



Testimony of
Coalition for the Homeless
and
The Legal Aid Society
on

Proposed Rule to Amend Title 31 of the Rules of the City of New York to
Establish a New Income Savings Program

Presented before
New York City Department of Homeless Services

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The Coalition for the Homeless and The Legal Aid Society welcome this opportunity to testify before the New York City Department of Homeless Services regarding the proposal to amend Title 31 of the Rules of the City of New York to include a new Chapter 4, which would establish a new income savings program for single adult DHS shelter residents with earned incomes.

Record Homelessness Among Single Adults in New York City

New York City remains in the midst of the worst homelessness crisis since the Great Depression, with more than 60,000 men, women, and children sleeping in shelters each night. Since 2008, there has been a nearly unrelenting increase in the number of homeless single adults in our city. In June 2019, nearly 18,000 single adults slept in shelters every night, a figure just below the all-time record of 18,212 single adults set in February 2019. The staggering lack of affordable and supportive housing for single adults is at the root of this crisis. There are more homeless single adults sleeping in shelters each night than there are vacant, for-rent apartments at the CityFHEPS maximum rent level of \$1,246. Furthermore, in fiscal year 2018, the City housed the lowest number of adults in supportive housing in 14 years, due to delays in opening new supportive housing promised by the City and State and severe underfunding of older supportive housing.

Proposed Rule

The proposed rule responds to a savings requirement mandated by State law. However, we fundamentally disagree with the underlying paternalistic premise of the State's mandate and the City's implementation. Homelessness is not a result of money mismanagement on the part of homeless adults and families, but, rather, it is a direct result of the lack of truly affordable housing for the lowest-income New Yorkers. We urge the State to repeal all laws requiring both rent and savings programs for shelter residents, and to invest instead in ending homelessness by fully funding Home Stability Support and all 20,000 units of supportive housing pledged by the Governor in 2016.

Until the State repeals the savings requirement, we offer the following comments and suggested changes to the proposed rule:

- The proposed rule should be amended to allow individuals with their own bank accounts to show proof of their savings in lieu of making deposits into a DSS-controlled account. The proposed rule should ensure the State's savings requirement is enforced in the least restrictive way possible and that participants are permitted to manage their own money. The proposed rule conflicts with 18 NYCRR 491.7(d)(6), which establishes that a resident of a single adult shelter "shall have the right to manage his or her own financial affairs."
- The proposed rule is silent on how participants are to deposit their savings. If deposits are to be made by money order or require the payment of any fees, DHS should be required to reimburse participants for any fees associated with withdrawing funds and depositing them into their savings accounts.
- Section 4-02 should specify that participants' accounts will bear interest, as required by Section 36-c(3) of the New York Social Services Law.
- Section 4-02(a) states that individuals will receive a notice of the terms of the program, but it fails to ensure that individuals receive the notice in a timely manner and fully understand the terms of the program.

- Section 4-02(b) should be amended to add the following underlined language: “...following their exit from DHS shelter or prior to exit as described in...”
- Sections 4-03(a)(5) and 4-03(c) do not adequately describe how a participant may challenge the amount due on a monthly savings statement. Participants must be given clear instruction regarding how and to whom to make their deduction and one-time adjustment requests, and whether there is an appeal process or opportunity to request a fair hearing if a deduction or one-time adjustment request is denied.
- Section 4-03(d) should specify that any deposit amount in excess of what is required should be deducted from the amount due the following month.
- Section 4-03(e) requiring clients to report changes in income will be challenging given staffing shortages at some shelters. The form and manner of reporting to DHS should be specified in the rule and include protections for participants who may face delays in meeting with shelter staff through no fault of their own.
- Section 4-04(b) should be amended to add the following underlined language: “...the program participant will be provided with written notice that their shelter may be discontinued...”
- Section 4-05 should include a provision that participants may request to receive funds at any time and shall receive them as soon as possible after a request is made. This section should also incorporate language that DHS may not unreasonably withhold funds.
- Section 4-05(a) should specify that funds must be released on the first business day after the 30-day waiting period. This section should also specify how participants will be notified that they can pick up their checks in person, and guarantee a process by which funds will be immediately available to participants upon their arrival at the designated offices.

Conclusion

Overall, this proposed rule as required under State law increases the bureaucratic barriers homeless individuals will encounter when accessing shelters, and does not address the root cause of homelessness: the lack of affordable housing for low-income individuals and families. New York State should immediately stop charging shelter rent, end forced savings programs, and increase its investments in affordable housing, supportive housing, and low-threshold shelters. In the interim, New York City should amend the proposed savings plan to ensure that the rights and needs of homeless New Yorkers are better protected.

About The Legal Aid Society and Coalition for the Homeless

The Legal Aid Society: The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters, while also fighting for legal reform.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of more than 2,000 attorneys, social workers, paralegals, and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal, and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact.

The Legal Aid Society is uniquely positioned to speak on issues of law and policy as they relate to homeless New Yorkers. The Legal Aid Society is counsel to the Coalition for the Homeless and for homeless women and men in the *Callahan* and *Eldredge* cases. The Legal Aid Society is also counsel in the *McCain/Boston* litigation in which a final judgment requires the provision of lawful shelter to homeless families. The Society, in collaboration with Patterson Belknap Webb & Tyler, LLC, filed *C.W. v. The City of New York*, a federal class action lawsuit on behalf of RHY in New York City. Our goal in litigation is to ensure that the City creates and maintains enough youth-specific beds to meet the needs of *all* youth seeking shelter. The Society, along with institutional plaintiffs Coalition for the Homeless and Center for Independence of the Disabled – NY, settled *Butler v. City of New York* on behalf of all disabled New Yorkers experiencing homelessness.

Coalition for the Homeless: Coalition for the Homeless, founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,500 homeless New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to the crisis of modern homelessness, which is now in its fourth decade. The Coalition also protects the rights of

homeless people through litigation involving the right to emergency shelter, the right to vote, the right to reasonable accommodations for those with disabilities, and life-saving housing and services for homeless people living with mental illness and HIV/AIDS.

The Coalition operates 11 direct-services programs that offer vital services to homeless, at-risk, and low-income New Yorkers. These programs also demonstrate effective, long-term solutions and include: Supportive housing for families and individuals living with AIDS; job-training for homeless and formerly homeless women; and permanent housing for formerly homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen distributes over 900 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention, individual advocacy, referrals for shelter and emergency food programs, and assistance with public benefits as well as basic necessities such as diapers, formula, work uniforms, and money for medications and groceries.

The Coalition was founded in concert with landmark right to shelter litigation filed on behalf of homeless men and women (*Callahan v. Carey* and *Eldredge v. Koch*) and remains a plaintiff in these now consolidated cases. In 1981, the City and State entered into a consent decree in *Callahan* through which they agreed: "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter." The *Eldredge* case extended this legal requirement to homeless single women. The *Callahan* consent decree and the *Eldredge* case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults, and the City has also authorized the Coalition to monitor other facilities serving homeless families. In 2017, the Coalition, fellow institutional plaintiff Center for Independence of the Disabled – New York, and homeless New Yorkers with disabilities were represented by The Legal Aid Society and pro-bono counsel White & Case in the settlement of *Butler v. City of New York*, which is designed to ensure that the right to shelter includes accessible accommodations for those with disabilities, consistent with Federal, State, and local laws.