



Brooklyn Defender Services Tel (718) 254-0700
177 Livingston St, 7th Fl Fax (718) 254-0897
Brooklyn, NY 11201 info@bds.org

TESTIMONY OF:

Topacio Nunez, Senior Paralegal, Civil Justice Practice

BROOKLYN DEFENDER SERVICES

Presented before

The New York City Council

Committee on General Welfare

Oversight Hearing - Public Benefits Processing Delays at HRA.

September 27, 2023

My name is Topacio Nunez, and I am a Senior Paralegal in the Civil Justice Practice at Brooklyn Defender Services. Brooklyn Defender Services (BDS) is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. I want to thank the Committee on General Welfare and Chair Ayala for holding this critical hearing on delays in public benefit processing at Human Resources Administration (HRA).

BDS represent approximately 22,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with educational needs of our clients or their children, housing, and benefits advocacy, as well as immigration advice and representation.

BDS' Civil Justice Practice aims to reduce the civil collateral consequences for the people we serve who are involved with the criminal, family, or immigration legal systems. Our team works with clients and their families to prevent a loss of housing, benefits, or property due to a legal case or investigation. Through legal advocacy in court and at various agencies, CJP helps people remain in their homes, maintain their public benefits, stay in school, keep their jobs, and protects their consumer rights. One of our primary services is to provide our clients with support when their public benefits are terminated or applications for essential benefits are denied. Our

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attorneys and advocates provide advice and eligibility screenings, accompany clients to the HRA offices, and provide representation to clients challenging HRA's decisions in administrative hearings and state court appeals.

Background

As a provider of legal services for low-income New Yorkers, the majority of the people we serve are eligible for some form of public assistance. As a result, we routinely hear about problems obtaining and maintaining public assistance. In my role as Senior Paralegal, I help BDS clients apply for public benefits, and advocate with HRA and in administrative hearings in cases where essential benefits have been terminated or denied.

As HRA reported in the Mayor's Management Report for FY2023, the Cash Assistance and Supplemental Nutrition Assistance Program (SNAP) application timeliness rates declined by 53.5 percentage points and 20.4 percentage points, respectively, compared to FY22.¹ While these figures are shocking and disturbing, the numbers alone do not capture the complete scale of the impact on New Yorkers who are attempting to access benefits.

Every person who goes to HRA seeking assistance is already at a point in their lives where they are in great need of help. For the people we serve, who are already enmeshed in the criminal or family legal systems, the circumstances that continued to their need are complex. Often, parents and caregivers represented by our Family Defense Practice are directed by the Administration for Children's Services (ACS) or ordered by a family court judge to apply for and start receiving benefits as a condition of the return of their children from the foster system. For other families, maintaining or achieving stable housing is the linchpin for them to have their children returned. Vouchers provided through state or city benefits system, like FHEPS or CityFHEPS, are essential for the parents we serve and their families. The delays at HRA are incredibly harmful, and can prevent reunification and further destabilize vulnerable families.

Client Stories

Based on our experience working with thousands of people navigating HRA and benefit systems in New York City, we share the below experiences to highlight the need for swift processing of applications.

- Ms. V is represented by BDS' immigration practice and was referred to the Civil Justice Practice in May 2022, when she received notice that she needed to recertify her case. A monolingual Spanish speaker, all of the communication Ms. V received from HRA was provided in only in English. Because of an internal error at HRA, Ms. V's case was not properly linked to her social security number. We were able to fix that issue after extensive back and forth with HRA over several weeks and help Ms. V submit the recertification. This is advocacy that is common for our office to do but would be very difficult, if not impossible, for people receiving benefits to do. After completing all her required steps and getting her approval notice in July, she received benefits for a few months before HRA closed her case, allegedly because she failed to recertify. We knew this wasn't true, because we had helped her do the recertification. We inquired with HRA

¹ https://www.nyc.gov/assets/operations/downloads/pdf/mmr2023/2023_mmr.pdf

and the problem continued to be that her case and identify documents were not linked in the HRA system. After countless inquiries *and* a fair hearing request, seven months later in December 2022, HRA responded to our multiple inquiries with a decision and issued the benefits. During this period, Ms. V had no choice but to borrow money and receive assistance from churches to keep food on the table.

The process she experienced was an unnecessary barrier that should not have taken place—the entire reason she was seeking assistance was because she was desperate for help and food. Ms. V is now going through the recertification process again and experiencing the same problem. The delays and bureaucratic red tape that applicants experience truly are designed to deter people from seeking and receiving assistance. Ms. V has indicated that, without BDS’ help, she would not have been able to navigate this system and would have given up on this process.

- Ms. M is a current BDS client who is represented by BDS’ Family Defense Practice in an Article 10 case in family court. Ms. M came to us with issues with her public assistance case—she is a monolingual Spanish speaker and faced many barriers to recertifying her case. For example, she did not receive any documentation or assistance in Spanish. Ultimately, she had to reapply, and we assisted her in the process to make sure that the application was done properly. Her application was submitted in February 2023, and despite the fact that it was complete and thorough, we had to advocate with HRA for it to be approved because two of her children were temporarily out of the home and had been improperly removed from her housing voucher. Because of this issue and the delays of processing her application, her voucher was not paying the rent and that additional stress was added on while she had just had a baby. Losing her housing or going into shelter would have caused even more delays and additional barriers to her children to returning home and the family reuniting. After the application was submitted, we completed all the necessary steps including the interview and Ms. M’s application was not approved until late April of 2023, more than two months after applying. The long process of applying created a lot of barriers for Ms. M and her children as she was unable to take the children to the home for visits or bring them food, treats or gifts during visits at the foster agency, her only contact with the children. She was also experiencing additional stress and fear on top of her ACS case. She was very afraid that ACS would remove her newborn baby if they didn’t find enough food in the fridge. All of this added stress and delays in her family court case could have been avoided if the first applications she had submitted had been able to accommodate her language needs *and* if the application our office helped her submit would have been processed in a timely manner.

Recommendations

We are deeply disturbed by HRA and the city’s failures to provide access to benefits within the mandated timeframe. Providing public benefits, which are already meager sums, is the way that we ensure our city’s children have roofs over their heads and food in their bellies. When parents are already facing the punitive and demanding family court legal system, the barriers created by these delays create even more issues, slow down reunification of families, and subject people to further unnecessary surveillance by ACS. The testimony from HRA staff made it clear that the reasons for this breakdown are myriad. We respectfully offer the following recommendations:

- Make immediate efforts to hire staff, approve overtime, and do what it takes to remedy the abysmal processing rates.
- Reevaluate the systems by which applications are processed. HRA workers are facing an impossible task when the programs and computer systems they use cannot meet the demands of applications and processing. The programs could also be updated to ask staff to verify their reason for denying an application and provide a “help” feature with clarity for workers around accepted documents and program eligibility—which may help prevent wrongful benefits denials or terminations.
- Suspend mandatory work requirements while the processing rates are so abysmal. When applications, recertifications, and other basic functions of HRA cannot be completed, reinstating a work requirement for benefits recipients will contribute to further dysfunctions and delays.
- Provide continuing education on eligibility criteria, state law and regulations and HRA policies and procedures. This training should include the expanded Safety Net Assistance eligibility that was recently enacted.

People we serve are often incorrectly denied benefits or have their benefits terminated unnecessarily because of staff error. Client experiences have shown that hostile situations often originate from, or are exacerbated by, a worker’s attempt to incorrectly enforce an eligibility requirement or alleged policy. For example, our clients are routinely told what will or will not suffice as verification documentation for emergency assistance, or are told that only a certain document will suffice when in fact there are numerous other options acceptable under the law.

Conclusion

Swift access to public benefits is paramount for low-income New Yorkers and helps provide critical stability. Benefit access may help the people we serve favorably resolve their criminal cases and reunite with their children after ACS involvement, maintain jobs and allow children to remain in school. Unnecessary delays contribute to community and family instability.

We thank the City Council for your attention and care regarding these issues. We hope you consider BDS a resource as we continue to work toward improving the public benefits system. If you have any questions, please reach out to Anya Mukarji-Connolly, Director of Policy and Advocacy, at amukarjiconnolly@bds.org.

