



Empire Justice Center

119 Washington Ave. ♦ Albany, NY 12210
Phone 518.462.6831 ♦ Fax 518.462.6687

www.empirejustice.org

Joint Legislative Budget Hearing on Human Services

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Prepared by:

**Susan Antos, Senior Attorney
Kristin Brown Lilley, Director of Policy Advocacy
Don Friedman, Senior Attorney
Cathy Roberts, Senior Paralegal
Louise Tarantino, Senior Attorney
Barbara Weiner, Senior Attorney**

Introduction

Thank you for the opportunity to testify on the human services portion of the Executive Budget proposal. Empire Justice Center is a statewide legal services organization with offices in Albany, Rochester, White Plains and Central Islip (Long Island). Empire Justice provides support and training to legal services and other community-based organizations, undertakes policy research and analysis, and engages in legislative and administrative advocacy. We also represent low-income individuals, as well as classes of New Yorkers, in a wide range of poverty law areas.

As New York continues to grapple with the aftermath of the recession, it is essential that we do not forget that there are many among us that are still in its epicenter. There continues to be little evidence that prospects are improving for low income and low skilled New Yorkers. Indeed, most signs tell us just the opposite. Unemployment in New York remains high, averaging 810,000 in 2010, 90% higher than in 2007. The recession drove New York's poverty rate up to 15.8% in 2009 with pockets of much higher poverty in many area of the state. Since the recession began, the number of New Yorkers receiving Food Stamps has grown by 60% - an increase of over one million people, all living at or near the poverty level. Safety net needs have continued to rise as recession-induced adversity has mounted.¹ For those lucky enough to have a job, work supports such as child care subsidies remain absolutely crucial. For many, access to government benefits is a lifeline.

As we reviewed the Executive Budget we were pleased to see funding for several critical human services programs that provide assistance to low income New Yorkers maintained at last year's reduced levels, which we will comment on below. Many of these programs have been repeatedly cut over the course of the past three years and are continuing to function at reduced capacity. The Executive's maintenance of these programs in these difficult times is an acknowledgement of how effective they have been in supporting struggling New Yorkers and we sincerely appreciate that acknowledgement. Unfortunately, funding for many other highly effective programs has been reduced or eliminated. As we will describe below, we strongly believe that the programs highlighted play an important role in our state's social services safety net and should continue to be made available to those who need them at least at last year's funding levels. Finally, we will express our concerns about a series of proposals that we urge the legislature to soundly reject in light of their negative impact on low income New Yorkers.

To help mitigate the need for deep cuts and elimination of desperately needed benefits, services and work supports described in our testimony, Empire Justice Center strongly supports the efforts of the GrowingTogetherNY Campaign², which is advancing a series of revenue options, including the continuation of the temporary personal income tax surcharge.

Our testimony today will focus on the following areas:

Office of Temporary and Disability Assistance:

¹ Fiscal Policy Institute, New York State's Economic and Fiscal Outlook for 2011-2012, February 2011.

² More details available at: <http://www.abetterchoicefornyc.org/>

- Funding for the citizenship program
- Disability Advocacy Program (DAP) TANF funding restoration
- Rejection of the full family sanction
- Reject delay of the final installment of the welfare grant increase
- Restoration of TANF funding for Domestic Violence Non Residential Services

Office of Children and Family Services:

- Restoration of cuts in funding for child care subsidies
- Achieve savings through exemption of work rules for families with children under one
- Make child care eligibility rules consistent statewide
- Reject the State Central Register fee increase.

Office for the Aging:

- Funding for Medicare Part D appeals (MCCAP)

Office of Temporary and Disability Assistance:

1) Critical Citizenship funding is maintained.

We begin this portion of our testimony by expressing our appreciation for the Executive’s maintenance of citizenship funding in the budget. This is vital funding that allows continuation of citizenship services for immigrants who otherwise would have great difficulty pursuing naturalization. It is also a boon to New York State since many immigrants who become citizens, particularly the elderly and disabled, gain access to federal benefits like the SSI program, thereby moving them from the state welfare rolls to federal support. The maintenance of the citizenship program also provides groups like the NY Immigration Coalition and Empire Justice Center with the needed funds to conduct immigration and benefits training and technical assistance to the citizenship service providers and other community organizations.

2) Disability Advocacy Program (DAP) generates revenue; TANF funds eliminated.

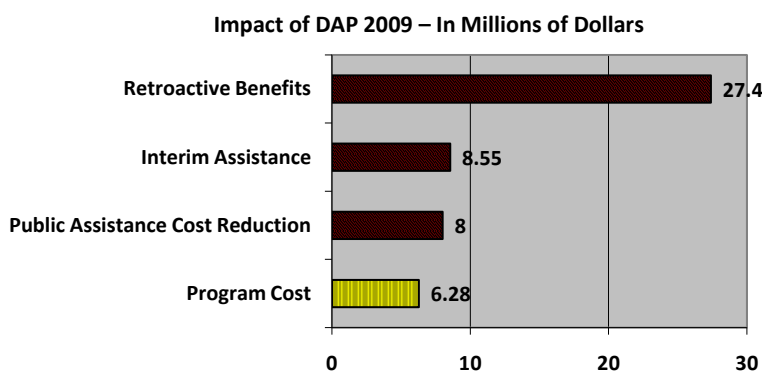
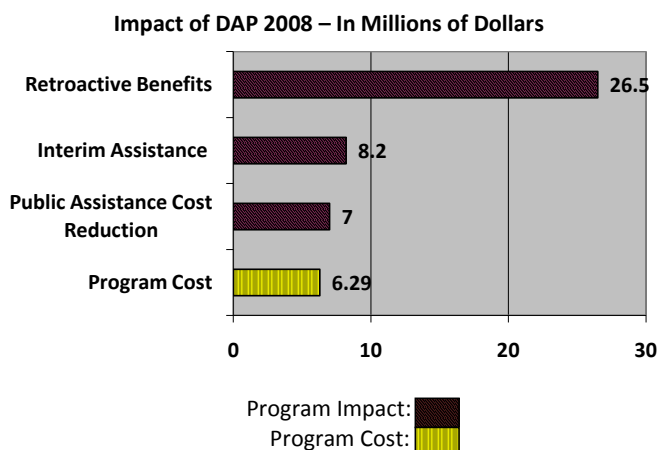
• Restore \$1 million in TANF funding

The Disability Advocacy Program (DAP) is a nationally recognized program that generates documented and ongoing savings for the state and for local governments. Through the DAP program, advocates provide low income disabled New Yorkers in every region of the state with legal assistance when their federal Supplemental Security Income (SSI) or Social Security Disability (SSD) applications have been denied or their benefits terminated. The vast majority of clients receive public assistance, with over 50% receiving state/locally funded Safety Net benefits while they await a decision about their application.

For each successful case, the Social Security Administration (SSA) provides a retroactive award to the client for benefits they would have received, beginning from the time of initial application. SSA also reimburses the state and local governments for the interim assistance (IA) benefits provided as Safety Net benefits. Eighty-five percent of the clients represented by DAP advocates prevail at the hearing level as compared to the average national success rate of 63%. As a result,

the DAP program annually generates federal reimbursement for the state that far exceeds the state and county funding used to provide the services.

As you can see in the charts to the right, in 2008 and 2009 alone, the DAP program generated over \$54 million in retroactive awards to clients to be spent in communities around the state, and over \$16 million in interim assistance – cash back to our state and local governments. In addition, the Office of Temporary and Disability Assistance also estimates that for the same period, DAP generated \$15 million in ongoing annual cost avoidance by moving clients onto more secure and appropriate federal assistance.³ All of this was achieved with a \$12.6 million investment for these two years. Two million dollars of this was federal Temporary Assistance to Needy Families (TANF) funding, with the remaining \$10.6 million funded half by the state and half by the localities. We are now beginning to see the impact of repeated cuts in funding and it is looking like the 2010 revenue generated by DAP will not be equal to the 2009 level.



We were very pleased to see DAP base funding in the Executive Budget at last year’s reduced level of \$2.38 million state share. While we understand the difficulty of the state’s fiscal situation, we strongly believe that the unique revenue generating benefits of this program warrant maintaining the TANF funding for DAP which has been eliminated so that DAP contractors can continue to open cases and generate savings at the highest level possible. Furthermore, because the state will reap substantial savings from both interim assistance and future cost avoidance, the state has a vested interest in keeping the funding statewide.

- 3) Full family sanctions will do more harm than good.**
- **Reject the full family sanction proposal**

³ New York State Office of Temporary and Disability Assistance, “Report to the Legislature, Disability Advocacy Program, January 1, 2008 -December 31, 2009, pages 7-9.

We join our colleagues in the advocacy community in opposing the Executive's proposal to pursue full family sanctions. We understand that the state's goal is to engage hard to reach welfare recipients in work activities, and that the Agency hopes that the threat of such an onerous sanction will get the attention of people who are not now responding to partial sanctions. However, we strongly believe that such a policy change will ultimately do more harm than good. We are particularly concerned about the impact on the children living in these households.

The state's current policy of levying a pro rata reduction of the welfare grant for not complying with work rules strikes a delicate balance. Moving to closure of the case and stopping all welfare benefits after a second instance of not following work rules will undoubtedly throw already tenuous family financial situations into crisis. This stress on the family unit can end up causing untold harm, particularly for the children in the household, and may ultimately end up costing far more in other parts of the social services system than it saves in welfare benefits. There is ample research to support these assertions.

Children will suffer as a result. Research shows that sanctions in general, and full family sanctions in particular, have the most troubling effect on children. In a study of sixteen welfare-to-work experiments, it was found that every program that reduced family income by 5% or more had mostly negative effects on children including: children having more school behavioral problems, more emotional problems, and were more often removed from the mother's care. By contrast, the study found that every family that had income raised more than 5% had children who fared better in school and had fewer emotional or behavioral problems.

A study of caregivers in six cities seeking emergency room treatment for a child compared children in non-sanctioned families to those in sanctioned families and found that children in sanctioned families had a 30% greater risk of having been previously hospitalized, a 50% greater risk of food insecurity and a 90% greater risk of being admitted to the hospital after the ER visit.⁴ Other studies have found that sanctions push families into deep poverty and increase the likelihood of hardships such as food insecurity and utility shut-offs. Sanctions may also affect children by increasing parental stress levels.⁵

Over time, full family sanctions may also increase the likelihood of children being placed in foster care. An increase in foster care placements is not in the best interest of children, their families, or the state. It would actually cost the state more money than the savings the Governor claims will be reaped from implementing full family sanctions. Foster care costs can range from 30% to 150% higher than the average TANF benefits cut by sanctions.⁶

Food Stamp benefits will not increase to compensate for loss of income when the grant is eliminated. A perhaps unanticipated consequence of the full family sanction is that the nutritional assistance available to the children in the family will be compromised. Federal law requires that when the public assistance grant is reduced because a member of the household failed to comply

⁴ Children's Sentinel Nutrition Assessment Program, "The Impact of Welfare Sanctions on the Health of Infants and Toddlers", July, 2002, available at: http://www.childrehealthwatch.org/upload/resource/welfare_7_02.pdf

⁵ Pavetti, Donna, 2003; Ariel Kalil et al. "Sanctions and Material Hardship under TANF," *Social Service Review*, December 2004. Deborah A. Frank, Testimony before the House Committee on Ways and Means, February 10, 2005.

⁶ According to a study, foster care costs may range between 30% to 150% higher than the average TANF benefits. Ann Hartman, "Out of the Arms of Mothers" Center for Welfare Policy and Law, May 1995.

with a requirement of the program, the food stamp grant may not be increased to reflect the loss in income. Thus the children in a household whose public assistance benefits are terminated because a parent is alleged to have failed to meet an employment requirement would continue to receive the same amount of food stamp benefits as if they still received public assistance and had that money available to meet a portion of their nutritional needs.

People who have unidentified barriers to employment are likely to be inappropriately sanctioned. Full family sanctions will not only hurt New York’s children, they will disproportionately affect parents who have one or more barriers to employment. Families with these serious problems often cannot comply with general program requirements and we know, anecdotally, that all too often the tools used to assess an individual’s ability to work fail to identify barriers to steady employment. Multiple studies confirm that sanctioned families often have personal or logistical barriers that make it more difficult for them to comply with participation requirements, such as low levels of education, physical or mental disabilities, chronically ill children, experience with domestic violence, or lack of access to transportation.⁷ An analysis of the long term impact of Maryland’s full family sanction policies found that families that had been sanctioned for not following work rules were three times as likely to apply for SSI after their case closed than others, “suggesting that perhaps the work sanction itself served to bring to light a disability that was interfering with the ability to work that had otherwise gone unnoticed or untreated.”⁸ Recidivism is also quite high, indicating that even after the sanction period was over many still have not been able to find a job. The same Maryland study found that even when excluding for immediate returns to the program after one month, known as “churning”, 40% of people returned to the program for at least a month by the end of the first year.

Furthermore, we share the New York State Coalition Against Domestic Violence’s concerns that the full family sanction would further endanger victims of domestic violence who rely on TANF. New York and other states have implemented the Family Violence Option (FVO)⁹ which allows for waiving of work and other requirements in recognition that such activities could jeopardize the safety of victims of domestic violence. Advocates have repeatedly raised concerns that the FVO is inconsistently and many times inadequately implemented in many areas of the state. Indeed, in the period between July 2008 and June 2009, OTDA’s Statistical Report to the Legislature indicates that nine counties granted no good cause waivers to victims of domestic violence to exempt them from work activities and an additional 14 counties granted five or less during that one year period.¹⁰ Until the issues with the FVO are resolved, full family sanctions are highly likely to undermine domestic violence victims ability to achieve safety.

High potential for improper sanctions. Studies in New York and other states document chronic problems with misapplied sanctions, causing tremendous harm to families who are in fact in compliance with program requirements. These devastating mistakes, which have been found to be higher among African American households, are even more likely now, when counties have been

⁷ Pavetti, Donna, *Review of Sanction Policies and Research Studies: Final Literature Review*, Mathematica Policy Research, March 2003. Andrew Cherlin et al, *Sanctions and Case Closings for Noncompliance: Who is Affected and Why*, Policy Brief 01-1, Johns Hopkins University, February 2001. Yeheskel Hasenfeld et al, “The Logic of Sanctioning Welfare Recipients: An Empirical Assessment,” *Social Service Review*, June 2004.

⁸ Ovwigho, Kolupanowich and Born, Family Welfare Research and Training Group, University of Maryland School of Social Work, “Full Family Sanctions: Long-Term Outcomes of Sanctioned Welfare Leavers” October, 2010.

¹⁰ Available at: http://otda.ny.gov/main/resources/legislative-report/2009_LEGISLATIVE_REPORT.pdf, table 63.

forced to ask fewer caseworkers to handle more cases¹¹ due to the perfect storm of funding reductions at a time when demand for social services has increased due to the recession.

For instance, an analysis of administrative appeals of sanction decisions in three states, including New York, found that 77% of appeals in New York City, 42% in the rest of the state, were reversed.¹² Another report by the Government Accountability Office noted that in Iowa, in 50% of the cases referred for benefit termination, adequate case work had not been done to determine whether barriers to participation were addressed.

It is not clear that full family sanctions work. In fact, they may ultimately cost government more. There is strong evidence that full family sanctions are no more effective in prompting compliance than New York's current policy of applying partial sanctions. Research has shown that less than one third of families that received full family sanctions moved into compliance.¹³ In fact, a Delaware study indicated that substantial noncompliance persisted in spite of the state's policy of escalating sanctions to a full family sanction.¹⁴

Finally, there is some indication that full family sanctions can lead to dramatic caseload reductions, because families lose benefits and never find their way back on. When Texas moved from partial to full family sanctions in 2003 their caseload declined by approximately 50% over the next three years with approximately 10% of the caseload receiving a full family sanction each month.¹⁵ As families fall out of one system they will move into others such as foster care, shelters, emergency services, all of which will be forced to pick up the pieces.

Rather than implement this policy we urge the legislature to focus on providing the support that families need to comply with work requirements by ensuring that adequate screening procedures are in place so that barriers can be more routinely identified and addressed. Research has shown that appropriate assessments can uncover barriers to compliance such as need for domestic violence services, adult literacy classes, mental health services, and other forms of education and training. Comprehensive assessments can also help to create requirements that cater to individual family needs, and avoid arbitrary, misapplied, and or unnecessary sanctions.¹⁶

4) Don't delay the welfare grant increase.

- **Reject the grant delay proposal.**

In 2009, Governor Paterson and the Legislature approved a modest increase in the public assistance basic grant, to be phased in over three years. The third and final step of this increase is

¹¹ See multiple articles from social services districts around the state. Rockland County for example:

<http://www.lohud.com/apps/pbcs.dll/article?AID=201012250355>

¹² Legal Momentum, The Sanction Epidemic in the Temporary Assistance to Needy Families Program, August, 2010. Available at:

<http://www.legalmomentum.org/assets/pdfs/sanction-epidemic-in-tanf.pdf>

¹³ Children's Defense Fund. "Leaving Children Behind: The Case Against Full Family Sanctions" April 29, 2002 available at www.childrensdefense.org.

¹⁴ In a six month study of recipients under sanction, less than one quarter had "cured the problem", another quarter remained being sanctioned, and one half left the rolls (with a suggestion that rolls were not left because of new found employment). David J. Fein and Jennifer A Karwelt (Abt Associates). "The ABC Evaluation: The Early Economic Impacts of Delaware's A Better Chance Welfare Reform Program" December 1997 available at www.researchforum.org.

¹⁵ Kauff, Jacqueline, Michelle K. Derr, LaDonna Pavetti and Emily Sama Martin. "Using Work-Oriented Sanctions to Increase TANF Program Participation." Washington, DC: Mathematica Policy Research, Inc., September 2007.

¹⁶ Heidi Goldberg and Liz Schott. "A Compliance-Oriented Approach to Sanctions in State and County TANF Programs" Center on Budget and Policy Priorities. October, 2000 available at www.cbpp.org.

scheduled for July of this year, but the Executive proposes delaying implementation for at least a year. While New Yorkers across the board continue to struggle in a weak economy, it is unconscionable to deprive our poorest residents of this final phase of the first increase in the basic allowance in eighteen years.

The current basic grant, when combined with the maximum shelter allowance, provides a family of three in Albany County with \$630 per month. This is equivalent to less than half of the federal poverty level. Even when Food Stamps are added in, the household's income is insufficient to meet even the most rudimentary expenses. The completion of the phase-in will provide this household with an extra \$35 per month, a sum that is inadequate relative to the need, but that will make a difference to that family.

Contrary to stereotypes, a large majority of those who receive public assistance do so for relatively short periods of time, usually two years or less. But when families must turn to their local Department of Social Services for aid, the need is likely urgent. On Long Island, one of the most affluent regions in the state (and also one of the most expensive places to live), the two largest emergency food providers served over 283,000 people last year. Of those served, about half had been forced to choose between food and medical care, housing, and other basic needs in the course of the preceding year.¹⁷ With unemployment hovering around 8% in much of the state, 9% in New York City and closer to 10% in areas such as the North Country, the reality is that many people who are able to work and who desperately want to do so, simply cannot find employment or must take jobs that do not even bring them to the poverty level. For these New Yorkers, and for many others with disabilities or other serious barriers to employment – as much as 35% or more of the adult public assistance population – resorting to the State's safety net may be the only viable option.

The cost to poor families would be too great and the purported savings too limited to justify delaying final implementation of the public assistance grant increase.

5) **TANF funding for domestic violence non-residential services must be restored.**

- **Restore funding at last year's level.**

We join with our colleagues in the domestic violence community in asking for these critical funds to be restored. For years, the legislature has acknowledged that funding for non-residential services is inadequate and in turn championed the allocation of specific non-residential funding through TANF initiatives. Even with this dedicated funding used to complement Title XX, non-residential services have been woefully underfunded for years and was reduced from \$3 million to \$1,449,000 in last year's budget, and now the Executive proposes to eliminate this funding.

The loss of discretionary funding is concerning considering that demand for services has been increasing. Data from the 2010 national one-day census of domestic violence service provision conducted by the National Network to End Domestic Violence, shows that 85% of the New York State service providers that responded to the survey reported a rise in demand for services, while at the same time 74% of programs reported a decrease in funding¹⁸.

¹⁷ "Hunger in America 2010: The Local Report for Long Island – February 2010," published by Island Harvest and Long Island Cares.

¹⁸ http://www.nnedv.org/docs/Census/DVCounts2010/DVCounts10_StateSummary_NY_Color.pdf

Provision of services is both responsible and cost-effective. Research has consistently demonstrated that services, such as shelter, systems advocacy, child-care, and public assistance, among others, increase the likelihood that victims of domestic violence will be able to successfully leave their abuser. The all-important corollary to this fact is that services provided well, when they are needed, are the most cost-effective approach communities can take in response to domestic violence. Needs met in a timely way decrease future demand on a wide range of services upon which survivors of domestic violence depend: law enforcement, health care, public assistance, the court system, legal services, among numerous others. And, of course, it has the potential to save lives.

Office of Children and Family Services – Child Care

1) Restore the cuts in child care funding totaling \$55 million

- **\$48 million in ARRA funds and**
- **\$7 million in TANF funding for SUNY/CUNY child care and the facilitated enrollment projects.**

Child care is a critical part of the daily lives of hundreds of thousands of New Yorkers with young children. It offers early learning opportunities for children and supports families in employment. It is also an essential part of New York State’s economic recovery strategy. For many families, especially low-income working families, the cost of high-quality, safe care that promotes early learning and healthy development is simply out of reach. Forty percent of New York State’s children live in low-income families and could most benefit from safe, affordable and educational care.

The New York Self-Sufficiency Standard for 2010¹⁹ reveals that the cost of child care is a significant financial burden to low income families, exceeding the cost of rent for many families, particularly for those with more than one child. Without access to subsidies, parents’ ability to earn and children’s ability to learn is compromised. In the last fiscal year, local counties, facing increasing demand for care and with limited resources, were forced to continue to further reduce eligibility and raise fees, placing even greater pressure on families across the state. For example, in Erie County, eligibility was lowered to 125% of poverty. In Albany County, intake for new applicants has been closed for months.

New York’s Child Care Development Fund (CCDF) includes federal child care block grant funding and the TANF funding earmarked for child care. Two years ago, New York’s share of the federal child care block grant was reduced because of population shifts. The American Recovery and Reinvestment Act (ARRA) stimulus money provided a temporary cushion from this reduction in funds, while demands increased on the subsidy system as wages were falling and more families were seeking financial assistance. As shown in the chart below, the loss of the ARRA funding this year will result in a loss of \$48 million to New York State.

¹⁹ Dr. Diana Pierce, The Self –Sufficiency Standard for New York State 2010, available at <http://www.fiscalpolicy.org/SelfSufficiencyStandardForNewYorkState2010.pdf>

The 2011 Executive Budget also proposes eliminating \$7 million earmarked TANF funding for child care. This will eliminate funding for the child care facilitated enrollment projects that provide subsidies to working families. It will also greatly reduce funding for SUNY/CUNY child care, which supports low-income students enrolled in a two-year college program.

The combined loss of the ARRA and TANF funding will result in the loss of child care for more than 6,000 children. To support working families in New York State we ask the legislature to restore child care funding (\$55M), including the reduction of \$48M in ARRA funds and the \$7M loss of TANF funding.

**CHILD CARE FUNDING
SFY 2009-2012 (APRIL 1-MARCH 31)
(IN MILLIONS)**

Category	SFY 2009-10	Final Budget 2010-11	Executive Proposal 2011-12
CCDF (federal block grant)	\$302	\$301	\$301*
TANF line outs FFS			
Subsidies	\$392.9	\$392.9	\$392.9
Migrant*	\$1.75	\$1.75 (**GF)	0
SUNY***	\$1.9	\$.947	0
CUNY***	\$1.4	\$.696	0
Child Care Demos	\$10.9	\$5.265	0
TANF FFS****	\$10	3.8	?
State*****	\$138	\$142	\$144
Local MOE- CCDF	\$68	\$68	\$68
Federal ARRA	\$48	\$48	0
Total Funding	\$974.85	\$964.359	\$905.9
Identified Reduction			\$55 m*****

- * NY state scheduled to receive a \$6.3m, reduction in federal funding
- ** Total migrant funding \$2.5m (\$1.75 state general fund)
- *** SUNY&CUNY \$2.02m each CCDF- total funding reduced by \$1.5M- loss of TANF transfer
- **** County determined transfer from FFS to CCDF
- *****State investment includes maximum required match for CCDF plus \$ 5m child care union agreement quality improvements home based providers.
- ***** \$55m includes loss of AARA funds and reduction in TANF transfer funds

2) Savings can be achieved and the child care funding shortfall can be addressed.

- **Exempt parents of children under one from work rules.**

New York can help address this shortfall by exempting parents of children under the age of one from the public assistance work rules. Such an exemption would allow public assistance recipients to receive child care to remain employed or accept employment, or to voluntarily participate in education and training, but would not mandate participation in job search or other work activities that siphon child care dollars from New York's Child Care Block Grant.

In these tight economic times, child care funding needs to be targeted to those who are employed. In New York, 46% of TANF recipients receive child care block grant dollars compared to 16% in other states.²⁰ At least 18 social services districts no longer provide funding for low income families who are looking for work, but require public assistance families to look for work and participate in work activities and use child care dollars to support these activities since current law only exempts new mothers for three months.²¹ This idea is a modified version of a California initiative enacted in 2009 that exempts parents of young children (with one child under the age of 2 or more than one child under the age of 6) from welfare work requirements. California estimated that this change would help contribute to a savings of \$375 million a year. (See <http://www.nytimes.com/2009/10/07/us/07califwelfare.html>). A smaller but similar program in New York State could help low income working families remain employed.

3) Provide consistency and fairness in child care subsidies across the state.

- **Make child care eligibility rules consistent statewide.**

We also ask that the budget accommodate legislation that would create consistent and equitable child care eligibility rules which currently vary significantly across the state. Whether the income of an 18 year old counts towards the household's eligibility, whether parents can be paid to sleep if they have young children and work the night shift and many other rules, vary depending upon the social services district in which a family lives. Despite a state law that says that child care copayments must be based upon the family's ability to pay, copayments for similarly situated families vary so dramatically that a household of three at 200% of poverty may pay 5% of their income or 17.5% of their income depending upon the social services district in which they live.²² Eligibility rules and fees in this nearly one billion dollar program consisting almost entirely of federal funds, should not be determined county by county.

4) Don't gouge low income child care workers.

- **Reject the State Central Register fee increase.**

Child care providers in New York State must obtain a clearance from the State Central Registry for Child Abuse and Maltreatment before they can care for young children. 18 NYCRR §§416.2(a)(8); 417.2(a)(8); 418-1.10(b). The Governor's budget proposes an increase in the fee for a check of the State Central Registry for Child Abuse and Maltreatment from \$5 to \$60. Currently,

²⁰ Center on Law and Social Policy, 2009 Child Care Assistance State Profile: New York, available at: http://www.clasp.org/admin/site/publications_states/files/ccmap09ny.pdf

²¹ Social Services Law §

²² <http://www.empirejustice.org/assets/pdf/publications/reports/mending-the-patchwork-1.pdf>

child care providers and employees of child care providers are exempt from even having to pay the \$5 fee. This proposal removes that exemption.

State regulations require that family and group family child care providers obtain clearance for any person 18 years or older who resides in the provider's home. 18 NYCRR §§416.2(a)(8); 417.2(a)(8). This means that family child care providers may pay \$120 or \$180 or even more, for a necessary clearance depending upon the number of household members age 18 or older. Most prospective child care workers are unable to afford such a fee. According to the Bureau of Labor Statistics, child care providers are among the lowest paid workers in New York State, earning an average of \$11.56. (<http://www.bls.gov/oes/current/oes399011.htm>) This is well below the self-sufficiency wage, even for a household of two, in every county of the State, which ranges from a low of \$14.91 in Cattaraugus County to a high of \$31.63 an hour in Suffolk County.²³

This fee also will impose an overwhelming financial burden on child care centers which must obtain clearance of any person being considered for employment and persons employed by an organization that provides goods and services to the center if that person has potential for regular and substantial contact with children. 18 NYCRR 418-1.10(b). We urge the legislature to reject this fee, which is a tax imposed upon low income workers who cannot afford it.

Office for the Aging

1) Medicare Part D Counseling and Appeals Funding Continued.

We deeply appreciate that during this exceptionally challenging funding cycle the Executive Budget maintains level funding for the Managed Care Consumer Assistance Program (MCCAP), a statewide initiative run through the New York State Office for the Aging (NYSOFA). MCCAP consists of seven partner agencies who help elderly and disabled Medicare beneficiaries navigate the complicated world of Medicare Part D and access the health care they need. MCCAP helps to save the state EPIC and Medicaid dollars by shifting costs to federal Medicare Part D coverage; it is also one piece of the critical safety net programs serving our vulnerable senior population.

MCCAP agencies partner with NYSOFA, NYSDOH and CMS to provide training, technical support and assistance to local HIICAP offices across New York State and other CBOs 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.

Although Medicare Part D has now been in existence for six years, it remains a highly complex program with complicated rules governing enrollment periods, access to federal subsidies, and procedures for appealing denials of necessary medications. We continue to experience high

²³ The Self-Sufficiency Wage is the wage that would support a family of a particular household size in a particular geographic area, with no government supports. See <http://www.fiscalpolicy.org/SelfSufficiencyStandardForNewYorkState2010.pdf>

volumes of calls from HIICAP agencies and other advocates for elderly and disabled Medicare recipients who need help maximizing their federal coverage.

One of MCCAP's most critical functions is to communicate regularly with NYSDOH, NYSOFA and CMS about issues occurring on the local level and to collaborate on opportunities for administrative improvements. For example, last year MCCAP partners offered suggestions to NYSDOH to simplify and clarify DOH's handout explaining the Medicaid spenddown program. (Getting into Medicaid spenddown for one month is sometimes the only way Medicare beneficiaries can qualify for the federal Part D Low Income Subsidy so that they can afford their medications.) In December, DOH utilized many of MCCAP's suggestions in its updated and vastly improved "Explanation of the Excess Income Program" brochure. Another example of our successful collaboration and advocacy work resulted in a simplification of the Medicare Savings Program "household size" rule on the DOH level last year, which allows more Medicare beneficiaries to qualify for the Low Income Subsidy.

Conclusion

Once again, we appreciate the opportunity share our recommendations and look forward to working with you over the course of the next month as the budget is negotiated.

For more information, please contact:

Kristin Brown Lilley
Director of Policy Advocacy
518-462-6831, ext. 107