

**THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
42 WEST 44th STREET
NEW YORK, NY 10036-6689**

COMMITTEE ON SOCIAL WELFARE LAW

DON FRIEDMAN
CHAIR
39 Broadway 10th floor
New York, New York 10006
(212) 894-8081
FAX # (212) 616-4990
donfriedman@yahoo.com

ROBERT BACIGALUPI
SECRETARY
350 Broadway 6th floor
New York, New York 10013
(212) 431-7200
FAX # (212) 966-9571
bbacigalupi@legalsupport.org

March 10, 2004

Governor George Pataki
Executive Chamber
State Capitol
Albany, New York 12224

Subject: Welfare-related proposals in the Executive Budget

Dear Governor Pataki:

I am writing to respectfully express opposition to the public assistance-related proposals in your Executive Budget. While the proposals address various components of welfare policy, they share a common theme of realizing very modest savings by means of harsh, punitive modifications of the welfare law.

I am the chair of the Social Welfare Committee of the Association of the Bar of the City of New York. The Social Welfare Committee has a long history of interest in and work on welfare issues; we appreciate this opportunity to share our perspectives with you. Many committee members have extensive first-hand experience with the welfare system, as advocates for both individual clients and for broad-based policy concerns.

The Executive Budget includes four significant proposals that target public assistance recipients. The proposals seem unusually mean-spirited, targeting the poorest New Yorkers, a group that suffered in the economic downturn and has not particularly benefited from recent signs of recovery.

The entire savings projected from these cuts would be about \$77 million, or less than 1.6% of the budget gap. Thus, serious damage might be inflicted upon poor families, with little impact on the budget deficit.

I will briefly describe each proposal and the basis for our opposition.

Full-Family Sanctions

Current law: When a person is found not to have complied with a welfare work rule, that individual's pro-rata share of the welfare grant is withheld for the duration of the sanction period.

Proposal: For the first failure to comply, pro-rata sanctions would be initiated in the same manner as is currently done. However, if the household did not come into compliance within two months, then a full-family sanction would be imposed. That is, the family's entire welfare grant would be withheld during the sanction period. Full-family sanctions would be imposed for any subsequent instances of non-compliance, but with a return to the pro-rata sanction upon compliance.

Why we oppose this proposal: Despite a modest increase in the grant in November, the welfare grant remains absurdly low relative to the cost of living. *Any* reduction is punishment enough. Eliminating the entire grant is unduly harsh. Given that current rules penalize the non-complying adult, this proposal only serves to specifically target the children for punishment. In New York State in general, and in New York City in particular, huge numbers of sanctions are often erroneously imposed, as when a notice of appointment is mailed to the wrong address, and often inappropriately imposed, upon people with serious barriers to compliance, including mental and physical disabilities, low literacy, and low English proficiency. Increasing punishments serves no one and will do nothing to reduce non-compliance. More targeted services and individualized treatment are what is needed.

Grant Reduction

Current law: Households receive the same grant amount during their entire period of eligibility and need.

Proposal: Families with children would have the non-rent portion of their grant reduced by 10% after 5 years. Households without children would receive the same 10% reduction after one year.

Why we oppose this proposal: The welfare grant, even with the recently increased shelter allowances, and even when combined with food stamps, provides a household with substantially less than the federal poverty level. For example, in New York City, the typical benefit for a family of three, including Food Stamps, is roughly \$975 a month, or about 79% of the Federal Poverty Level. A household of two without children would be brought to about 71% of the FPL. Not surprisingly, families are barely able to survive on the current grant; any reduction in the grant will make the hardship all the more acute.

This reality is exacerbated by the fact that long-term recipients tend to have higher rates of disability, lower educational attainment, reading and language difficulties, and problems with substance abuse and domestic violence. Their longer stays on welfare result directly from these problems. As with the proposed full-family sanctions, there can be little pretense that harsher punishments will help these families improve their situations.

Reducing The Earned Income Disregard

Current law: For families with children, a certain amount of earned income is disregarded in determining how much public assistance they may receive. The amount is determined by a formula that currently disregards the first \$90 and 51% of the rest of gross monthly income. The deduction continues according to the formula for as long as the family remains eligible for public assistance.

Proposal: The \$90 disregard would remain unchanged, but the percentage disregard would vary depending on how long the family had received public assistance. During the first two years in which they received welfare, the family would be entitled to a disregard of 50%; from two years to five years, the disregard would be reduced to 25%, and after five years there would be no disregard.

Why we oppose this proposal: This counter-productive proposal sharply diminishes the benefit of a welfare policy that actually provides a concrete incentive for recipients to get and keep a job.

This proposal appears to assume the worst about poor people. It seems to express a concern that employed welfare recipients intentionally keep their wages low in order to continue to receive public assistance. Even with the full disregard, a household loses welfare eligibility when their income reaches the poverty level. The notion that a household would purposely remain well below that level is unsupportable.

The people this impacts are public assistance recipients doing precisely what the system theoretically wants them to do, that is, pursuing and engaging in employment. They are penalized because their wages haven't risen sufficiently to completely remove them from the welfare rolls.

There are measures the state might undertake to enhance the earning power of welfare recipients. They include expanding access to education and training, and supporting a higher minimum wage.

Budgeting SSI Recipients In A Welfare Household

Current law: SSI recipients in a welfare household are considered "invisible." Thus a family of 3 with one SSI recipient receives a welfare grant for a household of two.

Proposal: The SSI recipient would be treated as a part of the public assistance household, but whose needs are being met with her SSI grant. Thus a family of 3 with one SSI recipient would receive two-thirds of the grant for three. Most dramatically, a New York City family of 2 with one SSI recipient now receives the welfare grant for one person, or \$414. The new methodology would give that family one-half of a grant for two, or about \$251, a monthly reduction of \$163.

The Governor estimates that this proposal would impact 26,700 New York families, who would experience an average grant reduction of \$90 per month.

The state believes it has the authority to make this change without legislation, and has already proposed what it views as the required regulatory change. The executive budget assumes anticipated savings of \$30 million, \$9 million of which are state funds.

Why we oppose this proposal: First there is a serious question whether the state has the authority to make this change without legislation. But putting legal considerations aside, this proposal again targets the most vulnerable and needy of poor New Yorkers.

When a person meets the SSI disability criteria, it means that he or she suffers from a disability so severe as to preclude participation in “substantial gainful activity.” A family with an SSI recipient is likely to have multiple needs that increase their expenses for transportation, special diets, and household items not covered by Medicaid. Letting that person retain his or her SSI grant without reducing the family’s welfare grant clearly does not present that household with a “windfall.” Rather it gives them a slightly better chance of surviving and of minimally addressing the needs of the disabled household member. Cutting that household’s income ensures that the struggle will be even more painful.

Any economies of scale that might be realized in larger households – even households with a disabled member – are already taken into account by the Social Services Law, which adjusts the state contribution to the SSI grant downward from \$87 to \$23 when a parent lives in a household with his or her children.

* * * * *

In conclusion, citing the need to impress upon poor people the temporary nature of their public assistance benefits and the obligation to seek employment, you have proposed four measures that will do little to advance these objectives, but will undoubtedly intensify the hardship for needy New Yorkers.

As we have emphasized, many of those targeted by these proposals are among the least likely and least able to respond to harsher sanctions or reduced benefits. Further, the proposals do nothing to truly enhance recipient employability. That can only be accomplished with a humane investment in education and skills development on the one hand, and initiatives that create decent-paying jobs on the other.

For these reasons, we oppose these proposals. Thank you for your consideration.

Sincerely,

Don Friedman