (*see* A.9130 (Rosenthal)/ S.9513 (Persaud)) – updated bills numbers and amendments pending) would be a big improvement and should be included in the final budget:

<b>Proposed Monthly Basic Grant Schedule (New Bill Numbers Pending)</b>							
<b>Household size</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>Each add'l</b>
<b>Basic needs grant</b>							
<b>(including the basic grant* and the amounts originally designed to defray utility costs (the Home Energy Assistance grant (HEA)** and the Supplemental Home Energy Assistance Grant (SHEA) ***)</b>	\$340	\$541	\$720	\$929	\$1,147	\$1,324	\$180

\* Not updated since 2011.

\*\* Never updated since established in 1981.

\*\*\* Never updated since established in 1986.

The grant amount should be automatically adjusted every year, based on annual inflation by indexing the grant levels to the Social Security Administration’s annual COLA adjustment to Social Security benefits.

Grant levels must go up. The cash grant for basic needs, including the HEA and SHEA, is intended to cover needs other than rent, primarily to pay for expenses that are not covered by SNAP benefits – which can only be used to purchase food. For a family of three with children, this leaves the household \$389 a month to pay for diapers, personal items like menstrual products, soap, deodorant, toothpaste, and toilet paper, over the counter medications for allergies, fever and colds, clothes for growing children, and utility expenses, including a phone, and Wi-Fi. Moreover, because of the rising cost of food, many families who also receive SNAP benefits need to dip into their cash grant to make up for what their SNAP benefits do not cover. Surviving on \$389 in cash a month to cover all of these expenses is nearly impossible – just \$12 a day for a family of three New York City. Adult-only households suffer the same scarcity. A one-person household is expected to live on \$183 a month, \$6 a day for their basic needs.

Many people with disabilities are disproportionately affected by the insufficiency of the non-rent portion of the Cash Assistance grant. People with disabilities often need extra money for transportation, face challenges traveling to the least expensive markets, and have more out of pocket health expenses not covered by health insurance.<sup>5</sup> There are many people with severe medical and mental health conditions that receive Cash Assistance while they wait for federal disability benefits applications to be approved and appeals to be heard, a process that sometimes takes years. While the state gets reimbursed by the federal government for the Cash Assistance received by clients who go on to become eligible for federal disability benefits, there is no way to reimburse clients who will

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<sup>5</sup> *The Extra Costs of Living with a Disability in the U.S. – Resetting the Policy Table*, National Disability Institute (Oct. 2020) (estimating that a household containing an adult with a disability that limits their ability to work requires an average of 28 percent more income to obtain the same standard of living as a household member without a disability), <https://www.nationaldisabilityinstitute.org/reports/extra-costs-living-with-disability/#:~:text=Researchers%20estimate%20that%20households%20containing,a%20member%20with%20a%20disability>

never get back the months and sometimes years they are forced to live in an extreme level of scarcity and stress due to having inadequate assistance without the ability to work as an alternative.

Insufficient levels of Cash Assistance also contribute to food insecurity and hunger.<sup>6</sup> Some but not all Cash Assistance recipients receive SNAP (food stamps) benefits which can only be used for the purchase of food. The current federal SNAP allotment is inadequate: it does not cover the food costs of most households – forcing most people to use their Cash Assistance to help cover their food expenses and leaving little left for other basic needs. Currently, families are still getting monthly SNAP supplements owing to the pandemic. The inadequacy of SNAP allotments force people to dip into their basic needs money, and this will become even worse when the SNAP Emergency Allotments provided during the COVID public health emergency end next month. Families ineligible for any SNAP – often immigrant families – are even more vulnerable to hunger. Growing inflation is compounding all of these problems.

Although the adverse impact of such scarcity is obvious to most of us, research has documented the adverse effects of living in such a state of deep poverty, and the especially negative impact on children. We also must not forget that the inadequacy of the amount of money New Yorkers get for basic needs is also an issue of racial justice. Cash Assistance is the safety net program originally authorized by the Social Security Act in 1935 and then replaced by the Personal Responsibility Work Opportunity Reconciliation Act (PRWORA) in 1996. Both of these programs carry a long legacy of racism, particularly against Black mothers, in terms of eligibility requirements and the low-levels of benefits, particularly in States with the highest Black

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<sup>6</sup> S. Carlson, J. Llobrera, B. Keith-Jennings, *More Adequate SNAP Benefits Would Help Millions of Participants Afford Better Food*, Center on Budget and Policy Priorities (updated July 2021), <https://www.cbpp.org/research/food-assistance/more-adequate-snap-benefits-would-help-millions-of-participants-better>

populations.<sup>7</sup> New York State can't control every aspect of these programs, nor undo the program's history, but it can make up for years of neglect by raising the grants to enable all New Yorkers, including low-income Black and Brown New Yorkers, to meet basic needs.

## **2. Address Housing Insecurity and Eviction**

New Yorkers cannot meet their basic needs and achieve any semblance of economic security with the constant threat of eviction hanging over their heads. Some New Yorkers need assistance to pay for the housing that is currently available. And those fortunate enough to be able to afford their rent should not be vulnerable to eviction without cause. For these reasons, two housing priorities are essential to any discussion of human services in the State budget: the Housing Assistance Voucher Program (HAVP) and good cause eviction. Both of these reforms are crucial to ensuring economic stability for New Yorkers throughout the state and we urge the Legislature to include them in the final budget.

In addition, the Legislature should direct the State to update the shelter allowance grant levels for the first time in decades. A.8900 (Rosenthal)/S.8632 (Kavanagh) (updated bill numbers pending) would require the State to increase maximum rent assistance for Cash Assistance recipients to 100 percent of the Fair Market Rent (FMR) levels set annually by HUD, and to adjust these levels annually in sync with the FMR. Instead of the rent assistance levels being so low that low-income families fall further and further behind on their rent, are forced to reside in substandard and dangerous units, or experience homelessness, they would be able to afford a safe and decent place to live.

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<sup>7</sup> See I. Floyd, et al., *TANF Policies Reflect Racist Legacy of Cash Assistance, Reimagined Program Should Center Black Mothers*, Center on Budget and Policy Priorities (Aug. 21, 2021), <https://www.cbpp.org/research/family-income-support/tanf-policies-reflect-racist-legacy-of-cash-assistance>.



### **3. Update Cash Allowance Provided to Certain Shelter Residents**

Homeless New Yorkers are among the most vulnerable in our state. Yet an allowance provided to certain New Yorkers living in shelter have not been updated in 26 years. These households are not eligible for regular levels of cash assistance but only for special supplements – called personal needs and special needs grants – that have not been updated since 1997. These allowances are inadequate to meet the needs of homeless households. The special needs allowance is \$45 a month for individuals and the personal needs allowance is \$63 per month for homeless family members. This means that a mother and child living in a meal-providing shelter today must survive on a cash grant of only \$126 per month. This is not adequate for meeting basic needs such as cash for diapers, extra food, menstrual products, underwear, and even laundry detergent. The Legislature should include the increases in these two allowances as provided in A.8061 (Rosenthal) – updated bill number pending) in the budget and provide for a long overdue increase in these two allowances.

### **4. Adopt other amendments to the social services law that would both enable more low-wage workers to access help from the cash assistance program as a supplement to their wages and achieve longer-term economic stability**

Finally, to really make cash assistance changes that give people a chance to achieve longer-term economic stability, the legislature should adopt the provisions of A.9112 (Rosenthal) (new bill number pending) which would eliminate the resource test; extend the earned income disregard to applicant households; and eliminate the income rules that punish children.

***Resource limits punish working families and increase long term economic instability.***

Starting October 1, 2022, resource limits for Cash Assistance households for Cash Assistance applicants are \$2,500 (\$3,750 for households with a member of 60), and \$10,000 for recipients. In

other words, if a household managed to save more than \$2,500, they would be denied eligibility for Cash Assistance, and if they saved \$10,000 their case would be closed. Some resources are exempt from consideration, but resources like a 401(k) from a prior job are not exempt and count toward the resource cap. Low-income households should be able to save money to weather emergencies like loss of a job, housing instability, and health crises and still be able to afford to meet their basic needs. But under current rules, former workers who fall on hard times are forced to spend down their retirement savings and face tax penalties and lose the value of equity on their investments. This diminishes long term economic security of those families who need help now but who will return to the workforce when the period of crisis is over. New York can do better. Neighboring states like Massachusetts and less generous states like Alabama alike have decided to eliminate arbitrary resource tests for Cash Assistance altogether.<sup>8</sup> Moreover, the SNAP program already successfully uses this approach: most households applying for SNAP no longer have to pass a savings/resource test in order to get SNAP benefits. Reforming this rule makes common sense.

***Applicants for Cash Assistance should benefit from the Earned Income Disregard in Determining Eligibility.*** Governor Hochul's FY23 budget made welcome changes to the way Earned Income Disregard rules apply to Cash Assistance budgeting, except for one omission. The financial eligibility of applicants for Cash Assistance should be determined after applying the same earned income calculations that apply to Cash Assistance recipients. Currently only individuals who have received Cash Assistance during the past four months get the benefit of the favorable

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<sup>8</sup> J. Gehr, Policy Brief, *Eliminating Asset Limits: Creating Savings for Families and State Governments*, CLASP (April 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).

budgeting. All low-wage workers should have the opportunity to apply for Cash Assistance to supplement their wages until they get a better paying job or more hours of work. Providing Cash Assistance to these households is fair – it respects the value of work and ensures the fair treatment of all New Yorkers. Households will be better able to weather the personal or economic crisis that create the need for cash assistance until they are stable and ready to move on from the program.

***Eliminate unfair income rules that punish children.*** New York’s current budgeting rules (*see* SSL § 131-c (1)) require that children with income intended for their own support, such as child support or social security survivor’s benefits from a deceased parent, be used to support other people in the household for whom they are not legally responsible, such as half-siblings and non-parent caregivers on assistance. Many of the households affected by this rule are headed by grandparents struggling to get by. Prior legislatures recognized this inherent unfairness and passed bills to reform these budgeting rules, but the legislation was ultimately vetoed by Governor Cuomo in the 2019 session. This legislation should be passed again and signed by the Governor this year to promote equity for all types of families including those headed by grandparents.

**5. Encourage New York State and New York City to exercise their discretion to extend benefits to New York residents regardless of immigration status**

A.10510 (Rosenthal)/S.9416 Kavanagh) and (A.160 Cruz /S.2895 Persaud) would authorize state and local governments to provide benefits to any of their residents without regard to immigration status. This law would empower government to do the right thing and extend government benefits to both new arrivals and long-standing residents who have long been excluded from the safety net. Although, in some instances, state and local governments have the discretion to extend benefits to non-citizens even without such a state law in effect, the passage of this law will help lead to more nimble responses to crises like the influx of low-income new arrivals to New York

City who need health care, housing, and aid while they get on their feet. Instead of hesitating for fear of running afoul of restrictions in the federal Personal Responsibility Work Opportunity and Reconciliation Act (also known as “PRWORA”), 8 U.S.C. § 1621, New York City could act quickly by providing assistance as it sees fit.

**B. Restore the State Legislature’s Investment of \$1.5 million in the Disability Advocacy Program**

The Legal Aid Society is proud to be a part of the remarkably successful Disability Advocacy Project (DAP) program which has helped thousands of New Yorkers secure federal disability benefits to which they are entitled. We join our colleagues engaging in DAP work from around the state to call on the Legislature to invest a total of \$1.5 million in DAP funding in the final budget this year, an increase of \$500,000 from last year. With a legislative add-on of \$1.5 million in addition to the Executive commitment and the county match, DAP would be funded at \$13.52 million. Funding for this crucial program at this level is essential to address the heightened needs of disabled New Yorkers which have been compounded by the COVID-19 crisis.

**CONCLUSION**

Thank you for the opportunity to submit this testimony today and for your leadership in helping New Yorkers get through the current crisis.

Respectfully Submitted,

Susan Welber, [sewelber@legal-aid.org](mailto:sewelber@legal-aid.org)  
Bronx Neighborhood Office

Katie Kelleher, [kkelleher@legal-aid.org](mailto:kkelleher@legal-aid.org)  
Civil Law Reform Unit

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