



**Joint Legislative Public Hearings on
2025-2026 Executive Budget Proposal**

Human Services

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INTRODUCTION

Empire Justice Center is a statewide, multi-issue, multi-strategy not-for-profit civil legal aid provider focused on changing the complex systems impacting low income and marginalized New Yorkers. With a focus on poverty law, Empire Justice takes a 360-degree approach to the areas of law we practice in, providing individual legal representation, policy research and analysis, training and technical assistance as well as impact litigation.

Our work cuts across all significant areas of poverty law and involves three inter-related services:

We practice the law: Empire Justice Center provides a range of legal assistance from our Telesca Center and Library offices in Rochester, Albany, Yonkers, White Plains, Central Islip, and Hempstead. We provide one on one representation and undertake impact litigation to address systemic issues impacting low income and marginalized communities.

We teach the law: Our history as a backup center for civil legal services providers began in the 1970's and while federal funding for these services was eliminated during the mid 1990's, we have sustained that work in specific service areas where we continue to provide training, technical assistance and other legal support services to civil legal aid providers as well as a variety of other community-based organizations, keeping them apprised of changes in the law and regulations and providing legal research and support services.

We change the law: In order to ensure that the needs of low-income families are heard within the state's policy making processes, we engage in both legislative and administrative advocacy on a range of issues impacting our clients, and we do the same as needed at the local and federal levels.

Support for New York State's human services has never been more essential. We must acknowledge and address ongoing challenges – including the importance of programs that reduce homelessness and housing insecurity. We urge the Legislature to decisively affirm its Constitutional commitment to aid and support the most vulnerable New Yorkers, to help ensure an equitable recovery for all of us.

This testimony touches on the work of the New York State Office for the Aging, the Office of Children and Family Services, the Office of Temporary and Disability Assistance, and the Department of Health. We will discuss the positions set forth below:

1. **Maintain the Legislature's investment of \$1.5 million in the Disability Advocacy Program (DAP)**
2. **Improve public assistance to reduce housing insecurity and homelessness and economic instability for children and New Yorkers in deep poverty**
 - a. **Increase public assistance Grants so New Yorkers can meet their basic needs while working toward a path to economic wellbeing**

- i. Increase the shelter allowances to 100% of HUD fair market rent, adjusted annually if the FMR is increased (S.1454 Kavanagh/ A.1507 Rosenthal)
 - 1. Until the shelter allowance is increased, all public assistance households experiencing housing instability should be entitled to rent supplements at HUD fair market rent
 - 2. People experiencing housing instability who are not eligible for public assistance should receive a supplement and/or voucher at HUD fair market rent
 - ii. In line with the recommendations of the Child Poverty Reduction Advisory Council, increase the Basic Needs Grants by 100% to help people access hygiene products, cleaning supplies, personal care items, clothing, and transportation (S.1127 Persaud/ A.106 Rosenthal)
 - iii. Increase the abysmally low Personal Needs Allowance for people in shelters to help them afford necessities including toothpaste, diapers, menstrual products, and laundry detergent. (S.113 Cleare/ A.108 Rosenthal)
- b. Improve Public Assistance Programs to Help New Yorkers in Deep Poverty Get on the Path to the New York Dream**
- i. Implement a two-fold approach to skimming of public benefits, including Cash Assistance and SNAP: Reimburse victims who have had their benefits stolen and implement chip cards to protect recipients from future thefts
 - ii. Establish a state food benefit for households for families who are ineligible for SNAP because of their immigration status.
 - iii. In line with the recommendations of the Child Poverty Reduction Advisory Council, ensure the Earned Income Disregard – which helps people on the path to financial independence -- is applied to applicants as well as recipients
 - iv. In line with the recommendations of the Child Poverty Reduction Advisory Council, eliminate resource limits to allow families to have an emergency fund
 - v. Allow Parents Caretakers to exclude children with income from the Public Assistance households
 - vi. Provide access to Child Care assistance to all otherwise eligible immigrant children, regardless of immigration status
 - vii. Amend SSL-106b to eliminate the Restriction on the Correction of Public Assistance Underpayments
 - viii. Ensure a fair process for reducing erroneous welfare sanctions applies statewide (S.4417 May)

3. **Allocate \$2 million to the Office of Children and Families to establish a Kinship Legal Network pilot program (A.531 Hevesi)**
4. **Invest a total of \$2.76 m in the Managed Care Consumer Assistance Program (MCCAP) to provide seniors and people with disabilities critical assistance in accessing Medicare services and reducing health care costs**
5. **Restore full funding of OTDA’s eviction prevention representation**
6. **Make progress toward achieving pay parity for civil legal service providers in order to address the recruitment and retention crisis**
 - a. Approve in this year’s one house and final budgets the increase to JCLS funding \$150 million
 - b. Appropriate the full \$80 million total for the Interest on Lawyers Account (IOLA) Fund to support its grantees and ensure that budget language designates IOLA as a “fiduciary fund”
7. **Reform New York’s contracting and payment processes through uniformity, streamlined systems, identifying best practices and efficiencies to be implemented across contracts and agencies.**

MAINTAIN THE LEGISLATURE’S INVESTMENT OF \$1.5 MILLION IN THE DISABILITY ADVOCACY PROGRAM (DAP)

For over four decades, the Disability Advocacy Program (DAP) has been helping some of New York State’s most severely disabled low-income adults and children whose federal disability benefits (Supplemental Security Income (SSI) or Social Security disability (SSD)) are denied or cut off. The Social Security Administration (SSA) standard for proving disability is strict, and the appeals process is very complex. DAP works to overcome the many hurdles and complications faced by claimants along the way. Financial issues, insecure housing, homelessness, language barriers, and the very symptoms of a disability are some of the factors that often make it exceedingly difficult for claimants to gather evidence necessary to their claim.

Since the inception of DAP in 1983, through June 2024, DAP providers, who work in every county in New York State:

- Assisted over 243,000 disabled low-income New Yorkers.
- Helped put over \$926 million in retroactive benefits in their hands to be spent in local economies.
- Generated close to \$250 million in federal funds paid back to New York State and the counties.
- Saved over \$327 million in avoided public assistance costs.

DAP services help stabilize people’s incomes, which in turn helps to stabilize housing, health, and quality of life overall. Historically, for every dollar invested in DAP, at least \$2 is generated to the benefit of New York’s state and local governments. DAP has been essential in helping

low-income disabled individuals in New York navigate Social Security bureaucracy while maintaining a consistently high win rate. DAP claimants have been significantly more successful compared to general success rates in New York and nationally: the overall win rate nationally at the hearing level dropped to 45% in 2023, with the win rate in New York at about 61%. DAP advocates prevailed in 73% of their cases during this period.¹

Thanks to increased State funding in the last three budget cycles, DAP was able to finally stabilize after many years of flat funding. Two years ago, the Legislature restored its \$1.5 million add-on to the Executive Budget of \$5.26 million allocation. Since the State's funding of DAP is matched by the local counties, this resulted in a total funding of \$13.52 million for DAP statewide. The Legislature's investment in DAP helped make the program whole and ensured that the program could meet the increased costs and demand for resources, all while increasing access to representation in some of the most underserved communities in New York State. The Legislature should maintain its \$1.5 million investment in this important program so that DAP can effectively confront the current challenges, including SSA understaffing.

Tackling a shifting Federal landscape

With leadership and political changes underway at the federal level this year, critical benefits programs such as SSD and SSI are likely to face challenges and uncertainty. Now, more than ever, DAP serves as a vital lifeline for securing income for those who need it most. As the first line of defense for vulnerable individuals, DAP plays an indispensable role in protecting access to essential support. Strengthening this program will be crucial as we work to safeguard these vital resources.

Last year, SSA passed several significant complex policy changes that will benefit thousands of SSI recipients in New York, if they are able to access them. Several of these changes were based on DAP advocate input. For example, SSI recipients will no longer have their SSI reduced for receiving help with food or groceries if they live in a household with any person who receives SNAP.² In light of intricate changes such as these, disabled New Yorkers will need the services of trained, experienced DAP advocates to help ensure that they are able to benefit from these new policies.

Continuing to help New Yorkers overcome customer service gaps at SSA

Difficulty accessing SSA staff and offices has been at a crisis level, and with increased Congressional funding being unlikely, disabled New Yorkers who rely on the agency can expect

¹ See NYS Office of Temporary and Disability Assistance, Disability Advocacy Program Report to the Legislature Program Period Jan. 1, 2020 to Dec. 31, 2021, available at <https://otda.ny.gov/resources/reports/DAP-Report.pdf>.

² See SSA, Expand the Definition of a Public Assistance Household, 89 Fed. Reg. 28608, Apr. 19, 2024, at <https://www.govinfo.gov/content/pkg/FR-2024-04-19/pdf/2024-08364.pdf>; see also SSA, Expansion of the Rental Subsidy Policy for SSI, 89 Fed. Reg. 25507 (Apr. 11, 2024); SSA, Omitting Food From In-Kind Support and Maintenance Calculations, 89 Fed. Reg. 21199 (Mar. 27, 2024)

SSA's staffing problems to worsen. At the end of 2023, the number of beneficiaries being served by SSA was continuing to grow, but the agency was at its lowest staffing level in 25 years. In March 2024, Martin O'Malley, the Commissioner of Social Security, testified before Congress that this has resulted in a "dire" crisis in customer service where claimants are "paying the price" as they struggle to access important benefits.³

SSA staffing problems cause unconscionable delays and other problems for claimants.⁴ Low-income recipients of SSI who rely heavily on in-person service, especially those who are homeless or who have limited English proficiency, face increased hardship because of these problems. Beyond the lack of basic information and access, the understaffing at SSA also results in backlogs in case processing, errors in claims handling, incorrect or insufficient notices, and failures in many of its workloads.

These challenges have required a heightened level of advocacy by DAP, which has increasingly been serving as an access point for SSA; DAP advocates have been working tirelessly to help clients access benefits and services, and with more frequency must advocate to escalate matters with SSA regional staff based on our clients' "dire needs" or other circumstances. DAP programs continue to prioritize and expand their outreach methods to clients, including increased public education and dissemination of "Know Your Rights" resources, intake clinics, and partnerships with local representatives and community-based organizations.

Customer service at SSA – a problem for several years – is continuing to deteriorate. Beginning January 2025, SSA is further restricting public access to its local field office by requiring appointments for all in-person services.⁵ Considering the extreme difficulty involved in reaching the agency by telephone, this policy will result in significant hardship on claimants. Callers to SSA's 1-800 number invariably face busy signals, dropped calls, and long hold times.⁶ Online services are also unfortunately inadequate for low-income disabled clients who are often in need of in-person services to explain notices or otherwise assist in some of the more confusing aspects of the disability claims process. While this policy has exceptions, including those experiencing dire needs, accessing these services will undoubtedly demand an even greater amount of advocacy by DAP to ensure that clients are not turned away by SSA or denied access due to procedural obstacles.

³ Testimony by Martin O'Malley, Commissioner, Social Security Administration, before the Senate Committee on Aging, Social Security, March 20, 2024, at https://www.ssa.gov/legislation/testimony_032024a.html; see also SecurityStat, Social Security, at <https://www.ssa.gov/securitystat>.

⁴ Mark Miller, When You Call Social Security, Expect to Wait Even Longer, N.Y. TIMES, Dec. 2, 2023, available at <https://www.nytimes.com/2023/12/02/business/social-security-phone-line-budget-cuts.html>.

⁵ See SSA, Emergency Message (EM) 24059, Social Security Administration Offices Transition to Appointment Focused Service (AFS) for In-Person Services (Dec. 4, 2024), available at https://secure.ssa.gov/apps10/reference.nsf/lrx/12042024013818PM?opendocument=&utm_medium=email&utm_source=govdelivery.

⁶ See SecurityStat, at <https://www.ssa.gov/securitystat/800-number-performance>

In addition to these newer demands, DAP also continues to confront the burdensome delays and other problems associated with the “reconsideration” level of appeal.⁷ With only 15 percent of appeals seeing success at reconsideration, reconsideration serves only to prolong most appeals by many months.⁸ As a result, DAP cases remain pending longer – most programs report delays of over 6 months and up to a year – and DAP programs must devote significantly more time and resources towards most appeals.⁹

In sum, SSI and SSD are as important as ever in providing an essential degree of income and housing security, as well as access to health insurance. Yet, DAP clients continue to confront several bureaucratic obstacles to obtaining the benefits to which they are entitled, and DAP advocates are spending more time and resources overcoming those hurdles. The Legislature should continue investing its \$1.5 million add-on to ensure the program remains stable in facing the current challenges and in maintaining the pipeline of federal dollars coming back to the State.

ASK: We ask the Legislature to maintain its historic investment in DAP with a \$1.5 million add-on to the Executive Budget. With the current changing and uncertain landscape for federal benefits, it is as crucial as ever to ensure DAP remains stable and able to continue meeting the demand for assistance in accessing these important benefits. Combined with the Executive’s \$5.26 million commitment, and together the county match, this maintains steady funding for DAP at \$13.52 million. Level funding will ensure DAP can continue representing low-income disabled New Yorkers in confronting the many obstacles to obtaining disability benefits and will also help maintain the pipeline of federal dollars returned to the State.

IMPROVE PUBLIC ASSISTANCE TO REDUCE HOUSING INSECURITY AND HOMELESSNESS AND ECONOMIC INSTABILITY FOR CHILDREN AND NEW YORKERS IN DEEP POVERTY

Governor Hochul has shared her belief that “our future depends upon the ability of every family to afford the essentials of life.”¹⁰ Right now, New Yorkers eligible for public assistance – often

⁷ In 2019, despite strong objections from advocates and members of Congress, SSA reinstated the reconsideration stage after having previously tested its elimination in New York and nine other “prototype” states. See Social Security Advisory Board, Examination of Social Security’s Reinstatement of Reconsideration, Apr. 2020, available at <https://www.ssab.gov/wpcontent/>

⁸ SSA, FY 2024 Congressional Justification, March 2023, available at <https://www.ssa.gov/budget/assets/materials/2024/FY24-JEAC.pdf>; NYS Office of Temporary and Disability Assistance, Disability Advocacy Program Report to the Legislature Program Period Jan. 1, 2020 to Dec. 31, 2021, available at <https://otda.ny.gov/resources/reports/DAP-Report.pdf>.

⁹ Statistics also show that clients get lost in the reconsideration process: of the 85 percent of claimants who are denied at reconsideration, only 60 percent appeal to the hearing level, where 50 percent of claims are approved. Often, claimants do not realize they need to appeal a second time, or they simply get discouraged and drop out of the process altogether.

¹⁰ See Governor Kathy Hochul, 2025 State of the State Book, <https://www.governor.ny.gov/sites/default/files/2025-01/2025StateoftheStateBook.pdf>

due to a disability or illness, caretaking responsibilities, domestic violence, or because minimum wage work is insufficient to survive in our State – are unable to afford the essentials of life and are being afforded benefits that are so low that they experience deep poverty. And with deep poverty comes housing instability and homelessness, food insecurity, and poor health and social outcomes. The severe economic scarcity generated by the inadequacy of public assistance grants and restrictive program rules makes the path to long-term economic stability and wellbeing a rocky, if not an impassable one, for New Yorkers receiving public assistance.

Increase Public Assistance grants so New Yorkers can meet their Basic Needs while working toward a path to economic wellbeing

Public Assistance grants have not been increased in over a decade and force recipients to live in deep poverty. In every county of the state, the maximum public assistance grant is significantly less than 50% of the federal poverty level – what the U.S. Census Bureau defines as “**deep poverty.**” See Table I. For instance, the 2024 federal poverty level for a family of three is \$2,151 while the maximum temporary assistance grant for a family of three in Erie County is only \$690 – just 32% of the poverty level.

Public Assistance grants consist of several components: a shelter allowance (set by regulation at 18 NYCRR 352.3), a basic needs allowance [Social Services Law (SSL)131-a], a home energy allowance [SSL 131-a (3-c)] and supplemental home energy allowance [SSL 131-a(3-d)], a home heating allowance [18 NYCRR 352.5(b)], and for eligible households, various allowances based on special circumstances. The basic needs allowance has not been adjusted since 2012, and the shelter allowance has not been increased in decades.

Public Assistance for households with children is funded in large part by the Temporary Assistance for Needy Families federal block grant program. The most recent data available, from fiscal year 2023, indicates that New York State’s \$1,687,101,949 unobligated balance of TANF funding is the highest of any state in the nation,¹¹ leaving a generous amount of federal funding apply to increased public assistance grants to families.¹² At a time when the lowest income families in New York State are facing dramatic price increases for basic needs and housing and our State is experiencing a homelessness crisis, it is imperative for New York to use its underutilized TANF funds to help families achieve greater economic stability.

Increase benefits for housing expenses to 100% of the United States Department of Housing and Urban Development’s Fair Market Rent for households eligible for Public Assistance (S.1454 Kavanagh / A.1507 Rosenthal).

¹¹ Office of Family Assistance, U.S. Dep’t of Health & Human Services, TANF Financial Data – FY 2023, at Table A.6.

¹² In addition to carrying an unobligated balance of over a billion dollars, New York spent only 27.7% of TANF funding awarded to the state on Public Assistance. Office of Family Assistance, TANF and MOE Spending and Transfers by Activity, FY 2023, at p. 34

The New York State Office of Temporary and Disability Assistance (OTDA) is charged with formulating a shelter allowance schedule setting forth maximum allowances for rent for each social services district.¹³ For families with children, by statute, that allowance must be adequate to provide for the child in the home.¹⁴ Unfortunately, OTDA has failed to amend its regulations to keep up with the cost of housing, and at this point, there are no rental units in the private market that meet basic health and safety standards that are priced at or below the shelter allowance. For households with children, OTDA has not updated the shelter allowance schedule since 2003 even though rents have doubled since then. For households without children, OTDA has not increased the shelter allowance since 1988, but rents have tripled in the last 35 years.¹⁵

To determine the cost of housing in New York State and nationwide, the Department of Housing and Urban Development (HUD) engages in a detailed analysis of rents in the private housing market. Using that data, HUD determines the “fair market rent” (FMR) for housing that meets basic quality standards for each jurisdiction. An area’s FMR is the amount that a tenant would need to pay for privately owned, decent, and safe rental housing of a modest (non-luxury) nature with appropriate amenities (i.e., including cooking and bathing facilities).¹⁶ The FMR is not the average rent paid in a community – it is an estimate of the 40th percentile gross rent paid by recent movers into standard quality private market units in an area.¹⁷

The shelter allowances are dramatically lower than the actual cost of decent housing – the FMR -- in all counties across New York State. Shelter allowances for a family of three range from a low of \$259 per month in Franklin County to a *high* of \$447 per month in Suffolk County. Comparing the shelter allowance to the FMR, as seen in the chart below, the shelter allowance leaves tenants hundreds, if not thousands, of dollars short of being able to afford a habitable apartment. For a chart containing all counties, see Table 2.

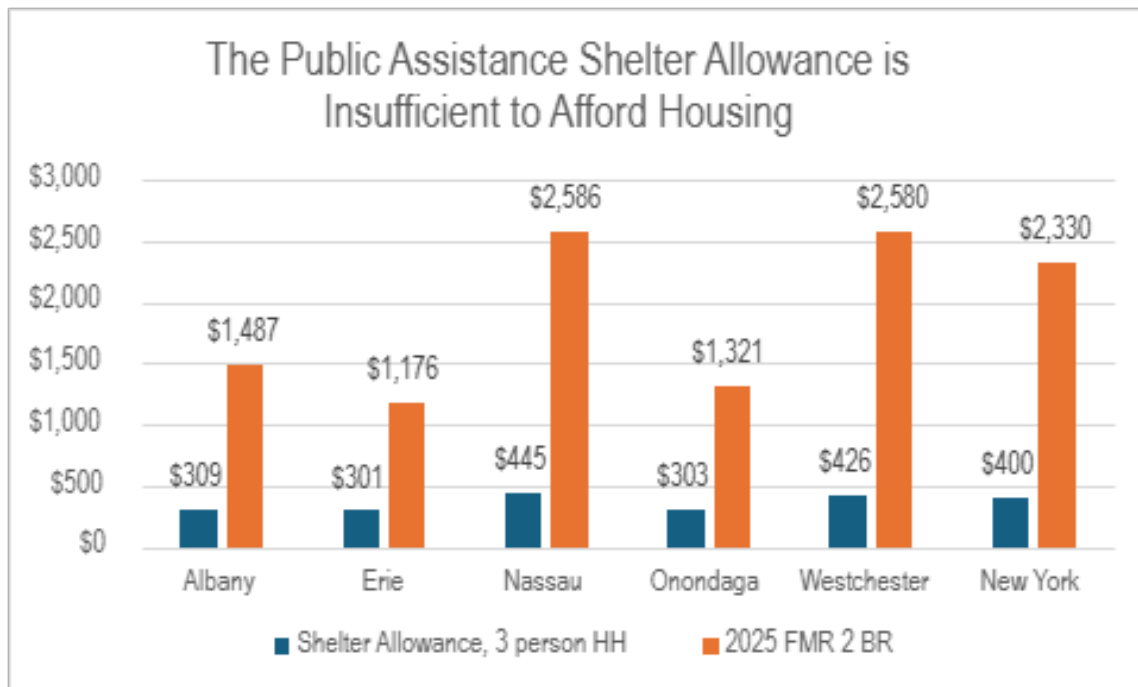
¹³ See SSL 131-a; also see 18 NYCRR § 352.3 (setting rent allowances).

¹⁴ SSL 350(1)(a).

¹⁵ In Albany County, for instance, the 2024 HUD FMR for a two bedroom is \$1487 while in 2003, it was \$633, and in 1988 it was \$438. HUD FMR History 1983-Present, US Dept. of Hous. & Urban Dev., <https://www.huduser.gov/portal/datasets/fmr.html#history> (last accessed Jan. 26, 2024).

¹⁶ 24 CFR 888.113.

¹⁷ *Id.*



OTDA offers local districts the opportunity to request approval to provide supplements for households receiving public assistance who are experiencing or at risk of eviction if the district can describe a justification for the need.¹⁸ Unfortunately, as of October 2024, only 23 districts had approved Shelter Supplement programs for households receiving public assistance.¹⁹ Furthermore, there isn't sufficient funding allocated to supplements to meet the level of need in most counties: outside of New York City, in December 2023 only 16 counties distributed any SSPs. In total for ROS, only 1,557 households in December 2023 were receiving rental assistance from a Shelter Supplement – a small fraction of the number of public assistance recipients experiencing homelessness. For those who did receive a supplement, benefits are set at a fraction of the HUD FMR levels. For a single adult in Nassau County, for example, the State-set public assistance shelter allowance is \$288 and the supplement is \$275 for a total of \$563, but the HUD FMR level for a studio apartment in that county is \$1,708. In Monroe County, the public assistance shelter allowance for a family of three is \$343 and the supplement is \$182 for a total of \$525, but the HUD FMR level for that county is \$1,307 for a two-bedroom apartment. These low supplements make it incredibly challenging for recipients to put Shelter Supplements to use. Some programs have additional restrictive eligibility criteria. The Shelter Supplement program fails to fill the gap left by the meager shelter allowance.

¹⁸ 18 NYCRR 352.3(a)(3). See also NY Off. of Temp. and Disability Assistance, Shelter Supplements Plans and Revisions, GIS 20 TA/DC012 (Feb. 21, 2020), available at <https://otda.ny.gov/policy/gis/2020/20DC012.pdf>.

¹⁹ Empire Justice Ctr., Standard of Need by County, https://empirejustice.org/resources_post/standard-needcharts/ (last updated Oct. 2024).

To curb the rise in homelessness and housing instability, the 2021, 2022 and 2023 budgets allocated \$100,000,000 annually to fund a New York State Rental Supplement Program.²⁰ The Rental Supplement Program provides supplements, at local option, to low-income New Yorkers who are experiencing homelessness or facing imminent loss of housing.²¹ But like the Shelter Supplement program, the Rental Supplement Program as currently formulated does not do enough to remedy the inadequacy of the shelter allowance. Local districts must opt into the program, and some have declined to do so. Participating counties are typically setting the supplement at only 85% of FMR when data clearly shows that 100% FMR is the most reasonable standard to get New Yorkers into safe and decent housing. Many public assistance recipients are ineligible because they are not imminently at risk of homelessness even if they are living in substandard and unsafe housing, reside in overcrowded conditions, or have yet to receive a notice of eviction from their landlord.

Safe and habitable rental housing is unaffordable for public assistance households due to the inadequacy of the shelter allowance and the supplement programs currently available fail to fill the gap in need. As a result, households on public assistance who have not been lucky enough to get federal subsidies for housing are likely to be cost-burdened (putting them at risk of eviction and frequent moves), be doubled up in overcrowded housing (leading to negative health and educational outcomes), live in substandard conditions that are making them sick, or experience homelessness. New Yorkers deserve better.

ASK: Increase the shelter allowances to 100% of HUD fair market rent, adjusted annually if the FMR is increased (S.1454 Kavanagh /A.1507 Rosenthal).

- **Until the shelter allowance is increased, all public assistance households experiencing housing instability should be entitled to rent supplements at HUD fair market rent.**
- **People experiencing housing instability who are not eligible for public assistance should receive a supplement and/or voucher at HUD fair market rent.**

Increase the Basic Needs grants to help people access hygiene products, cleaning supplies, personal care items, clothing, and transportation

Like the shelter allowance, the non-shelter portions of the public assistance grant have not been updated for years. Inflation has increased dramatically over the last five years, but the basic needs allowance has not been increased since 2012 despite the rising cost of living. For an individual, the maximum monthly basic needs grant for a person with no other income is only \$158 – less than \$6 per day.

²⁰ Ch. 55 of the Laws of 2021, sec. 1, at p. 629-30. See also Ch. 53 of the Laws of 2022, sec. 1, at p. 655-58; Ch. 53 of the Laws of 2023, sec. 1, at p. 680-683; Ch. 53 of the Laws of 2024, sec. 1, at p. 671-674.

²¹ NY Off. of Temp. and Disability Assistance, New York State Rental Supplement Program, 24 LCM-02 (Feb. 15, 2024), available at <https://otda.ny.gov/policy/directives/2024/LCM/24-LCM-02.pdf>

Home Energy Allowance (HEA), and the Supplemental Home Energy Allowance (SHEA) were last adjusted in 1981 and 1986 respectively, and as set forth below, bear no reasonable relationship to current energy costs.²² The sum of the basic grant, HEA, and SHEA for all of New York can be found in Figure 2.²³

New York Basic Grant Schedule							
Household Size	1	2	3	4	5	6	Each Add'l Person
Basic Needs	\$158.00	\$252.00	\$336.00	\$433.00	\$534.00	\$617.00	+\$85.00
HEA	\$14.10	\$22.50	\$30.00	\$38.70	\$47.70	\$55.20	\$7.50
SHEA	\$11.00	\$17.00	\$23.00	\$30.00	\$37.00	\$42.00	\$5.00
Sum	\$183.10	\$291.50	\$389.00	\$501.70	\$618.70	\$714.20	+\$85.00

The stagnant basic needs allowance has ensured that poor New York families have increasingly greater difficulty paying for life’s essential expenses, forcing them to focus more on their survival than on doing what needs to be done to improve their lives. They can’t afford to buy cleaning supplies, personal care items, hygiene products, clothing, and transportation. And because of the enormous difference between the shelter allowance and the cost of housing, many recipients must eat into their basic needs grant to cover housing - ensuring that recipients have little to nothing left of their basic needs allowance to buy necessary goods.

Increasing the basic needs grant means that individuals can afford to take care of their homes, their families and themselves. We support the proposal of the Governor’s Child Poverty Reduction Council which would help reduce child poverty by increasing the basic needs grant by 100%.

ASK: In line with the recommendations of the Governor’s Child Poverty Reduction Council, increase the basic needs grant by 100% (S.1127 Persaud/ A.106 Rosenthal).

Increase the Personal Needs Allowance for people in shelters

Individuals and families who reside in certain shelters receive a grant called the personal needs allowance, which is only **\$45 per month** (or \$1.50 per day) for a single individual and **\$63 per month per household member** for families with children. We support efforts to increase this allowance. A.108 (Rosenthal); S.113(Cleare) would amend SSL 131-a to increase the personal needs allowances provided to New Yorkers residing in shelters so that they won’t have to struggle to make ends meet each month when buying basic necessities for themselves and their families. These grant levels are currently so abysmally low that families and individuals in

²² Social Services Law § 131-a(3-c, 3-d).

²³ Social Services Law § 131-a(2).

shelters cannot buy essential items like menstrual products, underwear, diapers, and laundry detergent.

ASK: Increase the personal needs allowance for people in shelters (S.113 Cleare/ A.108 Rosenthal).

IMPROVE PUBLIC ASSISTANCE PROGRAMS TO HELP NEW YORKERS IN DEEP POVERTY GET ON THE PATH TO THE NEW YORK DREAM

Implement a two-fold approach to skimming of public benefits, including Cash Assistance and SNAP: Reimburse victims who have had their benefits stolen and implement chip cards to protect recipients from future thefts

Benefits are issued to SNAP and public assistance recipients on an Electronic Benefits card (EBT card) that lacks the basic fraud-prevention protection offered through chip cards – something that has been the industry standard for debit and credit cards for years. Because recipients of benefits have been issued magnetic stripe EBT cards, they are uniquely vulnerable to having their benefits stolen by “skimming” devices installed by thieves at point-of-sale terminals that read magnetic stripes and capture PIN data. Thieves are able to create fraudulent EBT cards based on that stolen magnetic stripe data, draining victims’ accounts of all benefits issued (including SNAP, public assistance, P-EBT, and emergency assistance). Until EBT cards with contactless chip cards rather than magnetic stripe cards are issued, skimming will continue to be a problem.

California, Oklahoma, Maryland and Massachusetts are updating their electronic benefits cards to include chips. The new California cards are being introduced this month and Oklahoma is expected to issue its chip cards shortly.

The federal program that reimbursed SNAP recipients for benefits stolen through skimming expired on December 20, 2024, and Congress so far has failed to extend it. Social Services Law 152-D authorizes the replacement of skimmed cash assistance payments but it does not cover stolen SNAP benefits.

We urge New York State to take on a two-fold approach to skimming. First, to continue its replacement program for skimmed cash assistance benefits with state funding, and expand it to include skimmed SNAP benefits, assuring that the tens of thousands of households who are victims of skimming through no fault of their own will be able to feed their families. We recommend ensuring that the repayments for skimmed benefits are not eligible for recoupment and recovery provisions, and are not limited to once per year. Second, we recommend that the state continue push forward toward chip cards, ideally with a plan to keep pace with norms in other bank and credit cards as technology advances. Previous budgets have made progress on this issue, and we note there are a number of bills to address the next phase of needs; we applaud the legislators’ leadership in taking on this important issue of justice.

ASK: Reimburse stolen Cash Assistance or SNAP benefits for people who have had CASH Assistance stolen – without making it recoverable as a debt -- and move forward in the transition to chip cards.

Establish a state food benefit for households who are ineligible for SNAP because of their immigration status

We support the proposal of the Governor’s Child Poverty Reduction Council which would help reduce child poverty by creating a state funded SNAP benefit for households currently ineligible for SNAP due to their citizenship status. The benefit would be equal to the allotment for similarly situated SNAP-eligible households; for current SNAP cases with children where the household includes persons that would be included in the SNAP case except for their citizenship status, the benefit would be equal to difference between the household’s SNAP allotment and the amount they would receive if those persons were included. Despite contributing over 27 billion dollars in state and federal taxes, many immigrant households are excluded from receiving SNAP assistance and experience a great deal of food insecurity. Enacting a state-funded SNAP benefit would help to address this disparity and to alleviate hunger.

ASK: Establish a state food benefit for households for families who are ineligible for SNAP because of their immigration status.

Expand the ability of Public Assistance recipients to maximize their income

New York has taken critical steps to improve public assistance programs, but there is more to be done. We thank the Governor and the legislature for eliminating the 45-day waiting period for Safety Net Assistance recipients;²⁴ repealing the 185% standard of need test;²⁵ and other crucial changes.²⁶ The following changes will move New York further along in supporting individuals in achieving economic success.

Expand the percentage Earnings Disregard to include applicants

We support the proposal of the Governor’s Child Poverty Reduction Council which would help reduce child poverty by applying current earnings disregards to applicants. New York’s

²⁴ SSL 158 and 153(8)

²⁵ SSL 131(a)(10)

²⁶ Increasing the \$90 earned income disregard to \$150 [SSL 131-(a)(8)(a)(iii)]; expanding the 50% earnings disregard to households without children as well as households with children [SSL 131-a(8)(a)(ii)]; increasing resource levels [SSL 131-n(1)]; and for changing the order in which disregards are applied to a manner which is more favorable to low income wage earners. [SSL 131-a(8)(a)(iii)].

percentage (currently 62%)²⁷ earnings disregard only applies to recipients of public assistance; it does not apply to applicants, leaving many New Yorkers without much needed assistance.

ASK: In line with the recommendations of the Child Poverty Reduction Advisory Counsel, ensure the Earned Income Disregard is applied to applicants as well as recipients -- amend Social Services Law § 131-a (10) and Social Services Law (SSL) § 131-a(8)(a)(iii)

Eliminate resource limits to allow families to have an emergency fund

The modest increase in the public assistance resource limits in the 2022-23 budget which amended Social Services Law 131-n, [from \$2000 to \$2500 for applicants; \$3500 if someone in the applicant household has a disability or is age 60 or over, and \$10,000 for recipients] was a step in the right direction but did not go far enough to allow low-income families to guard against emergencies.

We support the proposal of the Governor's Child Poverty Reduction Council which would help reduce child poverty by fully eliminating resource limits. Asset tests are counter-productive to the goal of financial independence. They do not allow households to retain a cushion against emergencies, ensuring that any given crisis will strike a devastating blow to the household's financial security. Especially in these challenging economic times, it is heartbreaking to see individuals not only having to deplete their bank accounts but also having to cash in their modest retirement accounts as a condition of eligibility for public assistance and thereby suffering a tax penalty for prematurely making these withdrawals. It is time for New York to amend Social Services Law § 131-n to conform its public assistance resource rules to its SNAP resource rules by eliminating the asset test for public assistance.

In the interim, we support S.246 Persaud/A.2500 Davila which extends the \$10,000 resource exemption to applicants and exempts retirement accounts.

Critically, the concern that eliminating the asset test or increasing exemptions would lead to higher costs and an increase in recipients has been shown to be without merit in states that have eliminated asset rules. Many states have eliminated consideration of assets altogether or increased the exemptions for assets. New York²⁸ and 36 other states have eliminated their SNAP asset tests.²⁹ Nine states have eliminated their public assistance asset tests completely:

²⁷ OTDA Administrative Directive 23 ADM-04, Temporary Assistance Budgeting: 2023 Earned Income Disregard (6/20/2023), available at: <https://otda.ny.gov/policy/directives/2023/ADM/23-ADM-04.pdf>

²⁸ New York has eliminated the SNAP asset test for nearly all recipients. An asset test remains households that include elderly or disabled members. See: OTDA General Information System Message 18 DC034, Food Stamp Categorical Eligibility Desk Aid at: <https://otda.ny.gov/policy/gis/2018/18DC034.pdf>

²⁹ Prosperity Now Scorecard, available at: <https://scorecard.prosperitynow.org/data-by-issue#finance/policy/savings-penalties-in-public-benefit-programs>

Alabama; Colorado; Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Ohio, and Virginia.³⁰ At least thirteen additional states (Arizona, California, the District of Columbia, Florida, Georgia, Idaho, Kentucky, Mississippi, North Carolina, Texas, Utah, Vermont, West Virginia), expressly exempt retirement accounts.³¹ Since public assistance applicants generally have little or no cash, eliminating or increasing asset limits has had little impact on caseload. Louisiana eliminated its TANF asset limit in 2009 and five years later reported little to no change in the number of families receiving benefits in the years since. Ohio eliminated their asset test in 1997, and as of 2014, the state saw no increase in the number of families receiving aid.³² Eliminating asset tests leads to an increase in bank accounts, and having a bank account helps families conduct basic financial transactions, save for emergencies, build credit history, and access fair, affordable credit.³³

Furthermore, eliminating consideration of assets when calculating public assistance eligibility, as New York does when calculating SNAP benefits, would provide an opportunity to relieve social services districts of burdensome administrative and fiscal responsibilities. The gathering, reproducing, investigating, and filing of paperwork concerning assets is time consuming and expensive for both applicants/recipients and the social services districts. Elimination of the asset limit would simplify and streamline the application and recertification process. Virginia found that although it spent approximately \$127,000 more on benefits for 40 families, it saved approximately \$323,000 in administrative staff time, resulting in a net savings of \$195,850.³⁴ Colorado estimated a caseworker savings of 90 minutes/case.³⁵ By saving time in processing applications and re-certifications, districts are better able to meet their federally- and state-mandated time frames for making eligibility decisions and, further, can allocate limited staff resources to other functions, like working with families to help them identify and achieve their goals and work towards long-term economic stability.

ASK: We support the recommendations of the Child Poverty Reduction Advisory Council and urge the legislature to repeal the resource test entirely.

- **We support S.246 Persaud/ A.2500 Davila, which would apply the \$10,000 limit to both applicants as well as recipients and exempt retirement accounts, so that families can have a “crisis fund” for emergencies.**

³⁰ 1 Burnside, A. and Fairbanks, J., Center on Law and Social Policy, *Eliminating Asset Limits: Creating Savings for Families and State Governments* (Oct. 2023), available at https://www.clasp.org/wp-content/uploads/2023/10/2023_Eliminating-Asset-Limits-Creating-Savings-for-Families-and-State-Governments.pdf.

³¹ Prosperity Now Scorecard, available at: <https://scorecard.prosperitynow.org/data-by-issue#finance/policy/savings-penalties-in-public-benefit-programs> An additional seven states (Connecticut, Indiana, Massachusetts, Michigan, Montana, Nebraska, and Oregon), exempt “inaccessible retirement accounts.”

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

Allow parents caretakers to exclude children with income from the Public Assistance household

One way to support struggling families is to allow children who have income from absent or deceased parents (such child support, or Social Security Survivor's or Disability benefits from the account of a deceased or disabled parent) to retain that income and have the option of not being a member of the public assistance household if it is beneficial for the family of the child to do so.

Social Services Law § 131-c (1) currently requires that when a minor is named as an applicant for public assistance, their parent(s) and minor siblings must also apply for assistance and be included in the household for purposes of determining eligibility and the grant amount. Although the statute uses the phrase "minor brothers and sisters," the law has been used to require the income of half-siblings to be applied as income against the other half-sibling to reduce the amount of the public assistance benefits of the child with no income. Under the current statute, the unearned income of any child, such as child support or social security survivor's benefits, is considered available to the entire household. As such, it reduces the entire grant of the household unless disregarded under some other provision of law.

A change in this law would particularly benefit non-parent caregivers of children who have parents who are unable to care for them due to the death, drug addiction, incarceration, or disability of the parent. These caregiver relatives are often on fixed incomes with limited resources. Studies show that children placed in care with relatives fare much better emotionally and intellectually than children who live in foster care with strangers.³⁶ Because current law requires the income of half siblings in a public assistance household be applied to support the income of any other half-siblings in the household, when a non-parent caregiver, who has no legal responsibility for the support of a child in their care takes in a second child with income, the public assistance grant of the first child is reduced.

ASK: Amend Social Services Law 131-c as part of an Article VII budget bill to allow parents and caretakers to exclude children with income from the Public Assistance Household. Model language can be found in a bill that was passed by both houses in the 2019-2020 legislative session.³⁷

Provide access to child care assistance to all otherwise eligible immigrant children, regardless of immigration status

³⁶ G. Wallace and E. Lee, Diversion and Kinship Care: A Collaborative Approach Between Child Welfare Services and and NYS's Kinship Navigator, 16 J. of Family Social Work, 418-19 (2013), available at http://www.nysnavigator.org/pg/professionals/documents/Wallace__Lee_2013_Diversion.pdf

³⁷ S.4809A Persaud / A.4256A Hevesi -- Although that bill was vetoed by Governor Cuomo, that bill was passed after that year's budget was enacted, and the Governor indicated that the bill's intent was laudable and should be considered during budget negotiations.

Empire Justice Center strongly supports ending the practice of denying New York children child care assistance due to immigration status. New York has already taken a first step by investing in a state-funded pilot program that provides child care to immigrant children who are not eligible for child care assistance because of restrictions in the Child Care Development Fund Block Grant. We urge New York to continue and expand that investment so that more families can enroll in this much needed service. We also urge that the budget provide additional funding for outreach in languages other than English in various locations across the state and eliminate other barriers that prevent eligible immigrant families from enrolling

ASK: Expand state-funded child care assistance pilot programs to support more immigrant families accessing childcare.

Amend SSL 106-b to eliminate the restriction on the correction of Public Assistance underpayments

SSL 106-b limits the correction of public assistance underpayments to current recipients. As a result of this law, even where a former public assistance recipient is determined through a fair hearing or court of law to have been wrongfully denied benefits they were entitled to receive, they are not compensated. This is unfair and a wrong that should be immediately corrected.

Public assistance applicants who are wrongfully denied benefits they were entitled to receive and recipients whose benefits were wrongfully terminated or reduced may be forced to rely on credit cards and borrowing from family and friends, building up debt. They are unable to meet basic needs and recurring expenses and may lose their furniture upon being evicted when they are unable to pay their rent, lose their transportation if they are unable to make payments on a car loan, or face high reconnection fees for utilities. Because fair hearing and judicial decisions may take months or even years to find in favor of appellants, some applicants and recipients who were wrongfully denied benefits may have secured employment or disability benefits in the interim. Although the harms they suffered while benefits were wrongfully denied are often still ongoing, including debts that these households can ill-afford to pay, under SSL 106-b, they get nothing.

ASK: Amend SSL 106-b to delete the sentence that limits correction of underpayments to current recipients of public assistance.

Ensure a fair process for reducing erroneous welfare sanctions applies statewide (S.4417 May)

In 2015, Social Services Law § 341 was amended [L. 2015, c 562, § 2, eff. 12/18/15] to dramatically improve the treatment of public assistance recipients threatened with the loss of their benefits because of an allegation that they failed to comply with a welfare work requirement. Although originally proposed as a statewide bill, at the last minute it was modified to apply only to New York City, leaving out the fifty-seven counties in the rest of the state. The

law provides common sense protection against the imposition of unwarranted and unduly harsh sanctions on the poorest New Yorkers and should apply statewide. For the entire state outside of New York City, those threatened with a loss of benefits for failure to comply with a work rule, in practice bear the burden of demonstrating that they either did in fact comply or had good cause for not complying. Although clients often prevail when they ask for a fair hearing, far too many individuals, but particularly those who may be disabled, have difficulty accessing the hearing process or otherwise asserting their rights.

Three powerful considerations guide our support for expansion of this law to the whole state:

- A disproportionate number of those who are sanctioned have disabilities or face other barriers that make it difficult for them to comply with work rules. People with serious physical or mental health limitations that are not identified by DSS are often ill-equipped to comply with work requirements and are therefore at greater risk of sanction. Individuals with lower levels of literacy, education, and skills, as well as those with domestic violence issues and limited English proficiency are also more likely to be sanctioned.
- Sanctions cause serious hardship. For single individuals, a sanction means the loss of an entire grant. Those in families are already struggling with a benefit that is extremely inadequate. Any reduction due to a sanction is likely to cause severe hardship. Parents and children in sanctioned families are more likely to experience hunger and food insecurity, increases in hospitalization, eviction, homelessness, loss of utility and telephone service, and the need for emergency services including emergency housing, food and clothing aid.
- Decisions to impose sanctions are often the result of administrative errors, inadequate notice or client disabilities. Factors include:
 - Notices that do not clearly explain the clients' rights,
 - Notices that are not timely sent or are not properly addressed,
 - Non-compliance that is the result of a disability that DSS failed to detect, or detected but did not accommodate.

As a result of the 2015 amendments, in New York City, before imposing a sanction, the Human Resources Administration must determine whether the alleged failure to comply was related to a disability, a child care problem or transportation difficulties. In addition, mandatory durational sanctions, with inflexible punishment periods of reduced benefits, are eliminated. Instead, sanctions can be avoided, or lifted if already in effect, if the client demonstrates a willingness to comply with the work requirements or establishes that they are unable to do so. Finally, a client who is otherwise satisfactorily participating in assigned work activities must not be sanctioned for a single infraction.

There is no justification for failing to apply these fair and reasonable measures statewide. They provide critical protection to clients who may be unable to comply with a work requirement for reasons beyond their control, or who have a single lapse in a system that is often rigid and punitive. We support the proposal of the Governor's Child Poverty Reduction Council which

would help reduce child poverty by affording all public assistance recipients in New York the opportunity to participate in appropriate activities and limit the risk of unwarranted punishment.

In December of 2021, Governor Hochul vetoed S. 668/A.3227, a bill that would apply the protections of SSL 341 statewide. The Governor stated that she was supportive of this bill's intent but needed time to evaluate the effect of this change on federal work participation rates. The federal work participation rate applies solely to families with children, not households without children receiving Safety Net Assistance. Further, for families with children, the federal "All Families" work participation rate for 2023 was 0%.³⁸ Ultimately, we expect that expanding the conciliation process to the rest of the State is likely to improve the work participation rate by helping families work with their local district to address their barriers to employment. We can and should enact this bill.

ASK: Amend SSL 341 to remove the statutory provision that limits its application to cities of 5 million or more persons. (S.4417 May)

ESTABLISH A KINSHIP LEGAL NETWORK

With the pandemic, opioid crisis, housing instability, mental health, poverty, and other factors, the number of children who are unable to be with their parents has increased in recent years.

Non-parent caregivers stepping in to care for vulnerable children are faced with having to navigate a complicated and overwhelmed court system on their own. They are not entitled to assigned counsel, and without legal representation, are effectively excluded from participating in court. More importantly, they have multiple legal needs: navigating the public benefits system, the foster care system and for children with special needs – the educational systems and the Social Security systems.

To address this, we ask that you fund \$2 million through the Office of Children and Family Services to establish a Kinship Legal Network, to provide legal representation, information, and advice to non-parent caregivers interfacing with New York's complex justice and social services systems. The Kinship Legal Network would support some of New York's most vulnerable children and the family members trying to care for them, and it is in line with the Office of Family and Children's Services work in implementing the directives of the Family First Prevention Services Act.

The Kinship Legal Network will use a proven model that has been replicated in a variety of legal services areas; it will develop a network of legal services providers who will serve clients, as well as look across the state to collect data and recognize trends as a means to identify success

³⁸ See Off. of Family Assistance, US Dept. of Health & Human Servs., Caseload Reduction Credits Fiscal Year 2023 (2024) available at <https://www.acf.hhs.gov/sites/default/files/documents/ofa/wpr2023table01a.pdf>.

stories, systemic challenges and solutions, and to document the benefit of the program to NY families and the State. The program will leverage the existing Kinship Navigator, a successful statewide program operated by Catholic Family Center which provides an information and referral network for kinship caregivers across all of New York State.

Along with preventing placement disruptions and mitigating barriers to placement, attorneys who represent kinship caregivers also:

- Assist in achieving permanency goals through family reunification, custody, guardianship, and adoption;
- Ensure the caregiver and children receive all benefits to which they are entitled – public assistance, SNAP, Supplemental Security Income, Social Security benefits for children with deceased or permanently disabled parents, and educational assistance;
- Represent caregivers in related child support, family offense, and administrative matters;
- Connect caregivers to community service partners to ensure all needs, not just legal needs are being met.

The Kinship Legal Network would support some of New York’s most vulnerable children and the family members trying to care for them, and it is in line with the Office of Family and Children’s Services work in implementing the directives of the Family First Prevention Services Act.

ASK: Allocate \$2 million to the Office of Children and Families to establish a Kinship Legal Network pilot program. (A.531 Hevesi)

INVEST A TOTAL OF \$2.767 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 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 the work necessary with the expansion of the Medicare Savings Program, and a noticeable increase in New Yorkers’ concerns over higher costs of living and out of pocket expenses, we are asking that the Legislature provide an additional \$1 million in funding.

In addition to New York’s growing aging population and changes in the health care delivery and insurance landscape, in the past year, an estimated 300,000 additional New Yorkers became eligible for a Medicare Savings Program for medical and health service cost sharing. Each enrollment into Medicare cost-saving programs saves an individual at least \$7,400 in annual

out-of-pocket health care costs. Without MCCAP's efforts to provide education and combat stigma around this benefit, many will go unenrolled.

Increased funding will expand the program's capacity to respond to the high demand for Medicare navigation assistance. Seniors and people with disabilities are hit the hardest when food, housing, and health care (including medications) costs rise at the rates we are seeing today. These populations deserve every bit of assistance we can provide in order to increase access to health care services and reduce out-of-pocket costs.

The six MCCAP agencies partner with NYSOFA, the New York State Department of Health (DOH), and the Center for Medicare and Medicaid Services (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.

It is an essential time to shore up funding for MCCAP. Programs and services available to lower income New Yorkers – such as the Medicare Savings Program and programs available to assist in Part D prescription drug costs – are more essential now than ever. Further, with the flurry of false and misleading information repeatedly targeting seniors on television, by way of Medicare Advantage Plan advertisements with well-known aging athletes and celebrities as spokespeople, we regularly work with individuals who are confused and frustrated with the process of obtaining care under Original Medicare, Medicare Supplemental Plans (a/k/a Medigaps), and/or Medicare Advantage Plans. MCCAP educates and assists New York's seniors and people living with disabilities on the myriad of options available to them, including how to maximize coverage while adhering to tight deadlines and confusing procedures.

MCCAP continues its work helping individuals understand and access their benefits under the highly complex Medicare Part D program, as well as assisting dual-eligible individuals and other Medicare beneficiaries with health care access issues besides 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 other forms of insurance, including the Essential Plan, 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 is also ideally positioned to help Medicare beneficiaries adapt to any changes to Medicare, and other health coverage programs that work with Medicare, that may arise out of the federal debates about the future of healthcare in America. In recent years, MCCAP was

contacted by many Medicare recipients anxious to know what changes may lay ahead for them, and what they could do to anticipate those changes. Uncertainty about changes to Medicare and Medicaid has undoubtedly grown since this time last year as New Yorkers, particularly older adults and people with disabilities, struggle with urgent and shifting health needs.

ASK: We urge the Legislature to negotiate with the Executive to increase MCCAP funding by \$1 million for a total investment of \$2.767 million.

RESTORE FULL FUNDING OF OTDA’S EVICTION PREVENTION REPRESENTATION

Among other substantive areas of law, Empire Justice Center advocates for tenants in housing court and we provide services such as eviction defense and enforcement of housing rights. We are part of the Tenant Defense Project in Monroe County, with funding from the Senate’s Upstate Legal Services funding, and we represent immigrant tenants on Long Island with funding from the Emergency Rental Assistance Program (ERAP), through a subcontract with Legal Services of Long Island.

The Office of Temporary and Disability Assistance’s Emergency Rental Assistance Program (ERAP) provides essential funding to support legal services and representation for eviction cases primarily outside of New York City to ensure housing for our clients. Our Long Island Office has focused on the need of poor immigrants for representation and legal assistance since its inception in 2007. Thanks to subcontract with Legal Services of Long Island— funded through the ERAP program — we expanded our housing work and started a new Tenant Advocacy Practice Group, bringing our Rochester and Long Island practitioners together. With the new contract we began providing direct representation and legal advice to tenants facing eviction in the many Landlord/Tenant courts throughout Long Island. Our clients are primarily immigrants who cannot be represented by Long Island Legal Services. Most do not speak English and have very little understanding of the court system and processes in the US. Given the current political climate at the Federal level, these immigrant tenants need our help now more than ever.

Prior to Empire Justice’s involvement, these tenants had no access to legal services when facing eviction. The ERAP funding has provided enormous relief for a large number of our clients. Many tenants were eligible for rent arrears payments that prevented eviction. Even in cases where the ERAP Program could not prevent termination of the rental agreement, the Program gave our clients added time to find alternative housing and money to move. Our Tenant Advocacy staff also offer guidance and representation to tenants who are being illegally evicted from their homes, and we have helped to avert some catastrophic situations. One such case was recently reported in *Newsday*.³⁹ As a result of our advocacy, heat to the tenant’s apartment was restored, rental arrears were waived, and the landlord was prosecuted for unlawfully trying to evict our client.

³⁹ McDermott, Maura. “They went without heat for months.” *Newsday*. January 30, 2025. A4.

In 2024 we provided legal advice, referrals, and representation to over 156 households (over 550 individuals), a 30% increase over the prior year. With the increase in funding provided by the legislature, Legal Services of Long Island was able to increase Empire Justice Center's funding. With these funds we hired a second Housing Attorney and Bilingual Paralegal and opened a second Long Island office in Hempstead that will offer more accessible services to our Nassau County clients. We anticipate hiring a third attorney this year as well. The additional staff will enable us to take on more cases and provide more extensive legal advice and referrals for other types of assistance. In addition, we now have some resources to do outreach to immigrant communities to offer information on the rights and protections of tenants and the legal services that we can provide. Restoration of the legislative add in this year's budget is essential to our ability to continue these services. The most urgent need of our clients is for safe, affordable, and stable housing. They must often live in overcrowded and unsanitary conditions because the rent prices have skyrocketed in recent years. Lower cost rental units are mostly found in the poorer areas with the greatest concentration of people of color, exacerbating the huge problem of segregation on Long Island in communities and schools. Although direct service representation in housing courts cannot solve these systemic problems, with support, we could provide greater assistance to immigrant tenants on Long Island to allow them to remain secure in their homes.

ASK: Restore full funding of \$50m for eviction prevention representation by the Office of Temporary and Disability Assistance's Emergency Rental Assistance Program by adding \$15m (\$10m for NYC and \$5 m for rest of state) to the proposal of \$35 million in the executive budget.

MAKE PROGRESS TOWARD ACHIEVING PAY PARITY FOR CIVIL LEGAL SERVICE PROVIDERS TO ADDRESS THE RECRUITMENT AND RETENTION CRISIS

We also want to take this opportunity to give an overview of what is happening in the field of civil legal services. Unlike in criminal cases – in which people have a right to an attorney – civil legal service providers' ability to take on clients depends on securing government contracts and private fundraising, even though civil cases determine people's access to the "Essentials of Life", including housing, food, education, and safety. Our Chief Judge's Permanent Commission on Access to Justice has estimated up to a \$1 billion gap⁴⁰ between current funding and unmet civil justice needs. A detailed analysis by the Interest on Lawyer's Account (IOLA) Fund for the 2024 report to the Chief Judge from the Permanent Commission⁴¹ estimated that for every \$1 in civil legal services funding, \$7.50 is generated.

⁴⁰ Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York, November 2023 https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/23_ATJ-Comission_Report.pdf

⁴¹ New York State Permanent Commission on Access to Justice. Report to the Chief Judge of the State of New York, November 2024. <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2024-Commission-Report-Online.pdf>

This work is critical to our clients and to our state as a whole, and unfortunately, our field is facing a recruitment and retention crisis. Lawyers and other staff continue to leave legal services agencies like Empire Justice Center for government jobs at an alarming rate because civil legal services organizations statewide are unable to achieve pay parity with those attorney counterparts working in government positions, such as the New York State Attorney General's Office. The combination of higher salaries and a government pension is difficult to compete against, particularly for mid-career attorneys.

Notably, last year, Empire Justice Center lost 3 seasoned attorneys, who had been with the organization for many years to positions with the state and we continue to struggle to fill those positions. Our staff love the work, but without the ability to increase salaries and fund infrastructure, we simply can't compete. We continue to struggle to fill these positions and that means that families like those we described above will go unassisted until we do. Vacant attorney positions in civil legal services have become the norm. A recent study by the Chief Judge's Permanent Commission on Access to Justice found that there is a 13% vacancy rate for attorney positions across the state. Just filling those positions would provide legal assistance to an estimated 50,000 individuals over the course of one year. Or put another way, an estimated 50,000 individuals are not able to access legal assistance as a result.

An immediate step to help retain and attract candidates to provide resources for providers to increase salaries so that they are competitive with government counterparts who are doing substantially similar legal work. The gap between the two is significant, but not insurmountable. A survey and recently released report⁴² from the NY Legal Services Coalition provides data, showing that pay for attorneys in civil legal services organizations outside of NYC are paid **21%** less than their counterparts in the Attorney General's office. Those inequities only grow throughout their careers and, after 21 years of civil legal services employment, experienced civil legal services attorneys are paid **38% less** than their counterparts in the AG's office in some parts of the state.

While New York State cannot fix this element of the justice gap overnight, it is also abundantly clear that the gap will widen without both a direct investment from New York State in civil legal services, and the preservation of one of its core funders, the Interest on Lawyers Account (IOLA).

There are two notable steps toward progress that can be made this year.

First, we are deeply grateful that New York Unified Court System and our Chief Judge listened to providers when we testified at the Chief Judge's 2024 Hearing on Civil Legal Services⁴³ and included a significant increase in funding for Judiciary Civil Legal Services (JCLS) in their budget

42 Pay Parity: New York Needs a Shared Vision to Achieve Pay Parity for All Attorneys Working to Close the Justice Gap. <https://nylscoalition.org/2025payparity>. Accessed 2/12/25.

43 The Chief Judge's Hearing on Civil Legal Services in New York <https://www.nycourts.gov/ctapps/civil.html>

submission for SFY 2026⁴⁴. Indeed, the court highlighted the increases in civil legal services funding as a priority: “The UCS is committed to meeting the critical needs of low-income and underrepresented New Yorkers. The FY 2026 Budget includes an increase of \$45.5 million, for a total budget of \$150 million.”

This funding will be essential in Empire Justice’s efforts to increase salaries and it will also be incredibly helpful in adapting to changes in funding that may occur from the federal level.

Additionally, Civil Legal Services’ providers other primary source of general funding is the Interest on Lawyers Account (IOLA). We will cover this more in depth in our Public Protection testimony, but for the purposes of this hearing, we request that the final budget includes \$80 million total in appropriations for the Interest on Lawyers Account (IOLA), rather than the current \$77.5 million and ensures the final budget language continues to recognize IOLA as a fiduciary fund. IOLA is not taxpayer money and determinations of how to use the dollars are made by the IOLA Board of Trustees. The Board of Trustees made a plan for the \$80 million appropriation and therefore, we ask that both the Governor and the Legislature appropriate the funds they need to execute their plan.

New Yorkers need a stable legal services system to help them navigate crises including health crises, domestic violence, eviction, foreclosure, and access to benefits they are entitled to. We respectfully ask both houses of the legislature to support this critical investment in their one houses and in the final budget.

ASK: Make steps to achieving Pay Parity in the Civil Legal Services in New York State, including by:

- **supporting approving in this year’s one house and final budgets the proposed increase to JCLS funding totaling \$150 million, and**
- **including \$80M total for the Interest on Lawyers Account (IOLA) Fund to support its grantees and ensure that budget language designates IOLA as a “fiduciary fund.”**

REFORM NEW YORK’S CONTRACTING AND PAYMENT PROCESSES

Legal services providers are a critical part of New York’s social safety net. Along with our not for profit sector colleagues, New York State contracts with Empire Justice Center to provide civil legal services to low income and marginalized New Yorkers facing homelessness, hunger, loss of income and more. Challenges in the not for profit contracting and payment processes result in financial crisis, staffing instability and fewer services for clients, undermining the goals of the

⁴⁴ New York State Unified Court System Budget Fiscal Year 2026.https://www.nycourts.gov/LegacyPDFS/admin/financialops/FPCM-PDFs/V2_jdbgt/FY2026_FINAL-JudiciaryBudget.pdf

contracts. In particular, slow execution of contracts and payment results in financial crisis and incurred debt with related, often nonreimbursable interest payments. Common sense, practical steps, like automatic advances, automatic interest payments when contract execution is delayed and allowing providers to be reimbursed for interest payments and obvious expenses related to running organizations in a consistent way across all agencies and contracts will help to streamline processes for state agencies and providers. It will also help nonprofits stay solvent.

ASK: Reform New York’s contracting and payment processes through uniformity, streamlined systems, identifying best practices and efficiencies to be implemented across contracts and agencies.

Table 1

New York State’s Public Assistance Grant Leaves Families Below 40% of the Federal Poverty Level in Every County			
County	PA Grant for a 3 Person Household	2025 Poverty Level for a 3 Person Household	PA Grant as Percentage of Poverty
Albany County	\$698	\$2,151.00	32%
Allegany County	\$662	\$2,151.00	31%
Bronx County (NYC)	\$789	\$2,151.00	37%
Broome County	\$679	\$2,151.00	32%
Cattaraugus County	\$658	\$2,151.00	31%
Cayuga County	\$679	\$2,151.00	32%
Chautauqua County	\$674	\$2,151.00	31%
Chemung County	\$672	\$2,151.00	31%
Chenango County	\$653	\$2,151.00	30%
Clinton County	\$664	\$2,151.00	31%
Columbia County	\$679	\$2,151.00	32%
Cortland County	\$670	\$2,151.00	31%
Delaware County	\$663	\$2,151.00	31%
Dutchess County	\$801	\$2,151.00	37%
Erie County	\$690	\$2,151.00	32%
Essex County	\$657	\$2,151.00	31%
Franklin County	\$648	\$2,151.00	30%
Fulton County	\$661	\$2,151.00	31%
Genesee County	\$670	\$2,151.00	31%
Greene County	\$670	\$2,151.00	31%
Hamilton County	\$656	\$2,151.00	30%

Herkimer County	\$664	\$2,151.00	31%
Jefferson County	\$665	\$2,151.00	31%
Kings County (NYC)	\$789	\$2,151.00	37%
Lewis County	\$668	\$2,151.00	31%
Livingston County	\$696	\$2,151.00	32%
Madison County	\$693	\$2,151.00	32%
Monroe County	\$732	\$2,151.00	34%
Montgomery County	\$672	\$2,151.00	31%
Nassau County	\$834	\$2,151.00	39%
New York County (NYC)	\$789	\$2,151.00	37%
Niagara County	\$683	\$2,151.00	32%
Oneida County	\$676	\$2,151.00	31%
Onondaga County	\$692	\$2,151.00	32%
Ontario County	\$697	\$2,151.00	32%
Orange County	\$810	\$2,151.00	38%
Orleans County	\$691	\$2,151.00	32%
Oswego County	\$689	\$2,151.00	32%
Otsego County	\$669	\$2,151.00	31%
Putnam County	\$830	\$2,151.00	39%
Queens County (NYC)	\$789	\$2,151.00	37%
Rensselaer County	\$685	\$2,151.00	32%
Richmond County (NYC)	\$789	\$2,151.00	37%
Rockland County	\$823	\$2,151.00	38%
Saratoga County	\$705	\$2,151.00	33%
Schenectady County	\$700	\$2,151.00	33%
Schoharie County	\$675	\$2,151.00	31%
Schuyler County	\$664	\$2,151.00	31%
Seneca County	\$677	\$2,151.00	31%
St. Lawrence County	\$670	\$2,151.00	31%
Steuben County	\$660	\$2,151.00	31%
Suffolk County	\$836	\$2,151.00	39%
Sullivan County	\$686	\$2,151.00	32%
Tioga County	\$674	\$2,151.00	31%
Tompkins County	\$706	\$2,151.00	33%
Ulster County	\$739	\$2,151.00	34%
Warren County	\$688	\$2,151.00	32%
Washington County	\$684	\$2,151.00	32%
Wayne County	\$691	\$2,151.00	32%
Westchester County	\$652	\$2,151.00	30%
Wyoming County	\$668	\$2,151.00	31%

Yates County	\$675	\$2,151.00	31%
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Table 2

County	Shelter Allowance for a 3 Person Household, with Children, Compared to HUD 2025 Fair Market Rent for a 2-Bedroom Rental Unit			Shelter Allowance for a 1 Person Household, no Children, Compared to HUD 2025 Fair Market Rent for a 1-Bedroom Rental Unit		
	Allowance	2-BR FMR	Shortfall	Allowance	1-BR FMR	Shortfall
Albany	\$309	\$1,487	\$1,178	\$184	\$1,074	\$890
Allegany	\$273	\$1,230	\$957	\$190	\$933	\$743
Bronx	\$400	\$2,580	\$2,180	\$215	\$2,330	\$2,115
Broome	\$290	\$1,188	\$898	\$218	\$939	\$721
Cattaraugus	\$269	\$953	\$684	\$179	\$737	\$558
Cayuga	\$290	\$1,066	\$776	\$179	\$826	\$647
Chautauqua	\$285	\$933	\$648	\$167	\$725	\$558
Chemung	\$283	\$1,283	\$1,000	\$197	\$978	\$781
Chenango	\$264	\$938	\$674	\$189	\$820	\$631
Clinton	\$275	\$1,200	\$925	\$156	\$951	\$795
Columbia	\$290	\$1,347	\$1,057	\$191	\$1,180	\$989
Cortland	\$281	\$1,118	\$837	\$199	\$901	\$702
Delaware	\$274	\$935	\$661	\$200	\$812	\$612
Dutchess	\$412	\$1,907	\$1,495	\$216	\$1,492	\$1,276
Erie	\$301	\$1,176	\$875	\$169	\$1,001	\$832
Essex	\$268	\$1,085	\$817	\$199	\$848	\$649
Franklin	\$259	\$983	\$724	\$161	\$824	\$663
Fulton	\$272	\$1,050	\$778	\$159	\$800	\$641
Genesee	\$294	\$1,087	\$793	\$202	\$897	\$695
Greene	\$281	\$1,254	\$973	\$197	\$1,064	\$867
Hamilton	\$267	\$1,329	\$1,062	\$159	\$1,013	\$854
Herkimer	\$275	\$1,159	\$884	\$173	\$928	\$755
Jefferson	\$276	\$1,282	\$1,006	\$200	\$977	\$777
Kings	\$400	\$2,580	\$2,180	\$215	\$2,330	\$2,115
Lewis	\$279	\$959	\$680	\$152	\$747	\$595
Livingston	\$307	\$1,427	\$1,120	\$187	\$1,149	\$962
Madison	\$304	\$1,321	\$1,017	\$199	\$1,074	\$875
Monroe	\$343	\$1,427	\$1,084	\$257	\$1,149	\$892
Montgomery	\$283	\$1,026	\$743	\$158	\$864	\$706
Nassau	\$445	\$2,586	\$2,141	\$288	\$2,241	\$1,953

New York	\$400	\$2,330	\$1,930	\$215	\$2,580	\$2,365
Niagara	\$294	\$1,176	\$882	\$174	\$1,001	\$827
Oneida	\$287	\$1,159	\$872	\$179	\$928	\$749
Onondaga	\$303	\$1,321	\$1,018	\$203	\$1,074	\$871
Ontario	\$308	\$1,427	\$1,119	\$207	\$1,149	\$942
Orange	\$421	\$1,907	\$1,486	\$229	\$1,492	\$1,263
Orleans	\$302	\$1,427	\$1,125	\$202	\$1,149	\$947
Oswego	\$300	\$1,321	\$1,021	\$183	\$1,074	\$891
Otsego	\$280	\$1,184	\$904	\$200	\$957	\$757
Putnam	\$441	\$2,580	\$2,139	\$237	\$2,330	\$2,093
Queens	\$400	\$2,580	\$2,180	\$215	\$2,330	\$2,115
Rensselaer	\$296	\$1,230	\$934	\$153	\$1,487	\$1,334
Richmond	\$400	\$2,580	\$2,180	\$215	\$2,330	\$2,115
Rockland	\$434	\$2,580	\$2,146	\$302	\$2,330	\$2,028
Saratoga	\$316	\$1,487	\$1,171	\$185	\$1,230	\$1,045
Schenectady	\$311	\$1,487	\$1,176	\$195	\$1,230	\$1,035
Schoharie	\$286	\$1,487	\$1,201	\$199	\$1,230	\$1,031
Schuyler	\$275	\$1,057	\$782	\$194	\$806	\$612
Seneca	\$288	\$1,075	\$787	\$204	\$835	\$631
St. Lawrence	\$281	\$1,036	\$755	\$182	\$810	\$628
Steuben	\$271	\$1,013	\$742	\$159	\$834	\$675
Suffolk	\$447	\$2,586	\$2,139	\$309	\$2,241	\$1,932
Sullivan	\$297	\$1,223	\$926	\$211	\$1,039	\$828
Tioga	\$285	\$1,188	\$903	\$201	\$939	\$738
Tompkins	\$317	\$1,702	\$1,385	\$217	\$1,489	\$1,272
Ulster	\$350	\$1,799	\$1,449	\$263	\$1,371	\$1,108
Warren	\$299	\$1,352	\$1,053	\$215	\$1,079	\$864
Washington	\$295	\$1,352	\$1,057	\$199	\$1,079	\$880
Wayne	\$302	\$1,427	\$1,125	\$207	\$1,149	\$942
Westchester	\$426	\$2,580	\$2,154	\$271	\$2,330	\$2,059
Wyoming	\$279	\$933	\$654	\$199	\$793	\$594
Yates	\$286	\$1,110	\$824	\$181	\$846	\$665

The United States Department of Housing and Urban Development (HUD) sets Fair Market Rents (FMR) yearly. The FMR is the 40th percentile of gross rents for typical, non-standard rental units occupied by recent movers in a local housing market.