

**Joint Legislative Public Hearing on 2023 Executive Budget Proposal:**

**Topic Human Services**

**February 13, 2023**

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Thank you for the opportunity to submit this testimony on behalf of the New York Legal Assistance Group on issues in the Executive Budget that pertain to Human Services. 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 experiencing poverty or in crisis combat economic, racial, and social injustice. We address emerging and urgent needs with comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. We aim to disrupt systemic racism by serving clients, whose legal and financial crises are often rooted in racial inequality.

The Public Benefits Unit at NYLAG, which includes our Public Assistance, SNAP, and Shelter Advocacy practices, focuses on clients who are experiencing barriers to accessing and maintaining public benefits and to accessing homeless shelter. In New York City, where the high cost of living is coupled with a level of benefits insufficient to meet basic needs, we serve clients with the intertwined problems of food scarcity, housing instability, and homelessness.

## **I. KEY ISSUES**

The key issues I want to bring to your attention and urge the Legislature to fund are: increasing shelter allowance, increasing the basic cash grant, eliminating the public assistance resource test, improving budgeting rules for working families, improving rental assistance programs, expanding access to rental assistance programs needed to exit the shelter system, and providing opioid antagonists in homeless shelters.

## **II. RECOMMENDATIONS**

### **a. Invest in Increasing the Shelter Allowance and Basic Cash Grant**

#### *i. Increase the Shelter Allowance*

NYLAG urges the Legislature increase funding to support legislation requiring the public assistance shelter allowance to be set at 100% of the fair market rent for the local social services district. The most critical component of enabling public assistance recipient families to find safe and stable housing is the ability to cover the cost of rent. The public assistance shelter allowance has not been changed since very minimal increases in 2003, despite inflation resulting in a 61.31% cumulative price increase.<sup>1</sup> Increasing the public assistance shelter allowance is a

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<sup>1</sup><https://www.in2013dollars.com/us/inflation/2003?amount=1#:~:text=Value%20of%20%241%20from%202003%20to%202022&text=The%20dollar%20had%20an%20average,Labor%20Statistics%20consumer%20price%20index>.

necessary step towards creating an equitable public assistance grant that can sustain stable housing.

Currently, 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>2</sup> This amount is entirely insufficient in light of the cost of rent in New York City. 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>3</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. Increasing the shelter allowance will assist people in maintaining stable housing, as well as in exiting the shelter system and entering permanent housing. It will also provide adequate rental assistance to help people maintain their affordable apartments, and reduce the multitude of costs associated with homelessness, including payments to shelters and increased medical spending.

In addition to helping our clients obtain and maintain affordable housing, increasing the shelter allowance will reduce administrative burdens on the local

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<sup>2</sup> NY SOC. SERV. LAW § 131-a; 18 NYCRR § 352.3(a).

<sup>3</sup> N.Y. CONST. ART. XXVII, § 1; N.Y. SOC. SERV. LAW §350(A).

Departments of Social Services (“DSS”) tasked with administering rental subsidies. In New York City, the Human Resources Administration (“HRA”) must review lengthy applications for each client submitted by a legal services office or community-based organization and repeat the process if the household moves. Applications for a modification of the grant level must also be submitted by an advocate and approved by the local DSS, when there is any change in household composition. These small changes cause administrative backlogs, and the loss of subsidies for families, who then frequently end up back in housing court within a year after their previous case was discontinued. Increasing the shelter allowance would mean that households will not need to rely on these additional rental subsidies, and the local agencies will not be burdened with the extra demands associated with their administration.

We also see routine problems with rental subsidies disappearing from our clients’ cases, or never being added onto the budget properly in the first place. NYLAG often represents clients facing eviction whose public assistance case is active, but whose rental assistance program (CityFHEPS or FHEPS) has been removed from the case or under-budgeted. These cases accrue arrears and often end up back in housing court. These non-payment cases caused by the loss or underpayment of a rental supplement could have been avoided with a shelter allowance set at 100% of the Fair Market Value. Additionally, because of the

regulatory requirements to notify public assistance recipients of changes to their public assistance budget, a client whose shelter allowance was being reduced must receive timely and adequate notice and have a right to challenge it at an Administrative Fair Hearing. Being entitled to due process and having the ability to correct this error on their own, would prevent them from ending up in housing court or back in a shelter. Conversely, CityFHEPS and FHEPS are not treated the same way as entitlement benefits. CityFHEPS is a city-administered program, so the OTDA Commissioner does not have jurisdiction to hear and resolve disputes regarding the program. Even though Fair Hearing rights attach to agency actions affecting FHEPS benefits, recipients must take additional steps, frequently requiring an advocate, to restore FHEPS, even after they win their Fair Hearing. Raising the shelter allowance would minimize this additional delay and these barriers to overcoming a wrongful discontinuance and obtaining full restoration of benefits, which is essential for a family facing eviction.

*ii. Increase the basic public assistance grant*

NYLAG urges the Legislature fund an increase to the basic cash grant consistent with inflation. The current basic public assistance grant is not sufficient to sustain its recipients. For example, an adult recipient of public assistance with one dependent child is maximally eligible \$252 in basic public assistance (plus \$39.50 in a home energy allowance), for a total of \$291.50. Most families are forced

to apply this basic needs grant toward their rent, and they are left with nothing to spend on other needs, such as clothing, school supplies, and other monthly expenses. Without action, New York State is allowing residents to live in a state of “deep poverty” (defined as below 50% of the federal poverty level<sup>4</sup>).

**b. Fund the Broadening Public Assistance Eligibility Rules**

*i. Eliminate the Public Assistance Resource Test and expand the earned income disregard*

NYLAG urges the Legislature to invest in the elimination of the resource limit for public assistance recipients and applicants and expansion of the earned income disregard to applicants. In the alternative, the Legislature should eliminate the asset test for recipients and raise the asset limit for public assistance applicants.

Elimination of the asset limit and expansion of the earned income disregard budgeting rules 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 applicants and recipients may have to receive public assistance.<sup>5</sup> Generally, as of October 2022, an applicant may not have cash savings of more than \$3,000 or \$3,750 if there is a household member who is sixty years or older, and a recipient of

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<sup>4</sup> DEPARTMENT OF HEALTH AND HUMAN SERVICES, FINANCIAL CONDITION AND HEALTH CARE BURDENS OF PEOPLE IN DEEP POVERTY (2015), *available at* [https://aspe.hhs.gov/sites/default/files/migrated\\_legacy\\_files//57191/ib\\_DeepPoor.pdf](https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//57191/ib_DeepPoor.pdf)

<sup>5</sup> NEW YORK SOC. SERVS. LAW § 131-n.

public assistance may not have more than \$10,000 in resources. The state law is complex and incorporates a number of income and resource exemptions that result in confusion for both clients and social services benefits administrators.<sup>6</sup> As a result, our clients are routinely faced with erroneous 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 benefits that they were not in fact overpaid. Even worse, these clients may incur a judgment in civil court and/or be subject to wage garnishment.

Data from states that have eliminated the asset test shows that it does not result in an increase in public assistance recipients and additional costs to the state.<sup>7</sup> Further, it actually decreases the cost of administering benefits.<sup>8</sup> In New York, in 2014, less than 1% of applications were denied for being over the resource limit.<sup>9</sup>

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<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, ESQ. 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.*

<sup>9</sup> MARTHA MOSKOWITZ, ESQ. 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>

It is safe to conclude the resources spent conducting investigations into the assets of applicants and recipients cost the state more than the increased benefit roll.

Moreover, the low asset limit forces our clients to avoid any attempts to access and retain savings and traps them into a state of financial crisis in order to be able to apply and keep vital benefits. This it nearly impossible for those experiencing hardship and poverty to dig their way out.

NYLAG also urges funding for legislation that would expand the elimination of the earned income disregard (“EID”) to applicants of public assistance, in addition to current recipients. This would allow households with inadequate work income to support their families and would further incentivize public assistance recipients to seek more hours of paid work. Further, low-wage working families should not be barred from eligibility while they struggle to establish greater economic stability. For example, NYLAG recently represented a family in housing court whose rent is in arrears due to their loss of public assistance and FHEPS. Because more than four months have passed since the household had an open public assistance case, they are considered applicants and are no longer entitled to the earned income disregard. Now, despite having the same income that allowed her to receive public assistance in the past, this family will now be ineligible for public assistance benefits, and will not be able to reinstate their FHEPS supplement. Without this assistance, this family will likely be evicted and end up in the shelter system. Expansion of the earned



income disregard to *applicants* would allow this family to reinstate their benefits and rental subsidy and prevent their eviction.

**c. Fund An Income-Based Rental Assistance Programs**

NYLAG urges the Legislature, now more than ever, to fund the adoption of a Housing Access Voucher Program available to people who are not eligible for Cash Assistance. We are experiencing an unprecedented housing crisis for low wage working families.<sup>10</sup> FHEPS and CityFHEPS are often the only options for low-income families being threatened with eviction, and these programs have helped many New York City families avoid eviction, maintain affordable housing, and exit the shelter system. However, 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. Additionally, FHEPS and CityFHEPS are only available to households in New York City.

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 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. New York State

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<sup>10</sup> OKSANA MIRONOVA AND SAMUEL STEIN, *LOW-INCOME NEW YORKERS ARE AN INCH AWAY FROM EVICTION: HOW TO ADDRESS RENT DEBT AND EVICTION PRESSURE TO KEEP THEM HOUSED (2022)*, available at [https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/Eviction\\_Pressure\\_V2.pdf](https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/Eviction_Pressure_V2.pdf)

desperately needs a voucher program that is not tied to receipt of public assistance, to avoid many of these problems. The housing access voucher program would be a welcome supplement to provide much needed rental assistance to low-income families who are not in receipt of public assistance, or who seek to transition off public assistance.

**d. Funding to Address Homelessness**

*i. Expand Housing Voucher Eligibility*

NYLAG urges the Legislature to allocate funding to make housing assistance programs available to needy people regardless of immigration status. State legislation is essential to help create room in New York City's extremely overburdened shelter system, and will provide stability and a pathway to permanent housing to families who would otherwise languish in shelters indefinitely.

It is not an overstatement to say that the New York City shelter system is in crisis.

The system is currently so overburdened that the past few months have seen families sleeping in shelter intake offices until placements became available<sup>11</sup>. In fact, four families represented by NYLAG report having slept in the shelter intake office with their small children for multiple days until a placement could be located.

Last summer, a New York City spokesperson described the rate of shelter availability

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<sup>11</sup> <https://www.thecity.nyc/2022/7/26/23279842/homeless-shelters-are-overflowing-and-most-likely-in-poor-areas-despite-fair-share-promises>

at that time as “severely below the standard vacancy rate we hope to maintain for the shelter system.”<sup>12</sup> The single adult system in New York City is similarly overburdened.<sup>13</sup> For example, on one night in the fall, 60 men had no other option but to sleep in chairs and on the floor of the shelter intake office because New York City did not have sufficient capacity in any of its assessment shelters.<sup>14</sup> People must move out of the shelter system in order to make room for new residents, but transitioning to permanent housing is almost impossible without a housing assistance voucher. Allowing more people to access these vouchers will aid in their ability to transition to permanent housing and create sorely needed space in the shelter system.

In addition to creating space in an overburdened shelter system, expanding access to housing vouchers would provide stability to families experiencing homelessness. Families in shelter who do not have access to the programs that assist homeless families transition to permanent housing are unlikely to ever to gain the means to leave the shelter system because of the prohibitive cost of housing in New York. Precluding housing voucher eligibility for these families effectively traps them in the shelter system. This is particularly problematic because life in shelter takes an enormous toll on the wellbeing of homeless families. For the most part,

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<sup>12</sup> Id.

<sup>13</sup> <https://citylimits.org/2022/09/14/nyc-homeless-agency-scrambles-for-capacity-after-latest-right-to-shelter-violation/>

<sup>14</sup> Id.

family are not assigned shelter placements near family support or in a familiar neighborhood. Children in shelter are often forced to transfer to new schools, and family members must travel long distances on public transportation to continue treatment with trusted doctors and therapists. Periodic involuntary shelter transfers render it impossible for families to achieve stability by establishing roots and become part of a community and are particularly destabilizing for children. All families in the shelter system hope to transition to stable permanent housing, which is almost impossible without the assistance of a housing voucher. Expanding access to housing assistance will only aid families in this goal.

*ii. Increase the Personal Needs Allowance for People in Shelters that Provide Meals*

NYLAG urges funding for legislation that will increase the personal needs allowance for people in shelters that provide meals, as it will provide people experiencing sheltered homelessness with a way to purchase essential personal care items such as toiletries, transportation, and clothes. Legislation that sets the personal needs allowance for people residing in shelters with meals to be the same as the personal needs allowance for those not experiencing homelessness would address this state's long-standing failure to ensure regular increases in the allowances provided to people experiencing homelessness. This very necessary step would allow people living in shelter to purchase vital personal care items like

shampoo and soap, and also remove a massive deterrent for people experiencing street homelessness to enter shelter.

Currently single adults residing in shelter receive \$45 per month as a personal needs allowance, as opposed to the \$183 that single adults not residing in shelter receive. \$45 per month is grossly inadequate to cover personal needs. For instance, the average bottle of shampoo in the United States cost over \$6<sup>15</sup> and the average tube of toothpaste costs over \$4<sup>16</sup>. Moreover, to travel anywhere in New York City, most people must use the subway and bus system. One ride on the subway or bus is \$2.75<sup>17</sup>, and for shelter residents seeking employment, the related cost of travel is prohibitive. \$45 per month is simply not enough to cover a human's basic personal needs and is certainly not enough to cover the transportation costs necessary to support a job search.

The reduction of the personal needs allowance once a person enters shelter is a serious deterrent for people experiencing street homelessness to enter shelter. NYLAG serves many clients experiencing street homelessness. We have been told time and time again that it is hard enough for these clients to survive on the full personal needs allowance grant of \$183 dollars per month, and that they will not enter the shelter system because their sole income will be reduced to \$45 per

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<sup>15</sup> <https://www.statista.com/statistics/803183/price-of-the-leading-shampoo-brands-in-the-us/>

<sup>16</sup> <https://www.statista.com/statistics/1061119/average-price-of-leading-us-toothpaste-brands/>

<sup>17</sup> <https://new.mta.info/fares>

month. At a time when with New York City is struggling with growing numbers of people experiencing street homelessness, removing this deterrent would go a long way toward bringing people inside, which will allow them to eventually transition to permanent housing.

*iii. Support for Legislation Requiring that Homeless Shelters Maintain Opioid Antagonists*

NYLAG encourages this Legislature to fund legislation requiring homeless shelters to keep an opioid antagonist on hand, to have at least one employee trained in its administration on duty at all times, and to develop a training plan for opioid overdoses. This is a sorely needed measure. In New York City alone, there were over 1,091 overdoses recorded in shelters in 2021, a 76 percent increase compared to 2019.<sup>18</sup> Opioid antagonists, such as naloxone HCl (Narcan), are easy to use, require minimal training and will immediately reverse an opioid overdose.<sup>19</sup> Given the high rate of overdose in the New York City shelter system, requiring naloxone HCl and someone trained to administer it on site is a commonsense reform that will save lives.

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<sup>18</sup> <https://citylimits.org/2022/06/30/drug-overdoses-continue-to-rise-inside-nyc-homeless-shelters/#:~:text=Overall%2C%20there%20were%201%2C091%20overdoses,adult%20shelters%2C%20the%20records%20show.>

<sup>19</sup> <https://nida.nih.gov/publications/drugfacts/naloxone>

### **III. CONCLUSION**

I am grateful for this opportunity to present written testimony on the Executive Budget based on my experience serving clients in public assistance and homeless advocacy. Please consider NYLAG's recommendations regarding funding for increasing shelter allowance and the basic cash grant, eliminating the resource test and expanding the earned income disregard, creating a housing access voucher program, expanding access to rental assistance programs needed to exit the shelter system, and mandating that shelters maintain opioid antagonists. 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.