

**Public Hearing—Oversight
Human Resources Administration**

Examining HRA's Public Assistance Enrollment

New York City Council Committee on General Welfare

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Testimony Prepared by:

Lori McNeil, Ph.D.

Director of Research and Policy

Safety Net Project (Formerly Homelessness Outreach and Prevention Project)

Urban Justice Center

123 William Street, 16th Floor, New York, NY 10038

<http://www.urbanjustice.org/hopp/>

616-602-5600

Good afternoon, my name is Lori McNeil, Director of Research and Policy with the Safety Net Project (formerly Homelessness Outreach and Prevention Project) at the Urban Justice Center. I appreciate this opportunity to testify. Since its inception in 1984, the Safety Net Project has continuously been involved in serving vulnerable populations in New York City. We serve low and no income residents through direct legal services, systematic advocacy and outreach, litigation, and the application of policy research, thereby not only serving our clients but also impacting all low income New Yorkers.

Our organization assists individuals in New York City obtain and retain public benefits for which they are eligible. On average, we assist over 2,000 people per year. As such, we have noted patterns in how eligible New York City residents have been denied public assistance as well as in those who continually lose their assistance as soon as they begin receiving benefits. It is in this capacity that I wish to share our experiences with barriers to public assistance. I begin though by noting that the sharp decrease in public assistance caseloads is unprecedented in this century.¹ In fact, New York City has not experienced levels (362,673 recipients) of public assistance usage this low in almost 50 years—since 1964. Just as troubling especially considering the depressed economic climate, is a reported decline of 69% in public assistance recipients over the last 17 years. While public assistance can be denied for a myriad of reasons, today, I will focus on the Human Resources Administration (HRA) sanctioning practices and how this contributes to low public assistance enrollments.

The sanctioning (closure of case or reduction of benefits) of PA recipients in New York City is a primary barrier blocking access to public assistance benefits. Rather than alleviating poverty and improving household wellbeing, the effectiveness and reach of the City's public assistance program is severely undercut by sanctions and other financial penalties for alleged program violations. Sanctioning can occur through various actions such as failing to submit paperwork or to comply with a work activity requirement. In New York City sanctions are often erroneously imposed. Such erroneous sanctioning practices can be documented by examining

¹ See New York City Department of Social Services, Human Resources Administration, *Cash Assistance Recipients in NYC 1955-2013*, downloaded at http://www.nyc.gov/html/hra/html/statistics/cash_assistance_reports.shtml.

fair hearing data. Fair hearings are legal proceedings in which public assistance applicants or recipients can challenge an adverse decision to their benefit case.

As noted in our 2011 report, *Case Closed: An Examination of Exclusion in New York City's Public Assistance Programs*, 76,085 fair hearings were held in New York City between July 2008 and June 2009. The number above represents an approximate 43% increase in fair hearings since 1999.² While New York City makes up 63% of the state's public assistance population, it accounts for 94% of the state's fair hearings.

When compared to the rest of the state, New York City also applies a disproportionate amount of sanctions, 79%.³ HRA's February 24, 2013 caseload work activities engagement report reveals that 23% of "engageable" households (94,263) are sanctioned or in the sanction process. Additionally, while caseloads in New York City have declined by 42% between 1999 and 2010, sanctions have increased by 14%.⁴ When sanctions are challenged through the fair hearing process, the Human Resources Administration has only been able to uphold their decision to sanction less than 25% of the time⁵—meaning that as much as 75% of sanctions challenged could not be supported by the Human Services Administration.⁶ In fact, between 1999-2010, this rate (combined fair hearing administrative reversal and withdrawal) has

² See New York State Office of Temporary and Disability Assistance Annual Legislative Report downloaded at <http://otda.ny.gov/resources/legislative-report/2010-Legislative-Reports.pdf>.

³ See New York State Office of Temporary and Disability Assistance Annual Legislative Report downloaded at <http://otda.ny.gov/resources/legislative-report/2010-Legislative-Reports.pdf>.

⁴ See New York State Office of Temporary and Disability Assistance Annual Legislative Report downloaded at <http://otda.ny.gov/resources/legislative-report/2010-Legislative-Reports.pdf>.

⁵ See New York State Office of Temporary and Disability Assistance Annual Legislative Report downloaded at <http://otda.ny.gov/resources/legislative-report/2010-Legislative-Reports.pdf>.

⁶ HRA argues that withdrawals are not necessarily erroneous case decisions but may also include applicant/recipient withdrawals as well as decisions made based on the available evidence. Advocates contend that the category, "correct when made" captures case decisions made based on information available at the time of the case decision, and further contends that it is rare for a PA applicant or recipient to formally withdraw a fair hearing. Instead, applicants and recipients are most likely to simply not attend the fair hearing and in such a circumstance, the fair hearing outcome would be categorized as a default.

increased by 66%.⁷ It should be noted that because most applicants and recipients do not challenge a case decision, this rate doesn't fully capture all sanctioning activity by HRA that was inaccurate or erroneous. New York City has a long history of administrative churning which refers to any activity used to prevent eligible public assistance applicants or recipients from collecting benefits.⁸ The current sanctioning practices serve as a churning mechanism essentially reducing public assistance caseloads.

Sanctions can severely impact the economic wellbeing of a household. This is so because public assistance households can lose benefits (pro rata) for as long as six months depending on the number of sanctions the household has incurred in the past. For a one-person household, a sanction results in a complete closure of the public assistance case, thereby eliminating the only mechanism serving as a bulwark from hunger, health and homelessness. Importantly, sanctioned households must wait until the sanction period has expired to have their benefits reinstated regardless of whether the sanctioned household member comes into compliance during the sanction period.

Sanctions have a financial cost, not only to the individual, but also to the greater community. Once a sanction is imposed, households have few options to meet their immediate basic needs. Therefore sanctioning commonly leads to both adults and children in the household going without adequate food, clothing, or other essentials. Sanctioned persons are unable to achieve self-sufficiency because they are prevented from receiving work support services, including transitional benefits that aid in locating and keeping jobs. In addition to these individual costs, sanctions impose real costs to society, such as those due to increased evictions (averaging between \$62-\$188 per night or \$1,860-\$5,640 per month in shelter expenditures). Every night, approximately 1,400 individuals (over 16%) in shelters are either in the sanction process or have been sanctioned.⁹ Costs for hospitalization and emergency room visits also

⁷ See New York State Office of Temporary and Disability Assistance Annual Legislative Report downloaded at <http://otda.ny.gov/resources/legislative-report/2010-Legislative-Reports.pdf>.

⁸ The Safety Net Project makes no argument as to the intentionality of HRA's administrative churning of public assistance caseloads.

⁹ NYC Department of Homeless Services, PA Engagement Status Report, Families with Children Facilities and Adult Families Facilities, Nov. 2011.

increase due to health consequences of sanctions. The average cost of an emergency room visit is \$150 per day (Medicaid) and \$400 per day (non-Medicaid), with an average cost of inpatient hospitalization at \$1,820 per day.¹⁰

Sanctioning practices in New York City are often connected to a determination standard referred to as “willful failure and without good cause.” When an applicant or recipient has allegedly failed to comply with a requirement, a sanction or denial cannot be imposed without the agency making a “willful failure and good cause determination” (meaning that an applicant or recipient understood that their action was not compliant with program requirements or had an acceptable reason for not complying). In practice, HRA violates these standards regularly. For example, PA applicants and recipients are routinely denied good cause determinations without HRA ever establishing whether the applicant or recipient should be issued an exemption for program noncompliance. Exacerbating this problem is HRA’s auto-posting computer function that by default initiates a sanction if a worker does not input the work program attendance data timely or correctly. For example, if a recipient shows up at their work assignment but the site manager fails to enter their attendance in a timely manner, a sanction will be initiated by the computer system. This by definition means “auto-posting” fails to take “will failure or good cause” into account.

Below SNP makes recommendations to address HRA’s inefficient and ineffective sanctioning practices:

- HRA should implement accountability measures to ensure that the agency does not impose a sanction without a thorough examination as to the appropriateness of the sanction. While we acknowledge that errors cannot be entirely eliminated, a drastic reduction in sanctioning rates is necessary for the wellbeing of our City’s most economically vulnerable citizen.

¹⁰ Children’s Sentinel Nutrition Assessment Program (2002), The Impact of Welfare Sanctions on the Health of Infants and Toddlers, downloaded at http://www.childrenshealthwatch.org/upload/resource/welfare_7_02.pdf.

For example, escalated outreach mechanisms could to be implemented for recipients in danger of case closure so that willful failure and good cause determinations can truly be assessed. Escalated outreach includes sending additional notices and placing phone calls to attempt to reach an applicant or recipient for at least 10 days prior to closing a public assistance case.

- HRA should eliminate or reprogram the current auto-posting process. The auto-posting default could be reversed so that applicants or recipients are assumed compliance (as opposed to the current system that assumes noncompliance) unless data are entered manually to indicate noncompliance. In this way, applicants and recipients will not be penalized for errors outside their control.

The Safety Net Project at Urban Justice Center appreciates the City Council's commitment to ensuring that the needs of our most economically disenfranchised residents are protected.