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Testimony before the New York City Council Committee on General Welfare on 'Oversight: Examining HRA's Public Assistance Enrollment'

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INTRODUCTION

Good afternoon and thank you, Chairperson Annabel Palma and members of the Committee on General Welfare. My name is Sonia Mansoor and I am the Public Benefits Legal Advocate at Sanctuary for Families, Center for Battered Women's Legal Services. Since its inception in 1984, Sanctuary for Families has provided shelter, counseling, and legal representation and assistance to tens of thousands of victims of domestic violence (DV). As long as victims of DV are not screened appropriately by HRA and penalized for not complying with its programmatic requirements (especially those for employment and child support), New York State is turning its back on these victims. Sanctuary for Families calls for full implementation of the Family Violence Option (FVO) in New York State as well as the *M.K.B. v. Eggleston* decision which protects the rights of specified immigrants including battered immigrants to apply for Public Assistance (PA).

1. Failure to Fully Implement the Family Violence Option in New York City

DV victims face many challenges in accessing PA because the FVO - a provision of Personal Responsibility Work Opportunity Reconciliation Act 1996 -, is not implemented fully and effectively in New York City. The City places many burdensome evidentiary requirements on DV victims that may further endanger their safety.

A state that adopts the FVO can waive "pursuant to a determination of good cause" certain welfare requirements, such as time limits for individuals receiving assistance, work requirements and child support cooperation requirements, giving special consideration to the safety needs of domestic violence survivors. New York adopted the FVO as part of its welfare law. N.Y. Soc. Serv. Law § 349-a (McKinney 2004); N.Y. Comp. Codes R. & Regs. tit.18 § 351.2 (2004). Its statutes and administrative regulations incorporate the

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federal FVO language. HRA's protections and screening protocols, however, fall far short of what is required.

Challenges faced by Victims of Domestic Violence:

(i) **Screening.** Since NYC has adopted the FVO, universal screening for domestic violence should be conducted at the time of application for welfare. Not only does HRA fail to screen everyone who applies for PA, it also fails to refer victims who self-identify to a Domestic Violence Liaison (DVL). In addition, when screenings are conducted, HRA personnel often ask details of the domestic violence in an open setting rather than making the referral for an assessment to the DVL. This public and embarrassing inquiry has a chilling effect on domestic violence victims' likelihood of reporting the abuse and obtaining public assistance.

(ii) **Burdensome Documentation Requirements.** The FVO and the New York statute [New York Social Services Law §349-a(4)] requires at a minimum only a sworn statement that a welfare applicant/recipient is a victim of domestic violence. Unless a DV victim shows up with several kinds of documents detailing the abuse, such as multiple police reports, hospital reports, orders of protection, etc., they are wrongly denied a DV waiver from HRA's work and child support requirements.

(iii) **Partial waivers are ineffective and punitive towards DV victims.** The Federal standard for the grant of an FVO waiver for TANF requirements is "where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence." 42 U.S.C. § 602(a)(7)(A)(iii).

New York Social Services Law §349-a(6) incorporates this standard and states "Waivers granted pursuant to subdivision five of this section shall be provided pursuant to a determination of good cause in cases where compliance with such requirements would make it more difficult for the individual or the individual's children to escape from domestic violence or subject the individual or the individual's children to further risk of domestic violence."

Full waiver requests are almost always denied by DV Liaisons in New York City. HRA has created a category of "partial waivers" that is not part of the FVO statute. Partial child support waivers are problematic because abusers retaliate when victims provide their batterers' names to HRA (so that the City can pursue child support from the abusive non-custodial parent). Retaliation is in the shape of the abuser filing harassing custody/visitation

cases against the DV victims. Custody/visitation/child support cases expose victims to great danger (in and out of the courtroom). One applicant exposed by HRA to her abuser is Keisha,¹ an immigrant woman from Jamaica. Her ~~abuse~~ ^{abuse} shot her in her leg. Keisha's batterer was sentenced to jail, but he was subsequently released. Although Keisha had an order of protection she was only given a partial child support waiver and directed by HRA to come to family court to comply with child support requirements. Later, with Sanctuary's help Keisha applied for and received a full child support waiver (which prevents HRA from pursuing child support against the abusive non-custodial parent). Even while Keisha had a full Office of Child Support Enforcement (OCSE) waiver, she was asked to come to a DNA testing appointment in violation of her full OCSE waiver.

Partial work waivers place DV victims in harm's way as they assign DV victims to work in public places where they can be easily found by abusers and make them vulnerable to further abuse. Partial employment waivers are punitive as they place DV victims far away from their homes and children's schools to comply with employment rules.

Renewals of Domestic Violence Waivers made almost impossible.

Finally, in New York City, domestic violence victims are unable to renew their waivers at the end of the waiver period unless they prove recent incidents of domestic violence in the last four months by way of making police reports or providing hospital reports of injuries sustained by continued domestic violence. Often, even if a victim of domestic violence has a current Order of Protection, it is ignored by the DV Liaison in making the waiver assessment. The result is that victims must continually be subjected to abuse in order to obtain renewals designed to protect them from future abuse.

Impact on Domestic Violence Victims

Sanctions. Failure to obtain extensive documentation of domestic violence as required by HRA's arbitrary practices results in sanctions that cause temporary loss of benefits. PA is one of the most important stepping stones toward economic stability for many victims of domestic violence. Sanctions place DV victims in a precarious situation, making financial survival almost impossible and increasing the chances that victims will return to their abusers.

¹ Names have been changed to protect victims' confidentiality.

Impossibility of renewing waivers leaves victims in vulnerable situations. Domestic violence victims must experience ongoing abuse or put themselves in dangerous situations to document abuse to renew a domestic violence waiver. DV victims are at risk of being stalked, murdered, and having custody cases filed against them in retaliation for HRA's filing of child support. For example, a victim of domestic violence was shot by her abuser a year ago but was denied a full waiver because the abuse was not "recent enough."

Recommendations

The City must make greater efforts to inform welfare applicants/recipients and DVLs about the FVO. There should be at least one DVL for each welfare job center, and the City should ensure that every applicant/recipient who self-identifies as a victim of domestic violence is referred to a DVL, without exception. The DVLs should have the power to grant waivers the same day while a domestic violence victim is in their office. DVLs should not demand extensive domestic violence documentation at the waiver screening. Rather, they should require only a sworn statement by a victim of domestic violence. *Moreover*, there should be only full waivers for DV victims as partial waivers are ineffective.

2. M.K.B. v. Eggleston: Relief for Immigrants

Obtaining public benefits is a challenging process on its own for immigrants unfamiliar with the system. HRA has a history of making it even worse, wrongfully turning away or denying qualified applicants based on their immigration status. In December 2005, New York legal assistance organizations filed a class action lawsuit against HRA, the State Department of Health, and the Office of Temporary and Disability Assistance, alleging wrongful denial (or prevention from applying for) public benefits because of immigration status. The class was very broad and was composed of many immigrant clients including: Lawful Permanent Residents, Battered Qualified Aliens and PRUCOL. In 2006, the Court issued a preliminary injunction establishing an individual relief process for class members, and in 2007, the relief process was made permanent as part of the case's final settlement. Unfortunately, despite the injunction that came out of *M.K.B.*, HRA has continued to wrongfully deter/deny benefits based on immigration status, and the relief process is still necessary years later.

Sanctuary filed MKB relief forms for 15 different clients (17 MKB relief forms total) from 2008 – 2012. A case in point is Maimouna², a Senegalese immigrant crime victim with a U-visa, who was one of the original named plaintiffs for the *M.K.B. v. Eggleston* case. In March 2005, an HRA employee at a Job Center, to whom Maimouna had given a deferred action notice and a letter from Maimouna’s attorney explaining the basis of her eligibility, wrongly advised Maimouna, after consulting with a supervisor, that Maimouna was ineligible for public benefits. Even after Maimouna prevailed at a subsequent fair hearing and HRA was instructed by the State to reconsider her eligibility, HRA sent Maimouna a letter erroneously advising her that she was ineligible “due to [her] immigration status which is only temporary and work only”. Subsequently, after the settlement of *M.K.B. v. Eggleston*, Maimouna received benefits for herself for short periods of time. Each time Maimouna’s benefits case was closed and she attempted to file an application to reopen it, she was told by HRA caseworkers that she was ineligible because she was “undocumented.” On 4/5/2011, Sanctuary filled out an MKB individual relief form and referred the case to Legal Aid Society which is currently monitoring the compliance with the settlement.

Unfortunately, there are many other stories like Keisha⁵ Maimouna’s. I have personally experienced and witnessed these clients’ stories. I appreciate you taking the time to listen to my testimony.

Many thanks,



Sonia Mansoor

² See *id.*