

Case Closed:

An Examination of Exclusion
in New York City's
Public Assistance Programs



A research report by
Homelessness Outreach and Prevention Project
at Urban Justice Center

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**by Lori McNeil
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Homelessness Outreach and Prevention Project at Urban Justice Center

About HOPP

The Homelessness Outreach and Prevention Project at the Urban Justice Center serves New York City's most vulnerable residents through a combination of direct legal service, research, and systematic advocacy, litigation, community education, and political engagement. The Homelessness Outreach and Prevention Project advocates for economic justice for low- and no-income New Yorkers by ensuring access to public benefits and government accountability for these programs.

The Author

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LORI MCNEIL

Executive Summary

This research report focuses on individuals' efforts to acquire and retain public assistance in New York City (NYC) by documenting and examining the process of righting errors, and explaining acts of program noncompliance by public assistance recipients and applicants. The longitudinal and mixed method research design allowed for the examination of welfare issues experienced by individual applicants and recipients over time. The Homelessness Outreach and Prevention Project (HOPP) was thereby able to identify exclusionary practices in NYC's public assistance programs. HOPP found instances of unanswered phones, clerical errors, onerous appointments, and a complex web of rules and requirements to which public benefit recipients must adhere. Over and over, HOPP documented clients' experiences when a seemingly simple problem took on a life of its own, producing misery and chaos for those whose benefits were affected. Exclusionary practices take many forms in the NYC Human Resources Administration, but what remains constant is the continual nature of wrongful benefit reductions and terminations. This is an increasingly critical issue during this grave economic climate when public assistance is the only bulwark from hunger, homelessness, and illness for many NYC residents. HOPP's research yielded the following findings:

- Public assistance programs in NYC suffer from faulty practices and ineffective procedures, severely affecting the lives of applicants and recipients.
- Confusion and complexity in the NYC public assistance programs have produced barriers that severely limit benefit access.
- The most vulnerable public assistance recipients are those most likely to have their benefits discontinued.
- Acquiring and maintaining public assistance benefits in NYC is virtually a full-time job.

Based on these findings, the following recommendations are primarily directed to the NYC Human Resources Administration. It should be noted, however, that both federal and state policies and practices also affect public assistance delivery. Still, NYC can do a great deal on its own to reduce waste and increase efficiency in the public assistance process. HOPP proposes the following administrative and programmatic recommendations.

ADMINISTRATIVE RECOMMENDATIONS

1. Eliminate duplicative documents and appointments.

An extraordinary number of documents and appointments are necessary to acquire public assistance in NYC. While certain information and contact are appropriate, other requirements are duplicative. Thus, an internal red tape audit¹ should be performed by the Human Resources Administration to specifically evaluate the origin, purpose, and intent of every document and appointment required for NYC public assistance applicants. When duplicative appointments or documents are detected and serve identical purposes (for example, requiring both a Social Security number and finger imaging for identification and citizenship purposes), the more expensive or cumbersome duplicate activity should be eliminated. This practice will save dollars for NYC and streamline the process so that those wishing to participate in public assistance programs can do so without the burden of unnecessary requirements.

2. Audit the errors and problems in public benefit receipt.

The NYC Human Resources Administration and the New York State Office of Temporary and Disability Assistance do not collect the type of data that would support a systematic analysis of efficiency and effectiveness in the delivery of public assistance. Thus, the city comptroller should conduct an external audit to evaluate the NYC public assistance process. The audit should include an evaluation of quality-control measures already in place. Focus should be on the effectiveness of pre-fair-hearing mechanisms (conciliation, conferences, administrative reviews, and mandatory dispute resolution meetings). The audit must include an examination of the data entry practices of pre-fair-hearing determinations, how determinations are included into recipient files and the timeliness of this activity. The audit also should include an examination of how willfulness and good cause are measured, how these determinations are made, and how outcomes are entered into recipient files.

The audit should include an evaluation of fair hearing outcomes, particularly centering on Human Resources Administration withdrawals and reversals. A systematic

¹Moynihan and Herd (2010) recommend red tape audits when barriers to public services exist.

analysis of withdrawals and reversals will yield critical data to identify key areas in which errors are made. Practices regarding autoposting and how and when address changes are incorporated into recipient files will be especially important because these are simple problems to address but often involve costly fair hearings. The cost of these types of errors is high, and the errors often lead to fair hearings, calculated by the Office of Temporary and Disability Assistance to be just over \$310 per hearing in 2007 (New York State Office of Temporary and Disability Assistance, 2008b). Thus, a cost-benefit analysis of fair-hearing outcomes should be an integral part of the audit. Such an audit would identify the costs of agency errors and begin laying a foundation for eliminating wasteful and unnecessary practices.

3. Establish standards for sanctions and fair hearings.

Sanctioning and fair hearing withdrawal and reversal rates in NYC are disproportionately higher than the rest of the state. The reasons for this disparity should be identified and studied. Based on this study, the Office of Temporary and Disability Assistance should establish acceptable standards for sanctioning, withdrawals, and reversals; establish clear rules for sanctioning; develop and enforce penalties for counties that impose sanctions that do not meet the “willful failure and without good cause” standard; and penalize counties that do not correct mistakes such as inadequate evidence to substantiate agency action through administrative review. In this way, meeting the needs of NYC residents, rather than simply cutting caseloads, becomes a priority.

4. Perform a systematic review of agency accuracy.

The Human Resources Administration should conduct an annual random sample of cash-assistance-household cases to determine the accuracy of sanctioning, budget adequacy, and work requirements in case decisions. Sample size should be based on the caseload of job centers or whether centers serve specialized populations. This would provide an internal quality-assurance measure to track agency errors that are costly both to the agency and to those affected by erroneous decisions. A component of the evaluation should be an annual city council oversight hearing to assess the results of the evaluation. Results of this evaluation should be posted on the agency website.

5. Simplify evidence packets.

Evidence packets should be simplified so that appellants can use them. Much of the evidence packet consists of codes and acronyms that most appellants cannot decipher. Conciliation notices, recertification notices, and notices of intent have been simplified, and evidence packets also should be simplified to include the same clear style and format. The New York Social Services Law, 18 NYCRR § 339.2(c)(i), requires that notices and other documents sent to recipients include an explanation of acronyms and codes. At a minimum, NYC should also adopt this practice. Ideally, a narrative explaining the case could be included as a first-page summary, thereby making the record and any problems associated with the case both evident and understandable.

6. Revise the withdrawal codes for fair hearings.

Withdrawal codes add confusion to fair hearings and obscure the actual reason for withdrawals. All fair hearing withdrawals should include an explanation so that appellants understand why the Human Resources Administration withdrew the notice of intent or agency decision. Such additional withdrawal information also allows for external examination of agency withdrawals.

7. Facilitate file access.

Personal access to public assistance records should be established via computer terminals at all job centers. This will help public assistance recipients understand their public assistance grant or any problems associated with it. While access to an individual’s case record is mandated by the New York Social Services Law, 18 NYCRR § 357.3(c)(1), the process to request records is not efficient or transparent. Computer access at job centers would make case records widely available to applicants and recipients for review. Access, along with a narration of evidence packets and an explanation of codes and acronyms of all NYC public assistance documents, would allow recipients to review their case files and more readily understand the contents. Implementing these suggestions will likely avert administrative errors, thereby reducing administrative costs.

8. Expand escalated outreach procedures.

The Human Resources Administration’s escalated outreach procedures must be extended to recipients entering their third sanction period and thereafter. Such outreach procedures are already established for Wellness, Comprehensive Assessment, Rehabilitation and Employment (WeCare) participants. The

purpose of this outreach practice is to avert case closures when good cause may be relevant. Escalating outreach includes sending additional notices and making phone calls to attempt to reach the recipient for up to ten days prior to applying a sanction. Recipients who experience three or more sanctions are in danger of losing up to six months of assistance. Such recipients should automatically receive escalated outreach measures.

PROGRAMMATIC RECOMMENDATIONS

9. Increase training and education opportunities to the level that New York State allows.

Warehousing public assistance recipients is not an avenue to self-sufficiency. Education and training increase employment opportunities and provide opportunities to be self-sufficient. On average, NYC engages approximately 3% of its work-eligible cases in allowable educational and training activities activity

(New York City Human Resources Administration, 2011b). Therefore, New York State should provide incentives for training and educational activities so that counties fully engage the maximum number, typically 30% of the caseload, in such pursuits.

10. Incorporate flexibility into work requirements.

Along with training and educational programs, other work activity should be purposeful and self-directed. NYC should grant recipients up to five hours per week of independent work activity. These activities could include a job-search component at a library or via one's own computer, developing letters or making phone calls to potential employers, or attending job interviews. In doing this, NYC would still meet the 30 hours of countable work activity required by the state, thereby preserving full eligibility for NYC's state grant share. Increased flexibility would allow recipients to invest more time in securing employment and would save NYC money (due to a five-hour decrease in supervised work activity).

Introduction

On September 5, Amy, a public assistance recipient, received a notice that her public assistance would be discontinued because she had allegedly not attended a work assignment. The notice indicated that Amy would not receive public assistance benefits for 90 days because of the missed appointment. Since Amy had not received any notice about a work assignment, she appealed the decision by requesting a fair hearing. A fair hearing was held on September 27, and the notice was withdrawn by the agency responsible for public assistance in NYC. The withdrawal essentially canceled the notice, and Amy did not lose her benefits. On October 24, Amy received notice of another alleged missed work-activity appointment on September 25. The notice indicated that the public assistance benefit would be reduced from \$218 to \$109. A fair hearing was held on December 6. The agency again withdrew the notice, and Amy did not lose any benefits. On November 24, Amy received a notice indicating that the administrative agency believed that it had overpaid Amy by \$19.07. The agency intended to "recoup" the \$19.07 from future public assistance payments. Since the statute of limitations had expired, Amy decided not to pursue an appeal. On December 19, Amy received another notice for failure to comply with a work appointment on November 9.

A fair hearing was held, and the agency withdrew the notice yet again.²

During a four-month period, the public assistance recipient referred to above was continually involved in retaining her public assistance.³ Although the recipient was able to retain her benefits, it took a great deal of time, energy, and perseverance to do so. In all three fair hearings,⁴ the Human Resources Administration could not support its claim that the recipient had not adhered to a work requirement. Instead, it seemed that the agency was erroneously sanctioning the recipient. In fact, multiple studies have supported the erroneous nature of sanctions by public assistance agencies, and this practice has been particularly prevalent in NYC (New York City Public Advocate, 2009; Casey, 2009; Dunlea, 2009; Pedulla, 2008; Lens, 2006). Sanctioning significantly reduces or eliminates income in households already experiencing impoverished conditions. This is an increasingly critical issue during this grave economic climate when such safety-net assistance is the only bulwark from hunger, homelessness, and illness for many NYC residents.

²Example derived from an advocacy case note.

³Public assistance, temporary assistance, and cash assistance all refer to welfare benefits generally.

⁴Fair hearings are formal processes used to challenge adverse decisions made to public assistance grants. In 1970 the *Goldberg v. Kelly* decision provided for such predetermination hearings, establishing due process for welfare recipients (Lens & Vorsanger, 2005; Jeffrey, 2002).

Research Overview

This research report focuses on individuals' efforts to acquire and retain public assistance in New York City (NYC). This research is central to the work of Homelessness Outreach and Prevention Project (HOPP) and its clients as HOPP provides formal and informal advocacy services for public assistance applicants and recipients. HOPP was founded in 1984 as the Legal Action Center for the Homeless to serve the poorest people in NYC. HOPP at Urban Justice Center pioneered the legal advocacy outreach method operating on an organized basis. HOPP works to hold the government accountable for its legal mandates so that low- and no-income New Yorkers have a real opportunity to lift themselves out of poverty. HOPP accomplishes this by staffing eight legal clinics located throughout NYC. Clinics are located within nonprofit, social-service-provider locations, such as soup kitchens and food pantries, which those who may be eligible for public assistance are likely to frequent. On average, HOPP serves 2,000 households annually,⁵ providing full representation to approximately 700 households per year. Full-representation cases may range from making phone calls to a client's caseworker or job center to sort out an issue, to reviewing a client's grant history to correct an inadequacy, to providing formal representation at a fair hearing.

This research project documents the process of righting errors and explaining acts of noncompliance related to public assistance by drawing on a combination of data

sources. A summary of the data sources is presented in Table 1. Data include a quantitative analysis of cases in which HOPP provided advocacy to clients' food stamps, cash assistance or Medicaid cases. The quantitative data provide details about the typical experiences of challenging case decisions. These data shed light on "what" is occurring relative to public benefits in NYC. HOPP examined 2,926 full-representation cases where advocacy was performed between 2004 and 2009. Included in the data are demographic characteristics such as client age, household composition, ethnicity, sex, primary language, residence, and housing status. Demographic data were compared to other quantitative and qualitative data such as the number of days it took to resolve case issues and the problem types clients experienced. Appendix A describes the characteristics of this sample.

To better understand the totality of experiences, HOPP examined multiple cases over an extended time period.⁶ Such an analysis provides in-depth data that produce answers to "why" an action is occurring. The data analyzed consists of 28 individual welfare histories collected from 259 full-representation cases and was constructed in a narrative form for analysis. This longitudinal perspective provides data on recipient experiences with the NYC public assistance programs between 2004 and 2009. Appendix B presents a coding sheet detailing the categories used for the analysis of these data.

TABLE 1. DATA SOURCES

	Sample size	Collection dates	Data description
Quantitative data (HOPP advocacy cases)	2,926 HOPP cases	Cases between 2004 and 2009	Demographic data, number of days to resolve issue, problem types
Case histories	28 HOPP clients, 259 cases	Cases between 2004 and 2009	Longitudinal welfare histories derived from advocacy case notes
Fair hearing transcripts	8 audio fair hearing transcripts	Cases in 2009 and 2010	Fair hearings with HOPP advocacy
Interviews	52 pro se appellants	Fall 2010	Structured short interview, open- and closed-ended questions

⁵HOPP often provides advice and referrals for services not offered at HOPP and brief services such as budget computations, but these services are not considered representation cases.

⁶To produce and analyze the welfare case histories, HOPP worked in collaboration with Vicki Lens, associate professor of social work at Columbia University School of Social Work.

The data described above was supplemented with two other data sources. The first consisted of an analysis of selected verbatim transcripts of fair hearings held in 2009 and 2010 in which HOPP provided legal advocacy services. Fair hearings are a primary tool to challenge decisions to public assistance grants, and the recordings are particularly useful in evaluating recipient experiences. While 21 recordings were originally requested, eight were transcribed for analysis, and the other 13 were withdrawn at the hearings. Of the withdrawals, 12 were withdrawn by the agency and one was withdrawn by the recipient, so no audio records were produced for these fair hearings. Still, the eight existing transcripts provide a useful insider perspective and the context of the process. The primary foci were on the number and types of issues challenged in the fair hearing, whether appellants understood the case issues, and whether administrative errors were made. The quantitative analysis, case histories, and fair hearing transcripts include only those issues in which HOPP provided a client with advocacy. Thus, clients may have

experienced other public assistance issues in addition to those contained in case notes. Still, while the data may not be completely inclusive of all recipient experiences, they serve as a reliable indicator of the issues that they cover.

The final data source consisted of short interviews with 52 pro se⁷ fair-hearing appellants. These data were collected on three separate dates in fall 2010 as appellants left the fair hearing building, having just finished their fair hearings. Respondents were asked about the fair hearing issue(s) and outcome(s), whether attending to public assistance requirements left recipients time to secure employment, whether recipients had tried to solve the problem(s) prior to a fair hearing, and aid-to-continue status.⁸ For those without aid to continue, respondents were asked how benefit loss affected their household financially. The following sections provide a context for the research findings by documenting the origin of public assistance and describing public assistance requirements.

⁷Pro se refers to appellants who do not have legal representation in a fair hearing.

⁸Aid to continue refers to a continuation of public assistance benefits while a recipient is challenging an administrative decision.

History and Overview of TANF

The United States has a long history of providing assistance to vulnerable populations. In fact, public benefits, often referred to as welfare or public assistance, have been part of the U.S. landscape since 1912. The early Mothers' Pensions program was established in some states to provide financial stability for families where a father was deceased (U.S. Department of Labor, Children's Bureau, 1914). In 1935, Mothers' Pensions was expanded into a federal government program as part of the Social Security Act. The new nationwide program was first named Aid to Children and provided mothers a small stipend so that they would not need to work outside of the home and could care for their children. In the 1960s the program was renamed Aid to Families with Dependent Children. AFDC remained relatively intact until 1996, when sweeping welfare reform legislation was enacted. The new program, Temporary Assistance to Needy Families, shifted welfare ideology from a general entitlement to one that imposed additional and more rigid restrictions and requirements.⁹

Emboldened by its new name, TANF first imposed a five-year cumulative limit to benefit receipt. Under this restriction, families with dependent children are not eligible for TANF benefits after receiving five years of benefits over an entire lifetime (U.S. Department of Health and Human Services, Administration of Children & Family Services, 1996). The five-year limit was established as a maximum, so states can choose shorter time limits. As much as 20% of a state's caseload can, however, receive time extensions under certain circumstances, such as in cases of domestic violence. Once families "time out" of TANF, individual states are responsible for continued support of families, if they choose to extend benefits.

TANF encapsulates an unprecedented shift in welfare ideology from income maintenance to work placement, essentially embracing the act of working for one's benefits. While welfare benefits generally included work requirements since 1988¹⁰ (Family Support Act of 1988, Pub. L. No. 100-485), TANF made these requirements much more rigorous.¹¹ Although TANF has many regulations, the following is a description of those most important to the receipt of welfare benefits and the ways in which the benefits are structured.

Perhaps the biggest change to welfare was the expansion of workfare. TANF federal mandates stipulate that single parents must engage in a minimum of 30 hours per week of approved work activity (42 U.S. C. § 607(c)(1)(A)). For two-parent households, a minimum of 55 combined hours per week is required.¹² Primary approved work activities include subsidized or unsubsidized employment, work-experience programs, job-search programs,¹³ community service, vocational-education training,¹⁴ and child-care-to-community service. Job-skills training, secondary school, and education related to employment are considered secondary work activity and do not count toward work participation, but only after 20 hours of primary work activity is performed. If recipients fail to meet these federal requirements, mandated sanctions are implemented (42 U.S.C. § 607(e)).

TANF established work-activity engagement rates that states must meet to be eligible for the maximum grant amount. The rates were lower initially, but today they are set at 50% (42 U.S.C. § 607(a)(1)). The remaining 50% of a state's caseload, the percentage not engaged in a work activity, includes those who are mentally or physically unable to participate in the workforce.¹⁵

⁹TANF is part of the Personal Responsibility and Work Opportunity Reconciliation Act (Pub. L. No. 104-193). TANF was reauthorized and modified under the Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

¹⁰In 1967, the Work Incentive Program (42 U.S.C. § 630-645, 2000) first introduced work requirements into welfare benefit receipt, but most AFDC recipients were exempt. WIN was repealed by the Family Support Act of 1988, the focus of which was mandatory work requirements for most welfare recipients.

¹¹TANF benefits apply only to families with dependent children and not to households where no eligible dependents reside. Households without dependents may be eligible for assistance under state-funded programs.

¹²This assumes that the household is receiving child-care assistance; if not, a minimum of 30 hours is required.

¹³Six-week maximum allowable for job search per year.

¹⁴Twelve months lifetime limit.

¹⁵Few exemptions from work-engagement rates exist and these usually have short time limits.

Caseload reduction incentives are also part of the complex TANF regulations. Incentives are based on a state's caseload level compared to 2005 levels when TANF was reauthorized as part of the Deficit Reduction Act of 2005. If states successfully reduce their caseloads from the 2005 level, that amount can be used to decrease the mandated work-activity rates (42 U.S.C. § 607(b)(3) (A)). For example, if New York State reduces its caseload by 3% in 2011 from the 2005 level, the state's engagement rate can be reduced to 47% for that year, and the state will maintain full grant eligibility.^{16, 17}

TANF also included a restructuring based on the concept of devolution. In theory, devolution refers to the idea that states and communities have more input into how programs are structured and implemented. In practice, devolution took the form of block grants to states that met federal TANF requirements. The federal government loosened the parameters of the program to allow more local discretion. The outcome was that each state was to develop TANF programs based on the federal requirements. Thus, devolution created many versions of welfare as programs differed greatly from state to state.

Temporary Assistance in New York State

The provision of basic subsistence to the needy in New York State is part of the state constitution (N.Y. Const. art. XVII, § 1). The state administers two general safety-net programs: Family Assistance and Safety Net Assistance (New York State Office of Temporary and Disability, 2010a). Family assistance is essentially the federal TANF program and is bound by federal requirements. New York State employs the five-year cumulative time limit for family assistance recipients but allows certain hardship exemptions for instances of domestic violence or mental impairment.¹⁸ Safety net assistance operates in a similar fashion but covers individuals who do not have eligible dependents or who have timed out of the TANF program. Safety-net-assistance-recipients have a lifetime two-year limit on benefit receipt. Recipients who time out are converted to safety net assistance-noncash, which is essentially the same as safety net assistance but does

not have time limits, and expenditures such as rent and utilities are paid directly to providers (New York Social Services Law, 18 NYCRR § 370.4(b)(2)).¹⁹

As a component of the New York State family assistance and safety net assistance programs, a general skills assessment of recipients is to be performed. Assessments are to be made within 90 days of eligibility determination for family assistance recipients and within one year of application for safety-net-assistance recipients (New York State Office of Temporary and Disability, 2008a). Assessments include basic skills, education/literacy, work skills and experience, special family circumstances, training and vocational interests, and necessary supportive services such as child care. The New York Social Services Law, 18 NYCRR § 385.6(b)(3),²⁰ requires that family-assistance employability assessments should account for a recipient's work preferences when assigning work activities.

¹⁶Since the caseload has remained relatively constant in New York, for all intents and purposes, the state must meet a 50% work-engagement rate to receive the full amount of TANF block-grant dollars.

¹⁷Child-paternity and child-support enforcement requirements were also made more rigorous under the 1996 welfare reforms. Child paternity for any dependent receiving TANF benefits must be established, with few exceptions, and support mechanisms enforced (U.S. Department of Health and Human Services, Administration of Children & Family Services, 1996).

¹⁸These exemptions would likely be part of the maximum 20% caseload extension allowed by the federal government.

¹⁹Since SNA utility and rental payments are often paid directly to providers as well, there is little difference between SNA and SNA-NC.

²⁰An adult in a single-caretaker household with a child under six years of age is considered to be fully engaged in work by participating in 20 hours per week of countable work hours (New York Social Services Law, 18 NYCRR § 385.8(a)(2)).

Under this law the state’s temporary assistance plan includes three general work categories: work-eligible, work-limited, and work-exempt. Work-eligible determinations require a recipient to be in a work activity a minimum of 30 and a maximum of 40 hours per week for households with children and a minimum of 35 and a maximum of 40 hours per week for households without children (New York Social Services Law, 18 NYCRR § 385.9(b)(3)). Work-limited activities and hours can vary, but work type and number of hours must be consistent with the limitation, which is usually determined by a physician or mental health professional. General exempt categories include welfare recipients 30 days prior to childbirth (based on due date), recipients under 16 or under 19 years of age if enrolled in school,²¹ individuals 60 years or older, and recipients with children under one year of age,²² although this exemption is normally given for only three months when a child is first born (New York Social Services Law, 18 NYCRR §385.2(b)). “Needed-at-home” work exemptions²³ require verification documentation by a physician or mental health professional.

Recipients can also be temporarily exempt for up to three months if they are ill or injured (New York State Office of Temporary and Disability, 2010a). Those who are temporarily exempt are reassessed after three months to determine work status. Those in the temporary category need to produce documentation as to diagnosis and work limitation and may require validation of the illness or injury by a physician retained by the welfare administration agency. The agency physician is granted sole discretion as opposed to a recipient’s personal physician to determine the illness or injury as it relates to work limitations. The agency also may require a rehabilitation program based on the physician’s recommendation. Recipients can challenge the agency decision regarding the illness or injury exemption by requesting a fair hearing within ten days of the determination (New York Social Services Law, 18 NYCRR § 385.2(d)(7)(i) and (ii); New York Social Services Law, 18 NYCRR § 358-3.6(a)(4(i)). Recipients determined to be disabled or incapacitated may be placed in a permanent work-exempt category. The requirements for this category generally follow those for a temporary exemption with documentation and physician discretion. Even though this category is for those who are permanently disabled or incapacitated, periodic reassessment is required. Table 2 summarizes the work categories and general requirements.

TABLE 2: NEW YORK STATE WORK STATUS AND REQUIREMENTS FOR APPLICANTS AND RECIPIENTS OF TEMPORARY ASSISTANCE

Work-eligible	30 hours minimum of work activity weekly
Work-limited	work-activity hours vary based on limitation
Work-exempt	<ul style="list-style-type: none"> • 30 days prior to childbirth • under 16 years of age • under 19 years of age, attending school • child under one year of age (three months for each child) • needed in home • temporary three-month exemption (ill or injured) • disabled or incapacitated

²¹Enrollment is limited to full-time secondary, technical, or vocational school.

²²The recipient must be providing care for the child, and there is a lifetime limit of 12 months on this exemption. The exemption is usually given for only three months per child.

²³Needed-at-home exemptions are typically issued to parents or caregivers with dependents who have special needs.

The rules governing sanctions for noncompliance with work rules became more rigorous with welfare reform and New York State chose to employ a pro-rata sanction for the reduction of household benefits. In essence, only the noncompliant recipient on the household budget is sanctioned, and dependents retain benefits even if their parents do not comply with a program requirement (New York State Office of Temporary and Disability, 2008a). For a first occurrence, recipients with dependent children in the household are sanctioned until compliant, three months and until compliant for a second, and six months and until compliant for a third occurrence and any

thereafter (New York Social Services Law, 18 NYCRR § 385.12(d)(1)). Sanctions for recipients without dependent children in the household are 90 days and until compliant for a first occurrence, 150 days and until compliant for a second occurrence, and 180 days and until compliant for a third occurrence and any thereafter. For a recipient without dependent children in the household, a sanction usually results in case closure. A sanctioned recipient cannot receive further benefits until the sanction time has been served and he or she demonstrates a willingness to comply. Table 3 summarizes the type and duration of sanctioning.

TABLE 3: SANCTIONING OF TEMPORARY ASSISTANCE RECIPIENTS FOR FAILURE TO COMPLY WITH WORK REQUIREMENTS

	Sanction Type and Duration
Recipient with dependent children in the household	1st sanction—until compliant 2nd sanction—3 months and until compliant 3rd sanction (and any thereafter)—6 months and until compliant
Recipient without dependent children in the household	1st sanction—90 days and until compliant 2nd sanction—150 days and until compliant 3rd sanction (and any thereafter) —180 days and until compliant

Public Assistance in New York City

NYC implements the state welfare program in the following ways. At the initial application for family assistance or safety net assistance, applications are administered at the Human Resources Administration’s 19 job centers located throughout the five boroughs.²⁴ Application is made with a caseworker at one of the centers, and the applicant data is entered into a computer system (New York City Human Resources Administration, 2007). The system is based on the federal requirement to use a comprehensive system that monitors income, resources, and citizenship status. In this initial application period, a great deal of documentation is required, although an application can

be processed at the initial interview without all of the documentation present. Applicants need to provide proof of identity, usually through a Social Security number; proof of age; proof of income, usually verified through pay stubs; proof of work history, often obtained from a prior employer; and proof of children in the household, verified through a physician letter, school report card, and clinic card. Recipients are also required to supply marital-status documentation. Table 4 provides a summary of the documentation and appointments required to acquire public assistance.

TABLE 4: TEMPORARY ASSISTANCE APPLICATION PROCESS

<p>Documentation</p>	<p>Income verification, i.e., pay stubs Resource verification—<i>assets cannot exceed \$2,000, \$3,000 if any household member is over 60 years of age</i>²⁵ Identification—Social Security number, birth certificate Child(ren) verification—physician letter, report card, and clinic card Work history—letters from prior employers Marital status documentation</p>
<p>Appointments</p>	<p>Initial application, screenings Work assessment Special assessments Finger imaging Intensive interview Home visit</p>

²⁴Seven additional special-needs job centers are also located throughout the boroughs.

²⁵Several exemptions exist, including an automobile, educational scholarship, and burial plot, although these have restrictions (New York State Office of Temporary and Disability Assistance, 2010a).

Next, applicants go through a screening and assessment process that is often performed on the initial application date (New York City Human Resources Administration, 2007). Screenings and assessments include substance-abuse, disability, and domestic-violence determinations. The screening process operates on a self-declaration basis. If substance abuse, disability or domestic violence is declared or suspected, formal assessment referrals are made. For domestic violence, a referral is made to a domestic violence liaison, a specially trained worker who assesses the allegation and determines its credibility. Substance abuse referrals are made to a certified alcohol and substance abuse counselor for assessment. Treatment or rehabilitation may be required based on the assessment. English as a second language and basic skills are also assessed during the initial application, and those found needing basic skills or ESL services will likely be referred to the Begin Employment Gain Independence Now (BEGIN) program, the hours of which count toward work activity. Applicants are screened for any needed-at-home work exemption, and documentation is necessary to confirm the claim. Applicants are screened for child-care need and referrals are made to child-care providers as necessary.

Finally, applicants are screened for employability at the initial appointment. Based on the employability screening (New York City Approved Employment Plan, 2010; New York City Human Resources Administration, 2007), employability assessments are made by Back to Work, BEGIN, or Wellness, Comprehensive Assessment, Rehabilitation and Employment (WeCare) vendors. Generally, those placed in the Back to Work program are deemed suitable for immediate employment; those in BEGIN often require additional training or skills prior to job placement; and those in WeCare need physical, mental health, or substance-abuse services prior to job placement. While the work requirement for New York State is 30 hours per week, NYC requires a 35-hour weekly work assignment for those deemed work eligible.

Prior to receiving assistance, applicants receive a referral for finger imaging (New York City Approved Employment Plan, 2010; New York City Human Resources

Administration, 2007). Finger imaging is used for identity confirmation in addition to a Social Security number. Only children under 18 are exempt from finger imaging, and this referral is conducted separately from the initial application. The applicant is also scheduled for a Bureau of Eligibility Verification appointment, which is an in-depth interview to confirm income and identity. Additionally, a home visit is required to confirm the living situation of the applicant. If any fraud is suspected, the applicant is investigated by the Human Resource Administration's Bureau of Fraud Investigation, necessitating additional appointments and documentation.²⁶ If an applicant is able to successfully navigate the documentation, appointment, and work activity process and is found income and resource eligible, his or her application will be approved.

While the screening and assessment process may seem comprehensive, in practice the process breaks down, and procedures often are absent, inadequate, and inconsistent. Recent studies point to the lax nature of NYC practices in screening and assessment for domestic violence, disability, and child care (Hunger Action Network of New York City, 2010; Federation of Protestant Welfare Agencies, 2009; Kasden & Youdelman, 2007).

In NYC the public assistance application process is daunting. Among other things, applying for benefits includes proof of income, citizenship, and residence. Providing documentation for these requirements is often difficult. Accepted forms of proof can include letters from previous employers to verify work history and letters from a child's physician to verify dependents in the household. Numerous, invasive appointments are required that can range from finger imaging to home visits. When other specialized appointments are required, such as a disability assessment from an agency physician, another layer of barriers and intransigence is added to the process. Yet, after acquiring public benefits in NYC, retaining benefits is perhaps even more difficult. The following section focuses on the process available to public assistance recipients to challenge an adverse decision, such as a case closure, to their public assistance benefit.

²⁶TANF-mandated paternity requirements can also be part of the appointments and documents needed in the application process and may require a referral to the Office of Child Support Enforcement. The process can involve a court petition if paternity is not acknowledged voluntarily. Court orders for child support payments are typically executed except in cases when such contact may threaten a custodial parent or if a diligent effort to establish paternity was made.

Challenging Decisions in New York City's Public Assistance Programs

Fair hearings provide a due process mechanism to public assistance recipients and are usually considered the final step in a larger process. The process generally begins with a conciliation-meeting notice initiated by the Human Resources Administration,²⁷ the purpose of which is to determine a “willful failure or good cause” (New York Social Services Law, 18 NYCRR § 385.12(c)) for non-compliance with the program rules.²⁸ Good cause can be granted for issues such as illness, if the recipient is able to produce sufficient documentation. If good cause is not established, a notice of intent is usually issued. Once the notice of intent is issued, the recipient can request a fair hearing. A fair hearing request can trigger two other actions, a mandatory-dispute-resolution²⁹ meeting notice and an administrative review.³⁰ Contrary to the name, mandatory-dispute-resolution meetings are not mandatory but are meant to solve problems prior to a fair hearing.³¹ The agency should also perform an administrative review to confirm the accuracy of the decision. If none of the processes results in a resolution, the issue will continue to a fair hearing. At a fair hearing, appellants have the opportunity to explain why they believe the administrative decision was wrong.

Despite the lengthy pre-fair-hearing resolution process described above, decisions often are challenged in fair hearings, especially in NYC. In fact compared to the rest of the state, NYC conducts a disproportionate number of fair hearings. According to the New York State Office

of Temporary and Disability Assistance (2009a), 76,085 fair hearing were held in NYC between July 2008 and June 2009. While NYC makes up only 63% of the state’s public-assistance population (New York State Office of Temporary and Disability Assistance, 2010b), it accounts for 94% of the state’s fair hearings (New York State Office of Temporary and Disability Assistance, 2009a).

Moreover, most fair hearings are work related, which means that noncompliance is punished through sanctioning of benefits. Sanctions are financial penalties imposed for program noncompliance. They are usually a grant reduction or case closure and are often the focus of fair hearings. NYC also applies a disproportionate amount of sanctions, 79%, compared to the rest of the state (New York State Office of Temporary and Disability Assistance, 2009a). Table 5 summarizes these numbers and percentages, and these statistics are a red flag. Thus, the process of acquiring and maintaining public assistance in NYC is the focus of this research. The following section highlights the research findings.

TABLE 5: NEW YORK CITY TEMPORARY ASSISTANCE

	New York City	% of State
Recipients	347,408	63%
Sanctions	24,812	79%
Fair hearings	76,085	94%

²⁷Conciliation meetings are only available for work-related sanctions.

²⁸Conciliation meetings occur within ten days of the notice date.

²⁹Mandatory dispute resolution notices are not sent to all who request fair hearings, and the criteria for issuance are unclear.

³⁰This review stems from *Rivera v. Bane* in the New York Supreme Court in 1996.

In 2005 a stipulation of settlement replaced the 1996 order (New York Legal Assistance Group, 2005).

³¹See *Khana v. Turner*, No. CV-99-5629 (E.D.N.Y.) for additional information on the nonmandatory nature of a mandatory dispute resolution.

Research Findings

Finding 1: Public assistance in NYC suffers from faulty practices and ineffective procedures, severely affecting the lives of applicants and recipients.

The outcome of administrative errors and faulty program implementation is particularly egregious. Thus, one would expect case errors to be rare. Instead, errors and inappropriate sanctions and closures are commonplace in the NYC public assistance program. In this analysis, recipients considered agency errors part of the typical welfare process. Faulty practices include the failure to spot and correct clerical errors (for example, improperly addressed notices) and poorly designed communication systems that make it difficult for claimants to call their caseworkers with questions or problems. Of the interview respondents, 45% described the problem that brought them to a fair hearing as an error on the part of the Human Resources Administration. Many explained that they were accused of not complying with an appointment time even though they had documentation indicating that they had complied. These types of errors are often connected to NYC's practice of autoposting. Autoposting is the computerized practice of automatically defaulting appointments or requirements to non-compliant, and when a recipient complies, the code is *supposed* to be manually changed to compliant.

The analysis of fair hearing transcripts supports the prevalence of such errors. In one case an appellant was receiving \$128 every two weeks in cash assistance for a household of seven. The appellant had been working but wasn't any longer. The problem arose when he supplied the Human Resources Administration with documentation that he was no longer working, but the information was not entered into the computer system. Due to this error, the recipient was not receiving the correct benefits. In another example, an appellant explained that he had complied with an appointment: "I received the appointment. I did appear . . . the lady told [me] she doesn't have a record [of the appointment] . . ." In this case, the recipient had complied with his work requirement but it was not recorded in his file, and he was subsequently sanctioned for noncompliance.

The following narrative excerpt illustrates both the context for errors and faulty practices and the prevalence with which they occur:

In April, the client³² received a notice for failing to comply with a work-activity appointment. This notice was withdrawn because there was no indication that a work appointment had ever been scheduled. In June the client successfully challenged her budget, which she claimed was inadequate, at a fair hearing. In July the client received a notice for failing to return an earnings form. The notice was withdrawn in a fair hearing because the agency had not followed the proper procedures when sending the earnings form. In October the client was again issued a notice for failure to attend a work-activity appointment. The agency withdrew the notice at a fair hearing. Six months later, in March, the agency withdrew another notice concerning a failure to attend a work appointment. In July the client's aid was discontinued for failing to recertify; the agency withdrew the notice because of an incorrect zip code on the mailing address. A little less than a year later, the client received a notice for failing to complete an alcohol and substance abuse assessment. The agency withdrew the notice at a fair hearing. Two months later the client's aid was discontinued for failing to attend a work appointment, and the agency again withdrew the notice at a fair hearing.

The first issue centered on a work appointment the recipient had allegedly missed, but no record of the appointment was found in the Human Resource Administration's computer system. The next recertification/eligibility issue demonstrates the agency's inability to follow its own procedures, and had the recipient not requested a fair hearing, her assistance case would have been closed. The recipient also dealt with an incorrect mailing address posted to the agency's computer system. In total, over a 26-month period, the recipient's aid was in danger of being cut or reduced eight separate times, and the agency was not able to support its notices at any of the fair hearings.

³²Public assistance recipients who receive advocacy services from HOPP are referred to as "clients" in case notes.

Evidence shows that mechanisms designed to correct errors also fail. HOPP documented many instances in which recipients thought they had resolved a problem but the resolution action was not posted to the agency's computer system. The following example illustrates how conciliation outcomes that are not completed correctly leave the recipient to address the same issues multiple times:

In June the client was issued a notice for a missed appointment. Her husband also received a notice for a missed appointment. The agency withdrew the husband's notice after he attended a mandatory-dispute-resolution meeting. The wife's notice was withdrawn at a fair hearing because she had demonstrated earlier to the agency (at a conciliation) that she had good cause for missing the appointment. About four months later, the husband received a notice for a missed appointment, which was withdrawn by the agency because it had not processed the husband's change of address in a timely fashion and thus sent the notice to an incorrect address. One month later the wife received a notice for a missed appointment, which was resolved at conciliation. A few weeks later when she applied for an emergency grant, she discovered that her case had closed because of an unreturned form. The agency withdrew its decision at a subsequent fair hearing. Four months later the wife's medical case was closed without notice. Four months after that, she received a notice alleging that her employment income, incorrectly recorded by the agency, made her ineligible for aid. At the same time she was also sent a notice for allegedly failing to attend a work assignment that she was attending but that the agency had failed to enter in its computer system.

Along with the receipt of public assistance comes uncertainty, as benefits are often repeatedly and arbitrarily withdrawn and commonly take months to restore. The following example demonstrates that over a 24-month period, a recipient's benefits were discontinued and restored six separate times. In each instance, it took approximately three months to restore the benefits for which the recipient was eligible.

The client's benefits were discontinued in October for missing an appointment. The benefits were restored after the agency withdrew the notice at a fair hearing in December. In January the client's public assistance was discontinued again, and the agency again withdrew its notice at a fair hearing held in March. In September the client's benefits were discontinued for failure to recertify; a fair hearing was held in November, and the client's case was reopened. The following January the client's aid was again discontinued because of a missed appointment. A fair hearing was held in February, and the agency withdrew the notice. In April the client's aid was discontinued again, with the agency withdrawing the notice at a fair hearing held in June. In July the client's aid was discontinued for a missed appointment, with the agency withdrawing the notice at a fair hearing held in September.

Once a benefit is restored, the recipient is often forced to continually challenge the restoration because the same issue often resurfaces. For one appellant, his 18 hours of Work Experience Program was changed to 35 hours without any notice. According to the New York Social Services Law, 18 NYCRR § 385.9(a)(4), the maximum number of hours a recipient can be assigned to the Work Experience Program per month is determined by taking the household's monthly grant plus food stamps and dividing the total by the hourly minimum wage. A 35-hour assignment meant that the recipient was working off his welfare benefit at the rate of \$3.72 per hour. The problem arose because no notice had been issued, which technically meant that there was not a determination to challenge, so the client was continually being sanctioned for failure to comply with the 35-hour requirement. The agency had withdrawn the notices, but the issue was never resolved. The fair hearing transcript documents the conversation between the legal advocate (for the recipient) and the administrative law judge.

The advocate begins by explaining: "I don't see where we're gonna get the opportunity to challenge . . . unless we get some sort of stipulation that they're going to try to redetermine the correct number of hours." The judge replies, "But the sanction is wiped out."

The advocate responds that the problem is that the recipient will just keep getting sanctioned without the erroneous practice being resolved and that he has already been sanctioned again for the same issue while awaiting the current fair hearing. After another minute of questions and indecision, the judge indicates that she will write a decision.

Ineffective practices, such as those exhibited above, along with faulty practices make claiming benefits difficult. But, at issue is the impact of such practices and procedures. Many times, recipients do not have aid to continue their benefits when grant decisions are challenged because to qualify for continuing aid, the fair hearing must be requested within ten days of the date of the notice of intent. Recipients may not request a fair hearing within the ten days for many reasons, including nonreceipt of the notice, belief that the issue was resolved at their center, illness or hospitalization, inability to understand the notice, or language barriers. When recipients have no continuing aid, they may be without benefits for themselves and their dependents for an extended period.

In fact in a quantitative analysis of almost 3,000 cases, when applicants and recipients challenged the Human Resources Administration's decisions, it took an average of 127 days before the issue was resolved.³³ When dependent children were in the household, resolution took, on average, 29 days longer, or 156 days. Some portions of the NYC population waited even longer. In Brooklyn, applicants and recipients waited an average of 200 days for a problem to be resolved. It is true that if an error was made on a recipient's case, the agency issues retroactive benefits. But in this four- to five-month timeframe, some public assistance households lose their entire grant, often their entire household income.

The impact on such households is demonstrated by interview data. Of those interviewed, 40% reported not having continuing aid. Of those, 70% said that the closure or reduction of their public assistance made it difficult to pay bills, 61% reported they had been threatened with eviction or were concerned that they would not be able to pay rent, and 63% said their children had less to eat.

If faulty practices, clerical errors, and ineffective procedures were rare, such situations would be less alarming. Unfortunately, the Human Resources Administration has a long history of erroneous practices.

Fair hearing outcomes are a strong indicator of the prevalence of faulty practices. Generally, categories for fair hearing outcomes include decision affirmed, decision reversed, withdrawal, and correct when made. Between July 2008 and June 2009, over 86%³⁴ of fair hearings (56,760 hearings) in NYC resulted in either an agency withdrawal or judicial reversal (New York State Office of Temporary and Disability Assistance, 2009a). A reversal is a clear indicator of error or a faulty practice by the Human Resources Administration. A withdrawal, however, signifies that the agency will not take the stated notice of intent action, which can be done without any explanation. While the agency doesn't regard withdrawals as losses, a withdrawal usually represents administrative errors or procedural issues.

In HOPP's interviews, 68% of appellants who were just leaving their fair hearings reported that the Human Resources Administration had withdrawn its notice in the fair hearing. This percentage is similar to New York State statistics on withdrawal rates (New York State, Office of Temporary and Disability Assistance, 2009a). Furthermore, HOPP's review of 76 fair hearing outcomes based on case histories reflected a combined withdrawal and reversal rate of 95% (where a decision was issued or the agency withdrew).

It is clear that a very large number of errors occur in the NYC public benefit system. Indeed, these numbers reflect only decisions challenged. Thousands more are likely to go unchallenged, leaving otherwise eligible residents without critical benefits. Safety net programs, such as family assistance and safety net assistance, are many times the only resource available to families to prevent homelessness and hunger. Thus, accurate decisions in public assistance cases are paramount. Unfortunately, administrative errors and inaccurate case decisions are commonplace in NYC's public assistance programs.

³³This variable was calculated by taking the difference (in days) between the date an applicant or recipient informed a HOPP advocate that they were experiencing a problem with their public assistance and the date the case was closed by HOPP, which is usually done when the Human Resources Administration complies with an agreement or hearing decision.

³⁴This number combines family assistance with safety net assistance. It was calculated by subtracting the category "other disposition" from the total number of fair hearings. The categories "issues affirmed" and "correct when made" were combined to indicate an agency win. Categories "issue reversed" and "withdrawal" were combined to indicate an agency loss.

Finding 2: Confusion and complexity in the NYC public assistance programs have produced barriers that severely limit benefit access.

The proliferation of workfare brought immense complexity to the administration of public assistance. The federally mandated workfare requirements for the TANF program created an elaborate layer of activities and requirements that were not nearly as demanding or rigorous as those of its predecessor, Aid to Families with Dependent Children. In fact, virtually all fair hearings held in NYC (99%) dealt with work-related issues, usually a work requirement or appointment (New York State Office of Temporary and Disability Assistance, 2009a, Table 32, p. 55). HOPP's evaluation of 28 welfare histories identified 67 instances of missed appointments, primarily work related, that required some type of resolution. Additionally, most interviewees identified a missed appointment as the reason for their fair hearing. Thus, work requirements and missed appointments are often synonymous with sanctioning, because they are the justifications under which almost all applicants and recipients will be sanctioned. The following overview of work programs, activities, and requirements demonstrates the complex nature of workfare.

When an individual applies for public assistance, a work determination of work-eligible, work-limited, or work-exempt is made. Work-eligible applicants are referred to either the Back to Work or BEGIN programs. Back to Work is delivered via agency contracts with seven vendors located in the five boroughs. Vendors are responsible for employment assessments, job-search activity, and job placement. Typically, Back to Work assignments are coupled with a Work Experience Program assignment administered under the Back to Work program. Work Experience Program assignees are required to work for nonprofit or government organizations as a condition of receiving their welfare grants. Individuals may be placed in ten categories (e.g., WEP Medical Limitation/ WeCare, WEP & Job Skills, WEP Basic, WEP Special). The BEGIN program is a collaboration between the Human Resources Administration and training and educational providers and is designed for individuals who have low literacy skills. BEGIN participants may be engaged in an internship, work-study, language skills training, vocational training, or employment programs based on the vendor assessment. BEGIN assignments can also be combined with a Work Experience Program assignment.

Based on their limitation, work-limited individuals may be assigned to Back to Work, BEGIN, or WeCare. WeCare services are delivered by vendors and subcontractors. Work-exempt individuals may be placed in one of four WeCare work-activity programs, or their employment plan may include a treatment or rehabilitation program. Those who are classified as work-eligible are required to work up to 35 hours per week. Work-limited individuals may have a reduced number of hours depending on the limitation, and work-exempt individuals must follow their WeCare activity, treatment, or rehabilitation assignment. Individual work assignments and other work-related activities are tracked via a computer database used by the Human Resources Administration and work vendors.

Adding to the confusing array of vendors, programs, activities, and assignments is the fact that recipients experience multiple issues associated with their public assistance case. For example, a recertification notice mailed to a wrong address snowballs into the reduction of food stamps, loss of shelter allowance, and discontinuance of cash assistance. This is because each benefit is tied to ongoing eligibility that is determined during recertification. When this situation occurs, an individual's entire life is propelled into crisis mode based on a single error, such as entering an incorrect zip code into a computer. Unraveling a case to identify the root problem is challenging. The following transcript excerpts, which deal with possible sanctions for a failure to comply with the Office of Child Support Enforcement or a failure to comply with a work requirement or both, exemplifies this challenge.

The legal advocate begins by trying to explain the problem: "I didn't receive a notice in my evidence packet. The only indication I have of this is the failure to comply with work assignment . . . from the computer . . . but then . . . it says . . . good cause is granted because the client had an emergency appointment for her child and had a note from the hospital."

The agency representative first contends that there was a sanction for failure to comply but soon reverses that statement saying, "She's not sanctioned." The advocate asks for proof that the client is not sanctioned because her worker at the job center said she had been.

The judge states there must be a sanction for him to rule on the case and thus, "That's not a hearable reason, hearable issue." The advocate contends that

it is not her burden of proof and that she does not have the documents, suggesting that only the Human Resources Administration does and that the documents were not included in the evidence packet. The judge then suggests that maybe a mistake was made on the budget and there really was no sanction. The advocate explains that the benefits had been reinstated due to aid continuing, not because the issue was corrected.

When the second issue, the Office of Child Support Enforcement, is discussed, the judge asks, "Why is that issue different from the first issue . . . I don't know where to go with that." The advocate explains that she is just trying to be thorough: "I don't want her life to be affected by technical mistakes." The case finally concludes when the Human Resources Administration representative agrees to review the case . . . to establish if there was a sanction and if so, if it was an Office of Child Support Enforcement or work sanction.

The above fair hearing is emblematic of the broken public assistance system. The confusion and inability to identify the exact problem is immediately evident, compelling the judge to proffer a guess. Indeed, it cannot be established whether the recipient had even been sanctioned, and the appellant's case remained unsolved even after the fair hearing. Perhaps most dreadful is the effect of systematic harm on individual lives.

Another fair hearing portrays a similar confusion over procedures concerning an appellant who lost both his food stamps and cash assistance via sanctioning. The advocate pointed out in a fair hearing that the requisite "willful and without good cause" determination had not been made. The judge asks how such a determination might look, "It would be in writing?" The advocate explains that, yes, the determination needs to be somewhere in the agency computer database.

In yet another fair hearing, confusion reigns over a budget issue. A judge tries to sort out a household budget via an agency computer screen. The judge remarks, "It's hard to tell what's active because everything is closed out . . . so I don't even know who was active in this period." Even with computer access, the household budget cannot be discerned.

If judges and agency representatives, whose job it is to understand public assistance requirements and procedures, are bewildered by the system, it is no wonder that recipients are confused by the many rules and requirements. This confusion often leads recipients to believe they are complying with all of the program requirements when this may not be so. For example, one recipient stopped attending his mandated appointments upon his 60th birthday because he believed he was then exempt. Subsequently, he received a notice indicating that he would retain his welfare benefits only if he completed a formal application for supplemental security income. In another example, a recipient was sanctioned for not returning an earnings form. The recipient explained that she had complied by sending the form but admitted that it was late. As with most other recipients, she was also adjudicating multiple problems at her fair hearing. Her narrative illustrates both the complexity of the rules associated with the receipt of welfare benefits and recipients' attempts to follow the requirements:

The first HOPP case was opened on July 22, 2005, at the Trinity clinic regarding several issues with the client's public benefits. She had received two notices, one for failing to return an earnings form (issued on July 14), which the client claimed she returned late but did return, and the other for a failure to comply with a work-activity appointment (issued on April 6). The agency withdrew at the first fair hearing for failure to follow protocol on sending the client a second questionnaire. The agency withdrew at the second fair hearing on October 19, since there was no indication that an appointment was scheduled on the infraction date of March 18, 2005. The client retained a total amount of \$2,763 in aid to continue benefits due to the sanction error.

One way to make sense of public assistance cases is to review an evidence packet. Recipients can request an evidence packet from the Human Resources Administration that contains information from the recipient's public assistance file. The evidence packet should include all documents and any other evidence that the agency will present at the fair hearing.³⁵ It is often the key to identifying problems in a recipient's public assistance case. The

³⁵The right to the timely receipt of evidence packets and other case relevant documentation was won in New York Supreme Court in the *Rivera v. Bane* (New York Legal Assistance Group, 2005). The *Rivera v. Bane* court order expired on March 9, 2011, but fair hearing appellants are still able to receive copies of their evidence packet under the New York Social Services Law, 18 NYCRR § 358.7(b).

evidence packet can also address why a particular benefit was lost or reduced or whether an error was corrected. For example, this was the case for a welfare recipient experiencing a sanction. The recipient indicated that she had attended the work appointment for which she had received a notice. The evidence packet indicated that the notice had been withdrawn. Even with such evidence of a withdrawal, however, if a withdrawal is not processed correctly in the computer, the intended action will still be implemented. The only avenue to ensure that the withdrawal is formally recorded is a fair hearing. A fair hearing gives the recipient formal proof of the withdrawal.

Such proof is necessary because recipients are often called upon to produce documentation. In fact the level of documentation required by the Human Resources Administration is daunting and beyond what is necessary in a typical work setting. This practice of recipients needing to prove their “innocence” produces an adversarial relationship between them and the agency.

While public assistance recipients have the right to request an evidence packet, they are not usually aware of this right. If a recipient does request an evidence packet, they likely will not be able to decipher the contents, due to the use of codes and the confusing way that the data are arranged. Agencies are experts at reading this information, knowing where information is located, and what codes mean. Thus, while the evidence packet is a tool to help recipients resolve a benefits dispute, the format of the information is not useful to a pro se appellant. To demonstrate the obscurity of evidence packets, a redacted selection of an evidence packet is produced below:

Finding 3: The most vulnerable public assistance recipients are those most likely to have their benefits discontinued.

While it would be logical to infer that those who are most in need would be the most likely to retain public assistance benefits, recent research suggests the contrary. Brodtkin & Majmundar (2010) analyzed data from the National Survey of American Families and found that those who exited the welfare rolls while still eligible were those who had the lowest education levels, who were in deep poverty, or who had never married. This analysis suggests that this group, defined as administratively disadvantaged, exited the public assistance system because they did not have the capability to maintain benefits over time.

Analyses of welfare histories support this conclusion. HOPP found that those who tended to be most in jeopardy of losing their benefits were those who were homeless and those who experienced health-related issues. Of the 28 histories (259 cases) examined, six identified themselves as homeless at least once between 2004 and 2009. Almost half (13) experienced health problems, either their own or their dependent(s), that jeopardized their public assistance. Of those who experienced health issues, more than one third experienced problems with their public assistance while hospitalized, while another third suffered from chronic illness. HOPP’s quantitative analysis of 1523 case problems indicated a statistically significant relationship between the types of recipient and applicant problems and homelessness, sex, and age. Simply put, homeless males between the ages of 46 and 52 were the most likely group to have their case closed in NYC. Full statistical results of this analysis are

Figure 1: Evidence Packet Example.

DATE	ACTION/DESCRIPTION	STATUS	CMP	FUT DATE	OFF	WORKR	SITE	
01/21/11	702W W-270 FORWAR JC OPS FH:5690791Y:issue in regards to NOI dated 12/24/10 resolved; LDSS-3722 forwarded to Tracking and Monitoring Unit to change 2 to 1.	NAHIN		01/25/11	B71	L1430		6A
01/19/11	70SF RIVERA SID REQ FAX FH:5690791Y	NAHIN		01/24/11	371	E0309		7A
01/19/11	70RF RIVERA REQ FAX FH:5690791Y	NAHIN		01/24/11	PH	E0309		8A
01/05/11	710v NO ACTIONS NEEDED fh:5690791y ATC initiated thru wms.	NAHIN	710v	/ /	PHC	L0199		9A
01/05/11	710q FH ATC RVW COMPLETE fh:5690791y ATC initiated thru wms.	NAHIN	710v	01/05/11	PHC	L0199		10A
01/05/11	709F FH REQ - FAX FH:5690791Y	NAHIN	709F	/ /	4YS	SYSTEM		11A
01/04/11	710B ATC REVIEW ASSIGNED FH:5690791Y TEJADA	NAHIN	710q	01/04/11	PHC	E4769		12A
01/04/11	710W FH ATC MANUAL REVIEW FH:5690791Y	NAHIN	710B	01/04/11	1hc	G4177		13A
01/04/11	701D MDR - TO DISCONTINUE FH:5690791Y PFRQDT:101223	NAHIN		01/12/11	1:71	SYSTEM B71		14A
01/04/11	710 FH REQ/AID 2 CNT FH:5690791Y	NAHIN		02/01/11	SYS	SYSTEM		15A

located in Appendix C. The following narrative summary presents an approximate four-year welfare history of a homeless male approaching his mid-forties:

The client was homeless for an unknown period and experienced unknown psychiatric issues.³⁶ The client's public assistance case was closed at least five times with aid to continue on at least one of the notices, and he had four fair hearings on case closings, at least one of which he won. Thus, he received \$3,914 in back pay for public assistance and rent. The outcome is unknown for the other three fair hearings. The client applied for and received storage fees; however, he was denied for a number of requests, including a post-eviction order to show cause related to rental arrears, carfare, and a clothing allowance. The client owed \$2,512 in back child support and \$1,407 in rental arrears.³⁷ It is unknown what the outcome was for these issues. The agency failed to act on a restaurant allowance the client requested, and the client's Medicaid was discontinued. The outcome of these two issues is also unknown. The client requested a fair hearing on a recoupment, but the outcome is unknown. Finally, the client was awaiting approval for payment of a commercial driving license course. . . . The client received a voucher, but was then told that the Human Resources Administration was no longer affiliated with the vendor. The client was told to wait for a Work Experience Program intake appointment notice, but instead received a notice of intent. During this 4-year period, the client experienced at least five case closures, five fair hearings, two mandatory-dispute-resolution meetings, three denials for request for benefits, a discontinuance of Medicaid, and three recoupments; was behind on his rent at least once; and won at least one fair hearing, resulting in \$3,914 in back pay for public assistance and rent.

Particularly vulnerable recipients, like the one whose case is featured above, face multiple problems and are not able to meet program requirements for a variety of reasons. These recipients experience problem after problem as they

try to retain their benefits. While the public assistance program is a challenge for most people, the system does not typically meet the needs of those dealing with homelessness, mental illness, lack of familial support, and low education levels. Thus, they cycle on and off—they are on public assistance until they fail to meet a requirement, get the problem fixed, and fail again or are erroneously penalized by the Human Resources Administration. Such vulnerable groups come to exemplify the concept of the “welfare mill.”

Researchers have noted that the welfare mill and the costs of claiming benefits is a difficult one to measure because complex processes and procedures, as well as gaps and voids in data, obscure observation and calculation (Brodkin & Majmundar, 2010). The welfare history above is not exceptional, however, but rather typical for welfare recipients who are particularly vulnerable. The amount of effort necessary to maintain benefits for this group is unusually high due to their personal circumstances. For them, as well as others, retaining benefits consumes an inordinate amount of time, energy, and money, which most public assistance recipients do not have to spare.

Finding 4: Acquiring and maintaining public assistance benefits in NYC is virtually a full-time job.

Along with welfare reform came many more requirements to apply for and retain public assistance. In NYC, applying for benefits requires between seven and 11 documents; two interview appointments; finger imaging; a home visit; paternity and child support establishment; and screenings for substance abuse, disability, domestic violence, child-care needs, English-language proficiency, basic skills, employability, and felony convictions. Based on the Human Resources Administration screening process, applicants may be referred to specialized vendors to conduct full assessments of potential barriers to employment. Work requirements are immediately enforced, prior to receiving any benefits, which take 30 days for family assistance and 45 days for safety net assistance. Work requirements vary based on an individual's work determination status but typically are 35 hours per week of work activity.

³⁶In some cases, client outcomes are unknown because the client does not inform the advocate of outcomes, outcomes may not have been entered into a case note, or there are gaps in client-advocate contact for a variety of reasons.

³⁷An order to show cause is used in housing court to extend the time the appellant has to pay rental arrears.

If work activities resulted in self-sufficiency in NYC, that would be optimum; however, this is far from the case. Research conducted on NYC's Back to Work program indicated that fewer than 10% of recipients retain employment through the program (Kasdan & Youdelman, 2008). Of those who receive a job placement from the Back to Work program, only 25% were still employed at that job placement beyond six months.³⁸ It should be noted that those in Back to Work are determined by the Human Resources Administration to be the most employable of all applicants. Only a small number of recipients are involved in activities that would likely lead them to be self-sufficient. Only 3% of the Human Resources Administration's work-eligible cases are in an educational or training program as their main activity (New York City Human Resources Administration, 2011c). Work activity tends to be primarily a warehousing technique that fills the day. It serves more as a punishment for needing basic assistance than as a strategy to allow applicants and recipients to participate in services that can lead them to self-sufficiency.

HOPP's interviews of pro se appellants found that welfare requirements impeded recipients' ability to gain employment, with 57% of respondents reporting that attending to requirements and work activity inhibited their success in job attainment. The general consensus was that "maintaining public assistance is a lot of work," that "keeping benefits takes more than 50% [of their time]," and trying to resolve a problem is "a never ending circle—the person gets the run around."

When recipients attempt to correct problems with their cases, they must expend even more time and energy to do so. Of our interviewees, 70% reported having contacted their caseworker or job center to try to resolve problems and avert a fair hearing. In trying to prevent or correct problems, applicants and recipients are usually unsuccessful and face frustration and delay. While the Human Resources Administration is quick to sanction individuals and close cases, it is slow to respond to individual requests.

Based on welfare history data, one recipient had a host of health problems and was also taking numerous medications that made it difficult to travel to her work activity.

While the Human Resources Administration deemed her to be work-eligible, she challenged the determination. At a fair hearing, the agency agreed to reevaluate her work status. The reevaluation took nearly two years. During that time the recipient was sanctioned at least twice for missing a work appointment. Another recipient reported in a fair hearing that she had continually contacted the agency attempting to correct her household budget. The computer record erroneously indicated that one of her children was receiving supplemental security income. The legal advocate explained, "She has never received Social Security, and she has been down there five times at that center on 121st Street." The following extended example, derived from a welfare case history, further illustrates the time-consuming nature of trying to maintain benefits:

The client is a 41-year-old female who received HOPP advocacy services for about two and a half years. HOPP first provided advocacy for the client regarding three issues: a sanction for a missed appointment (it was found that the appointment notice was sent to the wrong address); the client's claim that she experienced a reduction in her shelter allowance (the reduction was later found to be correct); and the client's application for a child-care allowance.

Six months later, the client reported housing issues and a fair hearing was requested. The agency agreed to review the issue and no benefits were lost.

Seven months later, the client reported a reduction of her public assistance grant. The client had a work sanction, but she claimed she was hospitalized during the sanction time. Her benefits were eventually restored, but it is unclear if this was through a fair hearing or an informal resolution at the welfare center.

Two months later, the client reported more problems with her benefits. She received a notice for a failure to recertify for public benefits and another notice for failure to comply with a work requirement. One fair hearing was held for the recertification issue and the agency withdrew. Several weeks later, a second fair hearing was held and a favorable decision was issued, resulting in the lifting of all sanctions. The

³⁸This percentage can be due to many reasons, such as the job was a temporary position, the wage was too low for the former recipient to be self-sufficient, the recipient lacked support services (such as child care), personal circumstances (such as illness) prevented the recipient from working, or the employer terminated the recipient.

client received retroactive benefits. On the heels of this issue resolution, three more problems surfaced. The agency was overpaying the client's Section 8 rent share, resulting in problems with an accumulated surplus. Furthermore, the client needed a new benefit calculation because she was placed in the Parks Opportunity Program³⁹ and began earning income. The client also received a Con Edison utility shut-off notice. The first two issues were resolved at the center level, and the last issue was resolved when the client received a utility grant from HOPP.

One year later the client reported four new issues. A fair hearing was held for a public assistance inadequacy, child-care allowance discontinuation, inadequate Section 8 budget, and food stamp reduction. The client won on all issues.

During her contact with HOPP, the client experienced five fair hearings with one reopened, four adjournments, one agency stipulation, one agency withdrawal, one favorable decision, and three wins. Three times the evidence packet received before the fair hearing stated that the issues had been resolved due to an incorrect client address. The client was issued eight known notices of intent and received only two. The client experienced five sanctions, one public-assistance-

inadequacy claim, two public assistance overpayments to Section 8 resulting in rental arrears, one discontinuation of child care without a notice of intent, one eviction notice from her landlord, and one utility cut-off notice from Con Edison. She received retroactive benefits three times. During this time, the client was also hospitalized on one occasion for pneumonia.

This example offers strong support that the process of “willful and without good cause” is not being determined prior to sending out notices of intent. Instead, notices are generated with little oversight regarding accuracy. The recipient was virtually always engaged with the public assistance system trying to correct or maintain her benefits. Three times the recipient received retroactive benefits, meaning that all or some of her cash assistance was terminated for a specific length of time depending on how many times she had been sanctioned previously.

This example reflects a typical experience of welfare recipients and supports the assertion that the NYC welfare system has become a time-consuming, insidious bureaucracy—one that prevents recipients from engaging in activities that will lead them to employment. Instead of securing employment, applicants and recipients spend a majority of their time, effort, and emotion trying to retain or claim benefits for which they are eligible.

³⁹The Parks Opportunity Program operates as a subsidized employment program whereby the participant receives a wage.

Conclusion

Welfare administrative agencies can develop programs and procedures that efficiently and effectively meet the needs of those it serves or create systems so complex and difficult that those who need services cannot acquire or retain them. Disentitlement of welfare benefits often occurs through the establishment of red tape, which essentially creates “rules, regulations, and procedures that remain in force and entail a compliance burden, but do not advance the legitimate purposes the rules were intended to serve” (Bozeman, 2000, p.12). Indeed, Moynihan and Herd (2010) argue that complexity in bureaucratic processes decreases levels of participation. Thus, red tape practices and complexity result in administrative exclusion that bars eligible welfare recipients from making claims, although they do want to participate (Brodkin & Majmundar, 2010).

Administrative exclusion is not easily identifiable because it is hidden and protected by rolls of red tape and front-line workers. Instances of unanswered phones, clerical errors, and onerous appointments are often evaluated as a single problem or issue requiring remedy. The longitudinal and mixed-method research design allowed HOPP to examine welfare issues experienced by individual applicants and recipients over time. HOPP was thereby able to capture the phenomenon of administrative exclusion in NYC’s public assistance programs. The analysis provides support for the concept of administrative exclusion by presenting ample evidence of a complex web of rules and requirements to which public benefit recipients must adhere. Over and over, HOPP documented clients’ experiences with a seemingly simple problem that took on a life of its own, producing misery and chaos for those whose benefits were affected. The analyses suggest that such exclusionary practices take many forms in NYC’s bureaucracy, but what remains constant is the continual nature of wrongful benefit reductions and terminations.

It is hard to understand why any social service agency would develop safety net programs so cumbersome and incomprehensible that even those charged with administration cannot understand the rules or implement the procedures—unless, the programs are intentionally designed to prohibit use. Denying basic assistance to those in “brutal”⁴⁰ need should be unthinkable, but instead it has been touted in NYC in almost celebratory tones. In the State of the City address delivered on January 19, 2011, Mayor Bloomberg proclaimed that the NYC has “kept the welfare rolls at historic lows.” On the Human Resources Administration website, (New York City Human Resources Administration, 2011a) a chart tracks the progress of welfare caseload reductions with a caption that reads, “The number of Cash Assistance recipients is at its lowest level since December 1963.” These statements are particularly disturbing considering that nationwide, it is estimated that only half of all eligible citizens participate in welfare programs (Zedlewski, 2002). In light of the recession and high unemployment rates, NYC should herald results for providing benefits to needy residents, not take pride in withholding benefits from struggling residents.

While welfare reform was designed to curtail welfare rolls, it was never intended to do so by preventing eligible recipients from claiming benefits. Based on its research evidence, HOPP concludes that at best NYC inadvertently prevents eligible individuals, and likely purposely diverts those in desperate need, from public assistance. Diversions tactics, such as agency errors, numerous mandated appointments, and confusing requirements, have been explored in this report. These findings become even more compelling when added to a steadily increasing body of research supporting HOPP’s findings (Hunger Action Network of New York City, 2010; Federation of Protestant Welfare Agencies, 2009; Kasden & Youdelman, 2007; New York City Public Advocate, 2009; Casey, 2009; Dunlea, 2009; Pedulla, 2008; Lens, 2006; Holcomb, Tumlin, Koralek, Capps, & Zuberi, 2003).

⁴⁰Term from the *Goldberg v. Kelly* decision (397 U.S. 254, 1970).

Recommendations

The majority of HOPP's recommendations are directed at NYC, as the research findings are most aligned with this level. It should be noted, however, that both federal and state policy also affect public assistance delivery. Still, NYC has a great deal it can do on its own to reduce waste and increase efficiency in the public assistance process. The public assistance programs in NYC suffer from faulty practices and ineffective procedures, the outcome of which causes undue hardship to applicants and recipients. Claiming benefits for most eligible residents in NYC is confusing and complex and consumes a tremendous amount of time. Administratively disadvantaged recipients, including those who are disabled and those who have limited English-language proficiency, are particularly affected by the errors and complexity of the NYC safety net system. Thus HOPP proposes the following administrative and programmatic recommendations.

ADMINISTRATIVE RECOMMENDATIONS

1. Eliminate duplicative documents and appointments.

The extraordinary number of documents and appointments necessary to acquire public assistance in NYC was noted earlier in this report. While certain information and contact is appropriate, other requirements are duplicative. Thus, an internal red tape audit⁴¹ should be performed by the Human Resources Administration to specifically evaluate the origin, purpose, and intent of every document and appointment required for NYC public assistance applicants. When duplicative appointments or documents are detected and serve identical purposes (for example, requiring both a Social Security number and finger imaging for identification and citizenship purposes), the more expensive or cumbersome activity should be eliminated. This practice will save dollars for NYC and streamline the process so that those wishing to participate in public assistance programs can do so without the burden of unnecessary requirements.

2. Audit the errors and problems in public benefit receipt.

The NYC Human Resources Administration and the New York State Office of Temporary and Disability Assistance do not collect the type of data that would

support a systematic analysis of efficiency and effectiveness in the delivery of public assistance. Thus, the city comptroller should perform an external audit to evaluate the NYC public assistance process. The audit should include an evaluation of quality-control measures already in place. Focus should be on the effectiveness of pre-fair-hearing mechanisms (conciliation, conferences, administrative reviews, and mandatory dispute resolution meetings). The audit must include an examination of the data entry practices of pre-fair-hearing determinations, how determinations are included into recipient files and the timeliness of this activity, especially relative to averting fair hearings, case closures, or benefit reductions. The criteria under which recipients are selected for mandatory dispute resolution meetings should also be examined. The audit should include an examination of how willfulness and good cause are measured, how willfulness and good cause determinations are made, and how and when outcomes are entered into recipient files.

The audit should include an evaluation of fair hearing outcomes, particularly centering on Human Resources Administration withdrawals and reversals. A systematic analysis of withdrawals and reversals will yield critical data to identify key areas in which errors are made. Practices regarding autoposting and how and when address changes are incorporated into recipient files will be especially important because these are simple problems to address but often involve costly fair hearings. Autoposting is particularly relevant because electronic files now serve as supporting documents with regard to work activity participation, and work vendors and staff are not required to retain paper documentation (New York State Office of Temporary and Disability Assistance, 2009b). Instead, the computerized entry, often autoposted, is the only evidence required to sanction recipients. The cost of these types of errors is high and often leads to fair hearings, calculated by the Office of Temporary and Disability Assistance to be just over \$310 per hearing in 2007 (New York State Office of Temporary and Disability Assistance, 2008b). Thus, a cost-benefit analysis of fair hearing

⁴¹Moynihan and Herd (2010) recommend red tape audits when barriers to public services exist.

outcomes should be an integral part of the audit. Such an audit would identify the costs of agency errors and begin laying a foundation for eliminating wasteful and unnecessary practices.

3. Establish standards for sanctions and fair hearings.

Sanctioning and fair hearing withdrawal and reversal rates in NYC are disproportionately higher than the rest of the state (including all counties except NYC). The sanction rate⁴² of temporary assistance cases for the state (excluding NYC) is 3% compared to 7% for NYC; the fair hearing withdrawals rate for the state (excluding NYC) is 30% compared to 58% for NYC; and the fair hearing reversal rate for the state (excluding NYC) is 11%, compared to 17% in NYC (New York State Office of Temporary and Disability Assistance, 2009a). The reasons for these disparities should be identified and studied. Using these study findings as a foundation, the agency should establish acceptable standards for sanctioning, withdrawals, and reversals; establish clear rules for sanctioning; develop and enforce penalties for counties that impose sanctions that do not meet the “willful failure and without good cause” standard; and penalize counties that do not correct mistakes such as inadequate evidence to substantiate agency action through administrative review. In this way, meeting the needs of NYC residents, rather than simply cutting caseloads, becomes a priority.

4. Perform a systematic review of agency compliance.

The Human Resources Administration should conduct an annual random sample of cash-assistance-household cases to determine the accuracy of sanctioning, budget adequacy, and work requirements in case decisions. Sample size should be determined based on the caseload of job centers or whether centers serve specialized populations. This would provide an internal quality-assurance measure to track agency errors that are costly both to the agency and those affected by erroneous decisions. A component of the evaluation should be an annual city council oversight hearing to assess the results of the evaluation. Results of this evaluation should be posted on the agency website.

5. Simplify evidence packets.

Evidence packets should be simplified so that appellants can use them. Much of the evidence packet consists of codes and acronyms that most appellants cannot decipher. Conciliation notices, recertification notices, and notices of intent have been simplified, and evidence packets also should be simplified to include the same clear style and format. The New York Social Services Law, 18 NYCRR § 339.2(c)(i), requires that notices and other documents sent to recipients include an explanation of acronyms and codes. At a minimum, NYC should also adopt this practice. Ideally, a narrative explaining the case could be included as a first-page summary, thereby making the record and any problems associated with the case both evident and understandable.

6. Revise the withdrawal codes for fair hearings.

Withdrawal codes add confusion to fair hearings and obscure the actual reason for withdrawals. All fair hearing withdrawals should include an explanation so that appellants understand why the Human Resources Administration withdrew the notice of intent or agency decision. Such additional withdrawal information also allows for external examination of agency withdrawals.

7. Facilitate file access.

Personal access to public assistance records should be established via computer terminals at all job centers. This will help public assistance recipients understand their grant or any problems associated with it. While access to an individual’s case record is mandated by the New York Social Services Law, 18 NYCRR § 357.3 (c)(1), the process to request records is not efficient or transparent. Computer access at job centers would make case records widely available to applicants and recipients for review. Access, along with a narration of evidence packets, and an explanation of codes and acronyms of all NYC public assistance documents would allow recipients to review their case files and more readily understand the contents. Implementing these suggestions will likely avert administrative errors, thereby reducing administrative costs.

⁴²The sanction rate reflects households experiencing a sanction, while the sanction and sanction-in-process rate combines households experiencing a sanction and households that have been issued a notice of intent.

8. Expand escalated outreach procedures.

The Human Resources Administration's escalated outreach procedures must be extended to recipients entering their third sanction period and thereafter. Such outreach procedures are already established for WeCare participants. The purpose of this outreach practice is to avert case closures when good cause may be relevant. Escalating outreach includes sending additional notices and placing phone calls to attempt to reach the recipient for up to ten days prior to applying a sanction. Recipients who experience three or more sanctions are in danger of losing up to six months of assistance. Such recipients should automatically receive escalated outreach measures.

PROGRAMMATIC RECOMMENDATIONS

9. Increase training and education opportunities to the level that New York State allows.

Warehousing public assistance recipients is not an avenue to self-sufficiency. Education and training increase employment opportunities and provide opportunities to be self-sufficient. On average, NYC

engages only 3% of its work-eligible cases in allowable educational and training activities (New York City Human Resources Administration, 2011b). Therefore, New York State should provide incentives for training and educational activities so that counties fully engage the maximum number, typically 30% of the caseload, in such pursuits.

10. Incorporate flexibility into work requirements.

Along with training and educational programs, other work activity should be purposeful and self-directed. NYC should grant recipients up to five hours per week of independent work activity. These activities could include a job-search component at a library or via one's own computer, developing letters or making phone calls to potential employers, or attending job interviews. In doing this, NYC would still meet the 30 hours of countable work activity required by the state, thereby preserving full eligibility for NYC's state grant share. Increased flexibility would allow recipients to invest more time in securing employment and would save NYC money (due to a five-hour decrease in supervised work activity).

Appendix A. Characteristics of Quantitative Sample

(Sample size = 2,926)

VARIABLE: SEX

Male	35%
Female	65%

VARIABLE: ETHNICITY

Black/African American	44%
Hispanic, Latino	40%
White, non-Hispanic	12%
Other	3%
Asian	2%

VARIABLE: PRIMARY LANGUAGE

English	78%
Spanish.....	20%
Other/Unknown	2%
Chinese	6%
French.....	2%

VARIABLE: HOUSEHOLD SIZE

One.....	52%
Two.....	19%
Three.....	14%
Four	8%
Five	5%
Six.....	2%
Seven to twelve.....	1%

**Mean 2.05, Median 1, Mode 1*

VARIABLE: NUMBER OF CHILDREN IN HOUSEHOLD

None.....	62%
One.....	17%
Two.....	12%
Three.....	5%
Four	3%
Five	1%
Six-Ten.....	1%

** Mean .74, Median 0, Mode 0*

VARIABLE: NUMBER OF ELDERLY IN HOUSEHOLD (60+ YEARS OLD)

None.....	92%
One	7%
Two.....	1%

VARIABLE: HOUSING STATUS

Not homeless	71%
Homeless.....	29%

VARIABLE: AGE OF CLIENT

Mean 44.43, Median 45, Mode 46, Range 17-91

VARIABLE: DAYS TO RESOLVE (DIFFERENCE BETWEEN INTAKE AND CLOSE DATE)

Mean 167.1, Median 127, Mode 0, Range 0-981

VARIABLE: NEIGHBORHOOD BY ZIP CODE

Forty-one neighborhoods comprise the five boroughs

Neighborhoods representing at least 5% of cases

Williamsburg-Bushwick:	10%
Fordham-Bronx Park:	9%
Washington Heights-Inwood:.....	7%
Crotona-Tremont, Stuyvesant-Crowns Heights, Harlem-Morningside:	6%
High Bridge-Morrisania, Upper West Side:	5%

Neighborhoods representing less than 1% of cases

Kingsbridge-Riverdale, Bensonhurst-Bay Ridge, Borough Park, Coney Island-Sheepshead Bay, Sunset Park, Lower Manhattan, Flushing-Clearview, Fresh Meadows, Ridgewood-Forest Hills, Rockaway, Southeast Queens, South-west Queens, Port Richmond, South Beach-Tottenville, Stapleton-St. George, Willowbrook

Appendix B. Case Histories Coding Categories and Definitions

1. Agency resolution: issue or problem resolved without a fair hearing, i.e., mandatory dispute resolution meeting, center-based advocacy. Includes successful and unsuccessful attempts at the agency level, including instances in which the outcome is not known.
2. Benefit denial: denial when a client applies for public assistance or any other benefit the client doesn't already have, e.g., shelter allowance, car fare, etc.
3. Benefit discontinuance: loss of any type of public benefit including cash, food stamps, restaurant, shelter, whether or not receiving ATC. Also includes inadequacy issues. Distinguished from benefit denial for new applications or requests for new types of benefits.
4. Case summary: summary of case, including number of cases, issues, resolutions, etc.
5. Case time span: length of time as a HOPP client.
6. Demographics: age, number of children, race, primary language, sex.
7. Fair hearing: request for a fair hearing on any issue.
8. Fair hearing outcome: outcome, including wins and losses. Also includes when outcome of a fair hearing is unknown, when the client or agency withdraws from hearing, or both.
9. Health issues: short- or long-term disabilities.
10. Homeless: client is street homeless, in a shelter, or living temporarily with others.
11. Missed appointments: any missed benefit-related appointment or work requirement, including work, medical, drug or alcohol screenings, etc., that result in case closing or denial.
12. Reapplication: resubmitting an application or paperwork to resolve a problem.
13. Recurring benefit issue: continued problems with retaining a particular benefit, including when a previously resolved issue appears again as a problem.

Appendix C. Quantitative Data

(Sample size = 2,926)

1. Analysis of variance results, number of days to resolve (dependent variable) by the following independent variables:

Variable	F value and (DF)	Significance level	Adjusted R squared
Age at intake	1.558 (68,2647)	.003	.014
Borough of residence	4.842 (4,2690)	.001	.006
Neighborhood	2.216 (40,2654)	.000	.018
Children in household	3.268 (9,2833)	.001	.007
People in household	3.669 (11,2810)	.014	.010
Elderly in household	3.918 (2,2840)	.020	.002

2. A total of 2835 short “problem summary” cases were quantified into several categories. Approximately 45%, (1,312) of the cases fell into a catchall category “other,” because they included issues for which HOPP could not provide formal advocacy, such as rental arrears or immigration-related issues. The remaining 1,523 cases were individually coded using the categories below. In some cases, problem summaries included more than a single issue; thus, the final total of problems coded was 1,955.

Chi square (test of independent groups) results of “problems” variable, for which advocacy was provided, by the variables listed below:

Variable	Chi Square value & DF	Significance level	Cramer’s V
Sex	15.065 (7)	.035	.132
Homeless	25.377 (7)	.001	.222
Children in household	17.110 (7)	.017	.139
Children or elderly in household	17.833 (7)	.013	.142
Age	37.930 (21)	.013	.122
Borough	32.757 (21)	.049	.115

References

- Bozeman, B. (2000). *Bureaucracy and red tape*. Upper Saddle River, NJ: Prentice-Hall Publishing.
- Brodkin, E. Z., & Majmundar, M. (2010). Administrative exclusion: Organizations and the hidden costs of welfare claiming. *Journal of Public Administration Research and Theory*, 20(4), 827–848.
- Casey, T. (2009.) *The sanction epidemic in the Temporary Assistance for Needy Families Program*. Retrieved from <http://www.legalmomentum.org/our-work/women-and-poverty/resources--publications/sanction-epidemic-in-tanf.pdf>
- Deficit Reduction Act of 2005. Pub. L. No. 109–171.
- Dunlea, M. (2009). *Evaluating a decade of welfare reform in New York State: Putting jobs into New York's Welfare to Work Program*. New York, NY: Hunger Action Network. Retrieved from <http://www.hungeractionnys.org/report%20without%20charts.pdf>
- Family Support Act of 1988, Pub. L. No. 100-485.
- Federation of Protestant Welfare Agencies. (2009). *The State of New York's social safety net for today's hard times: Over a decade since welfare restructuring: A closer look at the changes, opportunities, limitations and current day needs*. New York, NY: Author.
- Goldberg v. Kelly, 397 U.S. 254 (1970).
- Holcomb, P. A., Tumlin, K., Koralek, R., Capps, R., & Zuberi, A. (2003). *The application process for TANF, food stamps, Medicaid and SCHIP: Issues for agencies and applicants, including immigrants and limited English speakers*. Washington, DC: U.S. Department of Health and Human Services. Retrieved from <http://www.urban.org/publications/410640.html>
- Hunger Action Network of New York State. (2010). *Moving to more compassionate and effective assistance: Evaluating challenges and barriers in New York State's welfare system*. Retrieved from <http://www.hungeractionnys.org/DSS%20Report%20FINAL.pdf>
- Jeffrey, R. S. (2002, Fall). The importance of due process protections after welfare reform: Client stories from New York City. *Albany Law Review*, 66, 123.
- Kasden, A., & Youdelman, S. (2007). *Failure to comply: The disconnect between design and implementation in HRA's WeCare Program*. New York, NY: Community Voices Heard.
- Kasdan, A., & Youdelman, S. (2008). *Missing the mark: A report on NYC's Back to Work Program & its effectiveness in meeting employment goals for welfare recipients*. New York, NY: Community Voices Heard.
- Khana v. Turner, No. CV-99-5629 (E.D.N.Y.).
- Lens, V. (2006). Work sanctions under welfare reform: Are they helping women achieve self-sufficiency? *Duke Journal of Gender Law & Policy*, 13, 255–284.
- Lens, V., & Vorsanger, S. E. (2005). Complaining after claiming: Fair hearings after welfare reform. *Social Service Review*, 79(3), 430–453.
- Moynihan, D., & Herd, P. (2010). Red tape and democracy: How rules affect citizenship rights. *American Review of Public Administration*, 40(6), 654–670.
- New York City approved employment plan*. (2010, March 26). Retrieved from <http://otda.ny.gov/main/resources/employment-plans/plans/NewYorkCity-County-EP.pdf>
- New York City Human Resources Administration. (2007). *Employment process manual*. Retrieved from http://onlineresources.wnyc.net/nychra/docs/hra_employment_process_manual.pdf

- New York City Human Resources Administration. (2011a, January 6). *Cash assistance recipients in NYC 1955–2010*. Retrieved from http://www.nyc.gov/html/hra/downloads/pdf/total_pann.pdf
- New York City Human Resources Administration. (2011b, February 20). *CA weekly engagement report*. Retrieved from <http://www.nyc.gov/html/hra/downloads/pdf/citywide.pdf>
- New York City Human Resources Administration. (2011c, February 20). *FA/TANF weekly engagement report*. Retrieved from <http://www.nyc.gov/html/hra/downloads/pdf/familyassistance.pdf>
- New York City Public Advocate. (2009). *Hearing problem: An analysis of Human Resources Administration fair hearing outcomes in New York City*. New York, NY: Author.
- N.Y. Const. art. XVII, § 1.
- New York Legal Assistance Group. (2005). *Rivera v. Bane*. Retrieved from <http://www.nylag.org/bane>
- New York State Office of Temporary and Disability Assistance. (2008a). *New York State temporary assistance and food stamp employment manual*. Retrieved from <http://otda.ny.gov/main/resources/employment-manual/employmentmanual.pdf>
- New York State, Office of Temporary and Disability Assistance, Office of Administrative Hearings. (2008b, February 8). *Memorandum DSS-524E: Statistical Data 2007*.
- New York State Office of Temporary and Disability Assistance. (2009a). *2009 statistical report on the operations of New York State temporary assistance programs*. Retrieved from http://www.otda.ny.gov/main/resources/legislative-report/2009_LEGISLATIVE_REPORT.pdf
- New York State Office of Temporary and Disability Assistance. (2009b, October 20). General Information System, Center for Employment & Economic Supports. No. 4357-EL.
- New York State Office of Temporary and Disability Assistance. (2010a). *Temporary assistance source book*. Retrieved from <http://otda.ny.gov/main/programs/temporary-assistance/TASB.pdf>
- New York State Office of Temporary and Disability Assistance. (2010b, December). *Temporary and disability assistance statistics*. Retrieved from <http://otda.ny.gov/main/resources/caseload/2010/2010-12-stats.pdf>
- New York Social Services Law, 18 NYCRR § 339.2(c)(i).
- New York Social Services Law, 18 NYCRR § 357.3(c)(1).
- New York Social Services Law, 18 NYCRR § 358-3.6(a)(4)(i).
- New York Social Services Law, 18 NYCRR § 358.7(b).
- New York Social Services Law, 18 NYCRR § 370.4(b)(2).
- New York Social Services Law, 18 NYCRR § 385.2(b)(7).
- New York Social Services Law, 18 NYCRR § 385.2(d)(7)(i) and (ii).
- New York Social Services Law, 18 NYCRR § 385.6(b)(3).
- New York Social Services Law, 18 NYCRR § 385.8(a)(2).
- New York Social Services Law, 18 NYCRR § 385.9(a)(4).
- New York Social Services Law, 18 NYCRR § 385.12(c).
- New York Social Services Law, 18 NYCRR § 385.12(d)(1).
- Pedulla, D. (2008). *Improving New York City's public benefits system: A key role for help desks*. New York, NY; Brennan Center Strategic Fund. Retrieved from http://brennan.3cdn.net/d137943d47eefb3a13_1xm6bhzy2.pdf

Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

42 U.S.C. § 607(a)(1).

42 U.S.C. § 607(b)(3)(A).

42 U.S. C. § 607(c)(1)(A).

42 U.S.C. § 607(e).

42 U.S.C. § 630-645 (2000).

U.S. Department of Health and Human Services, Administration of Children & Family Services. (1996).

Major provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

Retrieved from <http://www.acf.hhs.gov/programs/ofa/law-reg/finalrule/aspesum.htm>

U.S. Department of Labor, Children's Bureau. (1914). *Laws relating to the "Mothers' Pensions" in the United States,*

Denmark and New Zealand (Dependent Children Series No. 1, Bureau Publication Series No. 7). Washington,

DC: Government Printing Office.

Work Incentive Program, 42 U.S.C. § 630-645, 2000.

Zedlewski, S. R. (2002). *Are shrinking caseloads always a good thing?* (Short Takes on Welfare Policy No. 6).

Retrieved from <http://www.urban.org/publications/310508.html>



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