



## BRIEFING PAPER

# Protecting Homeless New Yorkers from Paying “Rent” for Shelter and from Ejection from Shelter to the Streets

By Patrick Markee, Senior Policy Analyst, Coalition for the Homeless  
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This summer New York State officials approved the City of New York’s plan to implement punitive new rules that will result in many homeless children and adults being ejected from shelter to the streets for 30 days or more, and that require many homeless families to make payments for the cost of shelter. The State’s welfare commissioner approved the City’s plan despite objections from homeless advocates, service providers, and legal services organizations, and despite the fact that the State was under no obligation to approve the City’s plan. The punitive shelter ejection and “rent” rules are based on State regulations dating back to the Pataki and Giuliani administrations, which State officials failed to repeal or revise despite repeated requests.

Under the new rules recently implemented by the City of New York with the approval of State officials, many homeless children and adults will be ejected from shelter to the streets for 30 days or more for missing appointments, for failing to pay shelter “rent,” or if a homeless family’s welfare case is suspended or closed – something that happens routinely due to bureaucratic error. And even though the rules requiring shelter “rent” payments were temporarily suspended in New York City due to “technical issues,” City and State officials plan to enforce the rules again in the near future.

Coalition for the Homeless, the Legal Aid Society, and others have repeatedly urged Governor Paterson’s administration to revise the Pataki-era shelter-ejection regulation in order to protect homeless children and adults – in particular people living with disabilities – from loss of shelter. To date, State officials have failed to change the Pataki-era regulation.

Fortunately, State legislation introduced by New York State Assemblymember Keith Wright (A. 8353-D) and New York State Senator Daniel Squadron (S. 5605-A) would address part of the punitive new rules, by prohibiting the City of New York from forcing homeless families and individuals to pay for the cost of emergency shelter. The legislation was passed by the State Assembly in June and is awaiting a vote in the State Senate.

Coalition for the Homeless strongly urges Governor Paterson to revise the Pataki-era shelter-ejection regulation in order to protect homeless children and adults from loss of shelter. The Coalition also urges the State Senate to pass S. 5605-A to prohibit homeless families and individuals in New York City from being forced to pay for the cost of shelter. Following is background on the legislation and the misguided, punitive policies it would end.

## Background on Policies Behind Homeless Shelter “Rent” and Ejection Rules

- The rules forcing homeless people to pay for the cost of shelter and that require ejecting homeless children and adults from shelter for failing to comply with bureaucratic requirements have their roots in a State regulation (18 NYCRR 352.35), issued in 1995 by the Pataki administration at the strong urging of then-New York City Mayor Giuliani.
- The 1995 regulation requires shelters to eject homeless families and individuals from shelters to the streets for 30 days or more if their welfare case is closed or suspended; if they fail to comply with

assessments, housing search requirements, social service plans, and payments for shelter costs; or if they engage in “gross misconduct.” The regulation includes a very limited exemption for homeless people with physical or mental impairments, who must prove that their impairment was the cause of their non-compliance.

- In New York City, the rules were not implemented for many years due to legal challenges. New York City has more than 80 percent of all homeless families in shelters in New York State. Currently more than 36,000 homeless people – including more than 15,000 children and 9,600 families, an all-time record – sleep each night in New York City’s municipal shelter system.
- In 2003, the shelter ejection rules were implemented in New York City for homeless single adults and childless couples. In December 2008, a historic settlement was reached in longstanding litigation involving New York City homeless families with children, and immediately afterwards City officials initiated plans to implement the shelter ejection rules and shelter “rent” requirement for homeless children and families.
- Over many years Bloomberg administration officials promised that mentally-ill and disabled individuals would be protected from the controversial shelter ejection rules, and claimed that the policy was aimed only at making shelters safer. However, since 2003, the majority of New York City shelter ejection cases have involved non-safety issues, including allegations of missing appointments and otherwise failing to comply with service plans.
- In addition, the majority of New York City shelter ejection cases have involved individuals living with mental illness and other disabilities. Even in cases in which the City has documented serious and persistent mental illness and/or other serious health problems, the City has pursued ejection from shelter to the streets. In other cases, the City has failed to conduct evaluations of sanctioned homeless adults for mental and physical impairments, and has denied that it has an obligation to conduct such evaluations. In many of these cases, subsequent evaluations by mental health and medical professionals have documented serious mental and physical impairments.
- Following are examples of homeless individuals living with mental illness and other disabilities that, since 2003, the City of New York has attempted to eject from shelter to the streets for 30 days or more:
  - *Gregory D., a United States Army veteran who suffers from post traumatic stress disorder, as well as injuries sustained from a parachuting accident, and who receives veterans disability benefits.*
  - *Myra F., a homeless woman who suffers from serious delusional disorder.*
  - *Vera B., a 49-year old homeless woman suffering from congestive heart failure and having a history of depression.*
  - *Timothy P., a homeless young man suffering from depression and other mental illness, who was working on the 38th floor of the south tower of the World Trade Center on the day of the September 11, 2001, attacks.*
  - *Raquel T., a homeless woman diagnosed with schizo-affective disorder, and her domestic partner.*
- In other counties outside New York City, the shelter ejection and “rent” rules have been in effect for more than a decade. The rules have resulted in countless homeless families and individuals being

denied shelter or being ejected from shelters to the streets. They have also resulted in many not-for-profit shelter operators losing vital funding and being brought to the brink of closing their doors.

## **The City of New York Implements Shelter Ejection and “Rent” Rules for Homeless Families**

- In recent months, immediately after the settlement of litigation involving homeless families with children, the City of New York initiated plans to implement both the shelter “rent” requirement and shelter ejection rules for homeless children and families.
- On June 25, 2009, the State approved the City’s proposed shelter ejection rules. As the *New York Times* reported, the rules were approved by a departing State welfare commissioner who was a former Bloomberg administration official. In July, the City began implementing the shelter ejection rules for homeless families and children.
- Homeless families who are ejected from shelter by the City will see their children placed into foster care, forcibly separating vulnerable mothers and fathers from their children and adding greater expenses for taxpayers.
- The shelter ejection rules outlined in the City of New York’s “Client Responsibility” procedure call for ejecting homeless children and families from shelter for 30 days or more for any the following reasons:
  - *Failing to make payments for the cost of shelter.*
  - *Failing to maintain an open welfare case, including missing appointments, failing to apply for public assistance, and failure to produce documents. (For welfare sanctions, ejection from shelter can last as long as the welfare case is closed, potentially much longer than 30 days.)*
  - *Failing to comply with an “independent living plan” on two or more occasions, which can include missing appointments, failing to produce documents, failing to comply with public assistance requirements, failing to participate in budget counseling, and failing to attend treatment programs.*
  - *Failing to comply with housing search requirements, including missing appointments, arriving late for appointments, and failing to obtain and complete applications.*
  - *Engaging in gross misconduct, including violent or dangerous activity.*
- In addition, the City of New York has developed a new “Code of Conduct” for homeless children and families which states that homeless families can be ejected from shelter for failing to do any of the following:
  - *Dress properly.*
  - *Keep the shelter unit “clean and orderly.”*
  - *Engage in “disrespectful behavior.”*
  - *Adhere to shelter curfew.*
  - *Bring no more than two bags of personal belongings per person into the shelter.*

- On May 1, 2009, the City of New York implemented a new “Income Contribution Requirement,” requiring working homeless families to pay for the cost of shelter.
- A May 8th *New York Times* article highlighted the plight of two homeless women with children, both of whom were being asked to pay large portions of their meager incomes in order to stay in shelters.
  - *Vanessa Dacosta, who earns \$8.40 an hour as a cashier at Sbarro, was informed that she had to give \$336 each month out of her roughly \$800 in monthly wages to her Manhattan homeless shelter.*
  - *Martha Gonzalez, who is 49 and lives with her 19-year-old son in a rundown City-operated shelter in Brooklyn, said she was informed last week that she owes \$1,099 in monthly rent on a \$1,700 monthly income as a security guard in Manhattan.*
- The City’s misguided policy was immediately criticized by community leaders, shelter providers, elected officials, and homeless families, who said it effectively blocks homeless New Yorkers from saving their small incomes in order to move from shelters to permanent housing. Not-for-profit shelter providers opposed the new rules because it forced them essentially to become “bill collectors.”
- In addition, the new policy was implemented in a haphazard and unlawful way, with many families ordered to pay “rent” before receiving legal notices, some families threatened with ejection from shelter, and many other problems.
- Although the State suspended the new rules after three weeks for “technical reasons,” City and State officials plan to re-instate the misguided policy in the near future, and it remains in effect elsewhere in New York.

### **Governor Paterson Can Act to Protect Homeless New Yorkers from Loss of Shelter, and State Legislation Will Protect Homeless New Yorkers from Shelter “Rent” Rules**

- Governor Paterson can revise the Pataki-era shelter-ejection regulation (18 NYCRR 352.35) in order to protect homeless children and adults – in particular, individuals living with disabilities – from loss of shelter. However, to date State officials have failed to act on repeated requests to repeal or revise the Pataki-era regulation.
- New State legislation (A. 8353-D/S. 5605-A), introduced by Assemblymember Wright and Senator Squadron, will prohibit the City of New York from forcing homeless families and individuals to pay for the cost of emergency shelter. The legislation was passed by the State Assembly in June and is awaiting a vote in the State Senate. The bill would allow the City of New York instead to require working homeless families to commit to a savings plan, with the accumulated funds reserved for obtaining permanent housing or other resources necessary to achieve independence.
- Coalition for the Homeless strongly urges Governor Paterson to revise the Pataki-era shelter-ejection regulation in order to protect homeless children and adults from loss of shelter. The Coalition also urges the State Senate to pass S. 5605-A to prohibit homeless families and individuals in New York City from being forced to pay for the cost of shelter.

For more information, please visit [www.coalitionforthehomeless.org](http://www.coalitionforthehomeless.org).