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NO KEYS TO SAFE AND DECENT HOUSING IN NEW YORK'S "SAFETY NET"

The Inadequacy of the Public Assistance Shelter Allowance and Rental Supplements

By: Jessica Radbord
Haley Kulakowski
Alice Broussard

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ABOUT EMPIRE JUSTICE CENTER

Empire Justice Center is a statewide, public interest non-profit law firm with offices in Albany, Rochester, White Plains, Yonkers, Hempstead and Central Islip (Long Island). Our mission is to make the law work for all New Yorkers, especially those who need protection the most. We work to achieve social and economic justice using a 360° approach, including civil litigation, legislative and policy advocacy, research and training, and by acting as an informational clearinghouse. Our work spans several projects, including improving public benefits for low-income New Yorkers, increasing access to income supports for people with disabilities, enforcing civil rights laws, expanding legal protections for disenfranchised members of our communities, and more.

Recognizing the legacy of racist, ableist, classist, and sexist ideas and policies that are foundational to many public assistance programs in the United States, the public benefits practice group addresses systemic barriers to access to public assistance programs and advocates for increased levels of assistance.

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> *"The fundamental purpose of government is to protect the health, safety and general welfare of the public. All its complicated activities have that simple end in view." -Matter of New York Housing Authority v. Muller, 270 NY 333, 340-341 (1936).*

INTRODUCTION AND EXECUTIVE SUMMARY

More than ever before, the COVID-19 public health crisis highlighted that housing is essential to health and wellbeing. Without safe and stable housing, New Yorkers are unable to achieve optimal health, educational, economic, and social outcomes. Yet for most New York households that rely on public assistance, housing instability is unavoidable. Safe and habitable rental units in the private rental market simply do not exist at price points that are affordable for households relying on the public assistance allowance for rent (the "shelter allowance" or "rent allowance").

> *The concept of "housing instability" includes being "cost-burdened" by rent (i.e., paying more than 30% of household income toward housing expenses), eviction and frequent forced moves, living in substandard or overcrowded housing, and homelessness.*[1]

According to Isaac McGinn, Senior Advisor to the Commissioner for the New York Office of Temporary and Disability Assistance (OTDA), "housing costs in New York State are among the highest in the nation, and [are] more than twice the national average."[2] Data supports that claim: through an annual detailed market analysis, the federal Department of Housing and Urban Development (HUD) calculates reasonable rents – the "fair market rent" (FMR) – for each county in New York State and has found New York rents to be among the highest in the nation. Yet, despite recognition of how high New York rents actually are, the agency's rules set allowances for rent that are hundreds of dollars per month (or thousands, in the case of New York City) less than the FMR. In fact, according to HUD's analysis of rental housing in New York State, ***there are no market rate habitable units at the price point of the shelter allowance.*** The public assistance shelter allowance bears no relationship whatsoever to the actual cost of housing in New York.

Studies have shown that rental assistance programs and housing subsidies that cap tenants' share of the rent at 30% of their income are highly effective at reducing housing instability.[3] Unfortunately, most low-income tenants who are eligible for federal rental assistance are unable to access it due to insufficient federal funding to meet the level of need.[4] To address the large disparity between the actual cost of housing and the paltry shelter allowance for households receiving public assistance, OTDA, through legislative authorization and its regulatory authority, gives local districts the discretion to implement rent supplement programs for households experiencing or at risk of homelessness. Unfortunately, as documented in this report, these two supplement programs – the Shelter Supplement Program for households receiving public assistance who are at risk of or experiencing homelessness and the Rental Supplement Program for low-income households experiencing or at risk of homelessness – are not enough to stave off housing instability for most households receiving public assistance for a number of reasons. First, the shelter and rental supplements are lower than the cost of decent housing – sometimes drastically so. Second, some districts have opted not to offer these supplements at all, despite clear need. Finally, and most alarmingly, the number of supplements available is dramatically lower than the number of households in need of assistance. Supplements fail to fill the gap in need that is left by the profoundly inadequate shelter allowance.

The inadequacy of the shelter allowance and supplement programs is a wrong that must be addressed. It creates housing instability, which is likely to cause adverse health, educational, and social outcomes for public assistance households, both in the short-term and long-term.[5] As OTDA itself has noted, when families receiving public assistance experience homelessness, it becomes "increasingly difficult" for those households to find housing at all.[6] Further, as detailed in this report, New York's constitutional commitment to provide aid, care, and support for the needy is a legal mandate to ensure that residents of our State are provided with more of a safety net than the arbitrarily and irrationally low benefits provided to them today. Finally, the inadequacy of the public assistance shelter allowance (and public assistance generally) reinforces inequities in our communities. Some of the most vulnerable members of our society – people with disabilities, survivors of domestic violence, parents of very young children, and people with significant barriers to employment – are more reliant on public assistance and will continue to be marginalized due to the inadequacy of benefits. People of color, representing 83.4% of public assistance recipients due to a long history of discrimination

that continues to this day, are further shut out of opportunities when the shelter allowance and supplements do not correspond to the cost of decent housing in opportunity areas. Providing adequate public benefits is not just good public policy and legally necessary – it is essential to advance equity in New York State.

Anna[7] is a public assistance recipient struggling to find housing she can afford. Anna has a disability, and her local social services district has determined that she is not currently able to work. Her only means of support are Safety Net Assistance (a public assistance program) of $440 per month and $250 per month in SNAP benefits (food stamps). That $440 per month is all she has to pay for her monthly rent, utilities, transportation costs, household and personal supplies, and food after her SNAP benefits run out.

The cheapest place Anna could find to rent was $440 a month. Anna feels unsafe in her neighborhood and her apartment has been broken into multiple times. The social services district office sends her entire Safety Net Assistance grant of $440 directly to her landlord, so she's left with nothing to pay for her utilities, to do laundry, to buy toothpaste, or to pay for other basic expenses. Anna is currently facing a holdover eviction and has not been able to find a new place for $440 or less.

FINDINGS

1. HUD fair market rents (FMR) or the payment standard of the local Public Housing Authority are the most appropriate available measures of the cost of safe and habitable housing. FMRs for a two-bedroom unit range from $826 in Franklin County to $2,451 in New York City. FMRs doubled between 2003 and today.

2. Households with very low incomes are theoretically eligible for federal rental subsidies or federally subsidized housing, but federally subsidized rental assistance and housing programs are not entitlements and are vastly underfunded. As a result, most public assistance recipients must rent in the private market without federal rental assistance.

3. The shelter allowance is inadequate to cover the cost of a habitable rental unit in New York State, falling hundreds of dollars below what HUD has determined to be fair market rents. HUD's analysis of census data used to calculate fair market rents indicates that *there are no habitable private rental units* that are priced at or below the shelter allowance.

4. The shelter allowances are wholly arbitrary and irrational. The allowances did not have a reasonable justification when they were promulgated in 2003, and they have become more arbitrary and irrational over the last twenty years.

5. Public assistance recipients in New York are disproportionately likely to experience homelessness (0.4% of the general population v. over 17% for public assistance recipients), and many social services districts report that homelessness in their communities is causally linked to the inadequacy of public assistance benefits. And the cost of providing temporary housing in a hotel or motel is dramatically higher than the cost of decent housing.

6. New York State's Shelter Supplement Program and Rental Supplement Program do not do enough to close the gap between housing costs and the inadequate shelter allowance. Some counties do not offer supplements at all, the supplements are less than fair market rents, and there are far fewer supplements available than the number of households in need.

As detailed in this report, the public assistance shelter allowance is inadequate and available rental supplements do not fill the gap left to meet the needs of the lowest-income New Yorkers - they must be increased. Other important changes are also needed to ensure that all New Yorkers have access to safe and affordable housing, including developing affordable housing in opportunity areas where vacancy rates are low; increasing the minimum wage so low wage workers can afford adequate housing; increasing the state supplement for Supplemental Security Income recipients; and making improvements to tax policy to leverage its power to lift people out of poverty. But increasing the public assistance shelter allowance and expanding and improving rent supplement programs are immediate and effective means of lifting thousands of New Yorkers out of deep poverty and stabilizing their housing.

RECOMMENDATIONS

1. New York State should allocate sufficient funding to allow OTDA to provide adequate assistance for housing costs to all public assistance recipients by increasing the shelter allowance to 100% of HUD fair market rent or the payment standard of the local Public Housing Authority while ensuring that other federal and state benefits are not adversely affected. Unless and until that goal is achieved, all public assistance households experiencing housing instability should be entitled to rent supplements at 100% of the HUD fair market rent or the payment standard of the local Public Housing Authority.

2. Rent supplement programs should not have time limits, must not include illegal restrictions based on residency or marriage, and should allow for portability within counties or across counties. They should also provide basic due process protections, including notice and a right to review adverse actions.

3. Low-income New Yorkers who are ineligible for public assistance should also be able to secure safe and affordable housing. Rent supplements should be available to all households experiencing or at risk of homelessness.

Public assistance should reflect our values: of equity and inclusion, of creating opportunities to achieve economic mobility, and to strengthen the physical, social, and emotional wellbeing of individuals, families, communities, and our State as a whole. That means that public assistance must be adequate to meet basic needs. For the lowest income households – families and individuals receiving public assistance – increasing the shelter allowance and expanding and improving supplement programs as described above would immediately and significantly reduce housing instability. The housing instability suffered by many of the lowest income New Yorkers is a problem we can and must solve.

I.HOW MUCH DOES IT COST TO ACCESS DECENT RENTAL HOUSING IN NEW YORK STATE?

Rental housing costs in New York State are among the nation's highest.[8] At the same time, New York has a higher-than-average poverty rate,[9] with very high regional poverty in cities like Syracuse and Rochester.[10] This mismatch between high housing costs and high poverty rates creates extreme housing instability for low-income renters. New York has 970,882 extremely low-income (ELI) renter households.[11] About 73% of ELI households in New York are paying more than 50% of their income toward rent.[12] As this section will demonstrate, the cost of housing across the state is high – and rising – and there are not enough federally subsidized housing units and federal rent subsidies available to meet the needs of low-income New Yorkers.

A. The cost of housing in the private market in New York State is so high that families on public assistance cannot afford it.

To determine the cost of housing in New York State and nationwide, the Department of Housing and Urban Development (HUD) engages in a detailed analysis of rents in the private housing market. Using that data, HUD determines the "fair market rent" (FMR) for housing that meets basic quality standards for each jurisdiction.

"Extremely Low-Income" (ELI): A household with an income at or below 30% of the area median income (AMI).[13]

An area's FMR represents the cost of a moderately priced, privately owned, safe rental unit with appropriate amenities (i.e., including cooking and bathing facilities) that meets basic housing quality standards.[14] The FMR is not the average rent paid in a community – it is an estimate of the 40th percentile gross rent paid by recent movers into standard quality private market units in an area.[15] It is what it costs to rent a somewhat less than average unit that meets basic habitability standards.

HUD uses detailed data to calculate the FMR. The Department pulls U.S. Census Bureau American Community Survey (ACS) data of actual rents paid by households responding to the census as base year rent. The base year rent is calculated once every five years. HUD adjusts the FMR annually for inflation, calculating the inflation ratio from private sector housing data. In determining the 40th percentile rent for habitable private market units, HUD excludes rents paid at project-based subsidized housing and the rents paid by tenants with federally-funded rental assistance. To do so, HUD uses three

algorithms to link its data with ACS data to exclude subsidized housing.[16] HUD also excludes substandard units from its calculations using American Housing Survey data, including rentals with absent or inadequate heat, electrical problems, and severe plumbing problems.[17]

Below a certain rent threshold, habitable rental units simply do not exist. Looking into HUD's modeling, rental units listed below $495 per month are excluded from the distribution of standard quality gross rents in every county in New York State. HUD's analysis found that units priced at or below $495 were either subsidized housing or substandard housing.[18] In Long Island and other high rent areas, that number increases to $758 – in other words, HUD has determined that there are no private market units that meet basic housing quality standards in those areas that rent for less than $758 per month. Further, this problem is only getting worse. Since 2010, there has been a precipitous decline in the number of low-cost rental units, and rents are continuing to rise.[19] Put simply, there are no units in the private rental housing market that comply with basic rental housing health and safety codes, including basic plumbing and heating, at rents that are significantly below the FMR.

Because some jurisdictions' housing markets are uniquely challenging, local Public Housing Authorities are authorized by HUD regulations to set a "payment standard" for their rental assistance programs that is higher than the fair market rent for their locality. The payment standard can go up to 110% of FMR.[20]

The FMR presents the most reasonable standard for measuring what it costs to afford decent housing in New York State. Looking to the FMRs across the State, rents vary significantly, but they are high across New York. At the low end, the FMR for a two-bedroom unit in Allegany and Franklin Counties is $826. In Dutchess and Orange Counties, it is $1,583. The highest cost jurisdiction is New York City, with an FMR of $2,451 for a two-bedroom apartment. Statewide FMRs are provided in Appendix I.

A review of websites where tenants typically look for housing demonstrates the high cost of rentals in New York. A two-bedroom in Binghamton is listed for $895.[21] A small efficiency in the Hudson Valley is $1,000 per month.[22] And in New York City, a small basement apartment is $1,200.[23] Empire Justice Center found that the only units listed for less than $495 in any county were for shared accommodations, involved work in exchange for housing, or were in federally subsidized properties in remote areas.

B. There is not enough federally subsidized project-based housing and federal rental assistance for extremely low-income tenants.

Federal housing programs for low-income families have changed significantly over time. In the 1930s, the United States Housing Act of 1937 sought to address the housing needs of low-income Americans through public housing[24] and the United States Department of Agriculture created the Resettlement Administration in 1935 to address the poor housing conditions of farmers and residents of rural areas.[25] These programs funded housing "projects" to meet the needs of lower-income Americans. Over time, however, project-based subsidized housing became disfavored (partially because of underinvestment in the properties that led to poor conditions and because of a general trend toward privatization). Instead, the federal government prioritized investment in the private market, both through subsidies for private market developers through tax credits in exchange for term-limited reduced rents, and through rental assistance for low-income households to rent from private landlords.[26]

> *Project-based rental assistance is tied to a particular unit or building.[27] Tenant-based rental assistance can be used to subsidize tenant rents in qualifying rentals in the private market.[28]*

Today, there is a mix of project-based and tenant-based federally subsidized housing, funded or incentivized through the United States Department of Housing and Urban Development (HUD), the United States Department of Agriculture, the Internal Revenue Service, and the Veteran's Administration, to name a few. Some of the more extensive and better-known federally subsidized housing programs include HUD public housing,[29] the IRS Low-Income Housing Tax Credit Program,[30] and HUD Section 8 rental assistance,[31] which includes both project-based rental assistance and tenant-based rental assistance like the Housing Choice Voucher program (HCV).

Although there are many different types of federally subsidized affordable housing projects and forms of tenant-based rental assistance, there is nowhere near enough to meet the needs of all otherwise eligible households. Only about one in four low-income households eligible for federal rental assistance are living in federally subsidized housing.[32] In New York, only 17.4% of families receiving Family Assistance, 35.5% of families with children receiving Safety Net Assistance, and approximately 9.7% of single individuals receiving Safety Net Assistance (public assistance programs discussed in detail in Section II) reside in federally subsidized housing or have federal rental assistance.[33]

For those without subsidized housing, waiting lists for assistance are typically years long or are closed. Empire Justice Center contacted Housing Authorities and administrators of the Housing Choice Voucher program statewide in May and June of 2023. The Albany Housing Authority reported that their waitlists for the HUD Housing Choice Voucher program had not been open since 2019 and that there were thousands of households on the waitlist. In Westchester County, the Yonkers Housing Authority reported that the HUD Housing Choice Voucher program waitlist had been closed for years and had over 10,000 households waiting. New York households who were granted federal rental assistance or entered subsidized housing in 2022 waited an average of 30 months.[34]

In June 2023, The Albany Housing Authority reported that there were thousands of households on their waitlist for the HUD Housing Choice Voucher program and that the waitlist was closed

Figure 1: Snapshot of Subsidized Housing Waitlists Across the State (June 2023)

Public Housing Authority	Is the Waitlist Open or Closed?	How Long Has the Waitlist Been Closed?	Estimated Households on Waitlist
Schenectady Municipal Housing Authority (Schenectady County) (Section 8)	Closed	Closed for less than a year	3,700
Jamestown Housing Authority (Chautauqua County) (Section 8)	Open		1,200
Great Neck Housing Authority (Nassau County) (Project based)	Closed	Over 4 years	"Hundreds"

> *"The waiting list for HCV [Housing Choice Vouchers] is over a year and other affordable housing units are in high demand."*
>
> *- Tompkins County Department of Social Services* [35]

In addition to the better-known federally subsidized housing programs that are (theoretically) available to any low-income tenant that makes it to the top of a waiting list, there are several other programs that are restricted to specific populations or offer assistance for a limited period of time. In Monroe County, if a person with a disability satisfies the definition of "chronically homeless," i.e., homeless for at least twelve months, they may be eligible for one of the Rochester Housing Authority's scattered site 277 permanent supportive housing units. Monroe County also has limited "rapid rehousing" programs which provide short-term rental assistance and services in order to house people experiencing homelessness quickly. In Monroe, there are 41 "rapid rehousing" medium-term rental subsidies per year for transitional aged youth experiencing homelessness, and 66 rapid rehousing medium-term rental subsidies for persons reentering the community after incarceration, just to name a few.[36] But for households experiencing homelessness or at risk of homelessness who do not fit into one of the narrow silos for a specialized (and overburdened) program, they must wait for a subsidized unit to become available, to be granted a Housing Choice Voucher, or for some other (and likely less safe and stable) option to present itself, like renting a low-cost substandard unit or moving into overcrowded housing with family or friends.

Because of its limited availability, federally subsidized housing cannot be relied upon to make the high cost of rental housing in New York affordable for extremely low-income renters receiving public assistance.

II. THE (IN)ADEQUACY OF THE PUBLIC ASSISTANCE SHELTER ALLOWANCE

A. What is the shelter allowance?

The lowest-income New Yorkers, other than those who have been found eligible for disability benefits through the Social Security Administration, may be eligible for public assistance (called "Temporary Assistance" or "TA") through the Office of Temporary and Disability Assistance (OTDA). Temporary Assistance consists of two primary programs: Family Assistance (FA) and Safety Net Assistance (SNA). OTDA oversees the programs, promulgates regulations, issues guidance, and supervises the 58 county-based Social Services Districts that administer Temporary Assistance.

Temporary Assistance Programs: What are the differences between Family Assistance and Safety Net Assistance?

Family Assistance

The Family Assistance (FA) program is a cash assistance program for households with children. Family Assistance is 100% federally funded through the Temporary Assistance for Needy Families (TANF) block grant program, and, as such, it must comply with the federal regulations for the TANF program. For that reason, Family Assistance households (with limited exceptions) are subject to a 60-month time limit on benefits.[37] Family Assistance's purpose, as defined by Social Services Law (SSL) section 350, is to provide cash assistance that "shall be adequate to enable the father, mother or other relative to bring up the child properly, having regard for the physical, mental and moral well-being of such child" and is sufficient to provide for support of the child "in the home."[38] A portion of the cash assistance grant is set by statute but the shelter allowance is set by the Office of Temporary and Disability Assistance (OTDA) through regulations.

Safety Net Assistance

Safety Net Assistance is a cash assistance program for single individuals, childless couples,[39] and families with children that have reached the 60 month time limit for Family Assistance.[40] The state covers 29% of the cost of the Safety Net Assistance program and localities fund the remaining 71%.[41] The Safety Net Assistance program's purpose, as defined by statute, is to provide support in order "to enable a person to become self-supporting" and remain "in their abode or habitation whenever possible."[42] As with Family Assistance, while the portion of the Safety Net Assistance grant for basic needs and energy costs is set by statute, the shelter allowance is set by OTDA through regulations.

Components of Temporary Assistance Grant

Temporary Assistance (both Family Assistance and Safety Net Assistance) are benefits provided as a monthly or semi-monthly grant for "needy persons" who meet eligibility criteria. To be considered "needy," among other things, household income (less any statutorily-defined disregards) must fall below the "standard of need."[43] The standard of need is composed of allowances for shelter, basic needs, home energy, home heating, and some households may be eligible for allowances based on special circumstances.[44] If the household is eligible for benefits and has income, their Temporary Assistance grant will be reduced based on other income received (including earned income like wages, unearned income like Unemployment Insurance, and child support). The standard of need thereby sets a limitation on eligibility for Temporary Assistance as well as setting a maximum on the level of financial assistance available to households.

The "basic needs" allowance, the Home Energy Allowance (HEA), and the Supplemental Home Energy Allowance (SHEA) are set in statute and based on household size. They are the same regardless of county of residence. The basic needs allowance has not been increased since 2012[45] despite rising living expenses and high inflation.[46] Theoretically, the basic needs allowance is what a household receiving Temporary Assistance uses to pay for transportation, household cleaning products, laundry, personal care items, clothing, and so forth. HEA and SHEA were last adjusted in 1981 and 1986 respectively, and bear no reasonable relationship to current energy costs.[47] The sum of the basic grant, HEA, and SHEA for all of New York can be found in Figure 2.[48]

Figure 2: New York Basic Grant Schedule

House-hold Size	1	2	3	4	5	6	Each add'l Person
HEA	$14.10	$22.50	$30.00	$38.70	$47.70	$55.20	+$7.50
SHEA	$11.00	$17.00	$23.00	$30.00	$37.00	$42.00	+$5.00
Basic Needs	$158.00	$252.00	$336.00	$433.00	$534.00	$617.00	+$85.00
Sum	$183.10	$291.50	$389.00	$501.70	$618.70	$714.20	

Other allowances include a "fuel for heating" allowance that varies depending upon fuel types, and various other supplemental allowances based on special circumstances.[49] The "fuel for heating" allowances are set by regulation, and vary based on the county of residence, household size, and type of home heating fuel, and were last amended over a decade ago.[50] For instance, a household of three in Westchester that pays for natural gas heat is provided with an allowance of $56 per month.

The shelter portion of the public assistance grant, called the "shelter allowance" or "rent allowance," is set by regulation by OTDA and varies based on household size, whether there is a child in the household, and the county of residence.[51] For households with children, the shelter allowance does not vary depending on whether the households

receives Family Assistance or Safety Net Assistance, even though Family Assistance's statutory text clearly indicates that the allowance must be "adequate."[52] The maximum shelter allowance for households with children was set by regulation by OTDA in 2003 and has not been updated since, while HUD FMRs have doubled during that timeframe.[53] For an example of the shelter allowance maximums,[54] the chart below lists the shelter allowances for households with children in Albany County and Cortland County:

Figure 3: Shelter Allowances for Households With Children

Household Size	1	2	3	4	5	6
Albany County Shelter Allowance	$214	$219	$309	$348	$386	$404
Cortland County Shelter Allowance	$199	$231	$281	$317	$352	$384

The shelter allowance for households without minor children was last updated in 1988. HUD fair market rents have tripled since then.[55] In New York City, for instance, the shelter allowance for a single individual is $215. That is less than the cost of a 52 square foot storage unit at Manhattan Mini Storage.[56] Figure 4 lists the shelter allowances for households without children in Albany County and Cortland County.

Figure 4: Shelter Allowances for Households Without Children

Household Size	1	2	3	4	5	6
Albany County Shelter Allowance	$184	$213	$245	$267	$289	$299
Cortland County Shelter Allowance	$199	$231	$265	$289	$313	$323

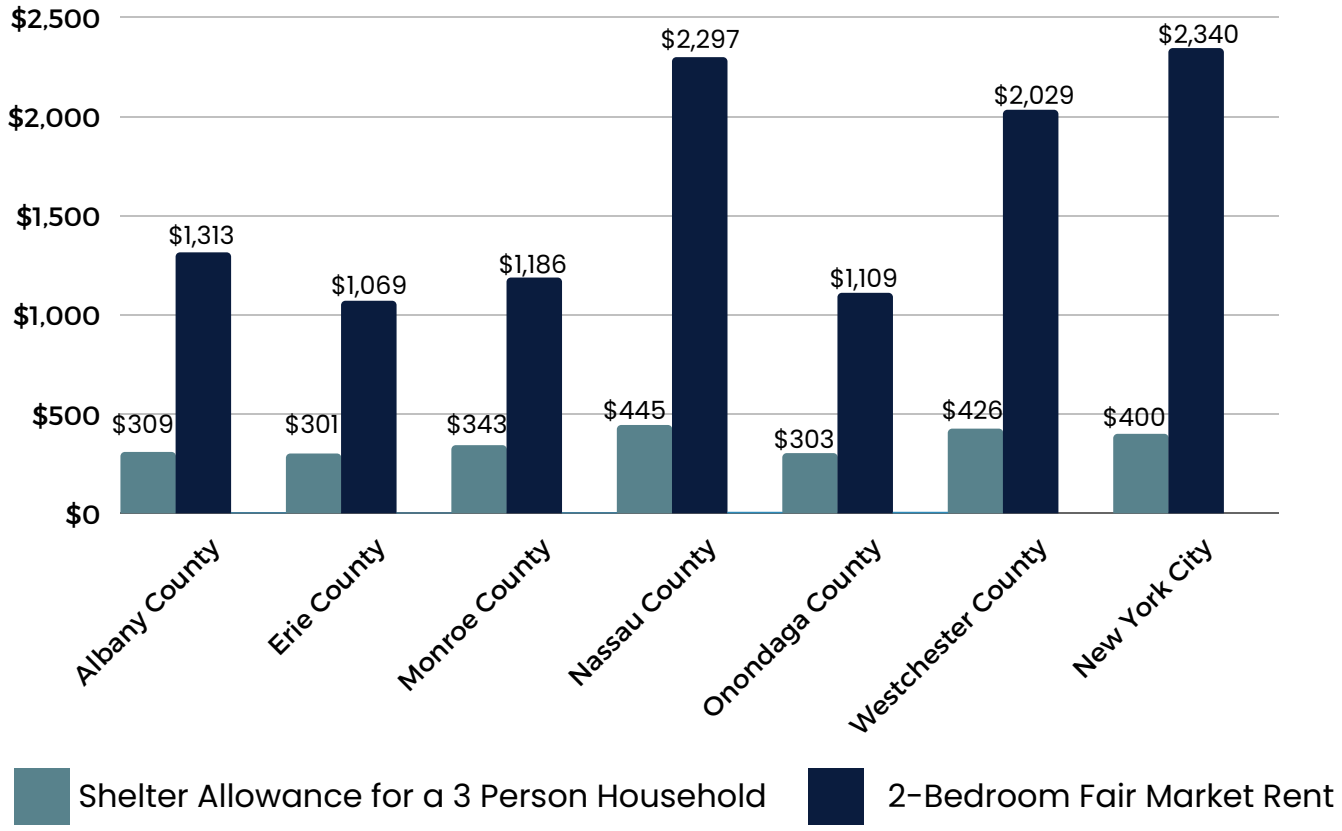
Adding together the basic needs, HEA and SHEA, and shelter allowance for a household with heat included in their rent, the total maximum monthly benefit amount – the amount that a household with no other income is eligible for – is incredibly low. The amount ranges from $362 for a single adult in lower-cost counties to a high of $836 for a family of three with children in Suffolk County. The maximum public assistance grants for every district are provided in Appendix II.

B. The shelter allowance falls dramatically short of the cost of rental housing in New York State

The shelter allowances are dramatically lower than the actual cost of decent housing in all counties across New York State. As a result, the shelter allowances are also dramatically lower than what Temporary Assistance recipients pay in rent, and as discussed in subsequent sections of this report, Temporary Assistance recipients are thereby put at risk of housing instability and homelessness.

As discussed earlier, the most reasonable measure of the cost of decent and habitable housing is the HUD FMR. Comparing the shelter allowance to the FMR, as seen in Figure 5, it is clear that the shelter allowance leaves tenants hundreds, if not thousands, of dollars short of being able to afford a habitable apartment. For a chart containing all counties, see Appendix I.

Figure 5: Shelter Allowances Are Insufficient to Afford Housing



As discussed in Section I, according to HUD's market analysis there are no units priced at or below the shelter allowance in the private market. HUD found that rents below $495 are either situated in federally subsidized housing, or they don't meet basic housing quality standards.[58] Yet, not one district offers a shelter allowance in excess of $495 for a household of three. Brianna Kirk, a case manager at Family Promise of WNY in Buffalo noted, "There are absolutely NO units available at or below the public assistance shelter allowance in Erie County [$301 for a family of three with children]. You can't even find a room to rent for that much at this point in the game."

> *"The [Temporary Assistance] rental grant is insufficient to pay for permanent housing." -Greene County Department of Social Services.*[57]

LIVING IN AN APARTMENT WITH 23 HOUSING CODE VIOLATIONS

Brittany is a single mom of five children and she cannot find an apartment she can afford that fits her and her family. One of the only apartments available in Monroe County to accommodate her whole family is an apartment that costs $1300 a month, which, with utilities in the winter, ends up costing her about $1800 a month. Her day-to-day living expenses are high due to being a single mother to five children, including one child with a disability.

Her household income is $925 in temporary assistance and about $900 in SSI benefits each month to provide for herself and her family. She is living in an apartment with 23 housing code violations that have caused her numerous health issues because she cannot afford to move into a home with better conditions. Each month, Brittany struggles to make ends meet, and is currently facing eviction due to her inability to afford her rent. If Brittany and her children get evicted, it is unlikely that they will find another apartment that is both affordable and safe for them.

Even if cash assistance recipients use their entire Temporary Assistance grant toward rent, including all the funds meant to cover their basic needs, they are still unlikely to find a unit at FMR or close to it. For example, the standard of need (i.e., the maximum grant for a household with no other income) for Albany County for a household of three with children is $698,[59] but that is still more than $600 short of the $1,313 needed to afford a two-bedroom apartment priced at the FMR.[60]

> *In every county in New York, Temporary Assistance grants are less than 45% of the federal poverty level, a level that the U.S. Census Bureau already defines as "deep poverty."[61] For instance, the 2023 federal poverty level for a family of three is $2,072, while the maximum Temporary Assistance grant for a family of three in Erie County is only $690 – just 33% of the poverty level.[62]*

Because there are no units in the private market priced at or below the shelter allowance, as evidenced by American Community Survey data used to calculate the HUD FMRs, Temporary Assistance recipients are inevitably paying more in rent than the shelter allowance, leaving them with little to nothing to meet their basic needs. Further, some households are set up for eviction because their rent is more than the entirety of their TA grant because they have no other options. Outside of New York City, on average, a family of three receiving TA in December 2022 paid $811.48 in rent for an unfurnished apartment, according to data received by Empire Justice Center through a Freedom of Information Law (FOIL) response from OTDA on June 30, 2023. In New York City, the average rent paid by single individuals receiving SNA for an unfurnished apartment was $943.76.

The shelter allowance alone is clearly not enough for Temporary Assistance recipients to access safe and habitable housing, and both OTDA and local districts are aware of this problem. OTDA has indicated that people experiencing homelessness cannot access housing with the shelter allowance alone.[63] Steuben County DSS noted that "the only housing that the lowest income households can afford is often considered substandard."[64] Ontario County cited the "inadequate shelter allowance for Temporary Assistance recipients" as one of the main reasons for homelessness in their community.[65] And in Tompkins County, the Department of Social Services noted that "for single individuals receiving [Temporary Assistance] of $400 per month," they can't even access federally subsidized tax credit properties because their incomes are too low.[66] In fact, according to FOIL data received by Empire Justice Center from OTDA on

June 30, 2023, this problem is not unique to Tompkins County – no Temporary Assistance recipients outside of New York City live in subsidized tax credit properties – Temporary Assistance recipients can't even afford "affordable" tax credit housing. Almost all local districts identify the inadequacy of Temporary Assistance and disability benefits and low wages compared to the high cost of housing as the main reasons for homelessness in their communities.[67]

C. Why is the shelter allowance so low? Was it always this inadequate?

The shelter allowance has changed significantly over the history of public assistance. Prior to 1969, the New York State legislature required public assistance grants to be individualized, "determined on the basis of a careful case consultation and evaluation of individual need."[68] Then, in 1969, the Legislature rejected individualized grants in favor of a flat grant based on schedules individually established by each social services district, subject to modifications at the discretion of local commissioners.[69] Almost all recipients received a shelter allowance that paid their full rent at that time.[70] In 1975, the Commissioner of the New York State Department of Social Services (NYSDSS, predecessor agency to OTDA) promulgated regulations setting a maximum shelter allowance for each social services district, using "statistical and qualitative analysis of a fair sampling of individual grants."[71] At that time, the shelter allowances were set to reflect the amount of rent paid by 95% of public assistance households.[72] It is not known if those rents reflected the cost of safe and habitable units, or if they were simply what the households could manage to find with their limited income.

Pursuant to SSL § 17(a) and § 131-a, the Commissioner of OTDA has the authority to promulgate regulations setting the shelter allowance.[73] Although the statute doesn't indicate the methodology to be used by the Commissioner, a basic tenet of administrative law is that regulations must not be "so lacking in reason . . . that they are essentially arbitrary."[74] Regulations for public assistance programs must not "undermine" the stated goals of the program,[75] including that they promote sufficient wellbeing to allow a person to become self-supporting.[76]

In 1988, when NYSDSS next amended its regulations to increase the shelter allowance, rather than set the allowance at fair market rents or the 95th percentile of rents paid by public assistance recipients, the Commissioner set the shelter allowance at the 65th percentile of rents paid by public assistance recipients. As a result, at that time, nearly 4 out of every 10 recipients paid rent in excess of their allowance.[77] By 1990, more than 50% of public assistance recipients were paying rent higher than their housing allowance.[78] The quality of this housing was often unsafe and uninhabitable.[79] Many households had no choice to double-up in overcrowded housing.[80] Many households also ended up at risk of eviction or experiencing homelessness.[81]

In 1990, the Court of Appeals held in *Jiggetts v. Grinker*[82] that the state's Commissioner of Social Services had a statutory duty under Aid to Dependent Children (the precursor to Family Assistance) to establish shelter allowances that bear a reasonable relation to the cost of housing,[83] and that "[a] schedule establishing assistance levels so low that it forces large numbers of families with dependent children into homelessness does not meet the statutory standard."[84]

The case was remanded to determine if the shelter allowance was indeed inadequate. In 1997, the *Jiggetts* trial court held that "the current shelter allowance does not bear a reasonable relationship to the cost of housing in New York City" and thus violated the law.[85] The court held that:

> [T]he Commissioner's failure to provide adequate shelter allowances through the years has resulted in families unable to find decent housing, living in seriously substandard housing, doubling-up or becoming homeless . . . , thus frustrating the Legislature's intent that families be kept together in a home-type setting.[86]

The trial court quoted the Court of Appeals, stating that regardless of legislative appropriations, the Commissioner must satisfy the statutory duty to set an adequate shelter allowance.[87] It is worthwhile to note that the *Jiggetts* trial court rejected various arguments made by OTDA. For instance, the Court rejected the Commissioner's proposal to increase the shelter allowance to the 70th percentile of rents paid.[88] The Court also rejected the Commissioner's argument that public assistance recipients are able to tap into their already low basic needs allowance to cover rent in excess of the shelter allowance.[89] Further, the Court found that doubling-up to reduce housing costs was not permissible under the law.[90] With that, the Court ordered the Commissioner to promulgate a lawful shelter allowance schedule based on actual housing costs.[91]

Finally, in 2003, OTDA amended the shelter allowance regulation for families with children, 18 NYCRR § 352.3(a), to increase the shelter allowance statewide. In the State Register notice of adoption for the 2003 shelter allowance rule, OTDA indicated that the allowances were set at a "minimal amount" that was "based on estimates by two leading experts of the amount necessary to rent units that meet the housing standards used in the federal Housing and Urban Development's (HUD's) Section 8 program," and were "derived by a careful and thorough analysis of recent and reliable data on housing and rents as well as the make-up and nature of the State's current assistance population."[92] However, the analyses of the "experts" were critically flawed. One expert report concluded rental assistance should be set at the minimum rent needed to obtain an apartment that "just meets" basic housing quality standards in the "least desirable units" located in the lowest-rent neighborhoods. In other words, it argued in favor of segregating low-income households in low opportunity areas, and it assumed that the least desirable and poorest quality (but still passable) units will be vacant and available. The analysis for a second expert report was flawed because it relied on out-of-date data from the 1990 census, inadequately substantiated econometrics, and failed to account for important variables like the effect of subsidized housing and substandard units on median rents. The allowances did not have a reasonable justification in 2003, and they have become more irrational and arbitrary over time.

In both the State Register notice of adoption and an Administrative Directive addressing the 2003 shelter allowances,[93] OTDA also stated that if TA recipients wanted to rent higher quality housing than what they could afford with the shelter allowance, the allowance's low value would serve as an incentive to work so they could rent better housing. OTDA did not explain how people exempt from work requirements due to medical issues, safety concerns related to domestic violence, and so forth, were supposed to manage on the inadequate allowance. Many recipients have no choice but to rely on Temporary Assistance alone to cover their housing costs.

At the same time the shelter allowances were modified in 2003, largely in response to *Jiggetts*, OTDA promulgated a regulation allowing local social services districts to provide supplements to the shelter allowance. The regulation permits use of supplements only pursuant to plans approved by OTDA if the district adequately articulates why special circumstances warrant providing assistance above the shelter allowance (e.g., to ameliorate homelessness in high-cost areas).[94] But according to the State Register notice, the shelter allowance alone was allegedly set at a minimal amount to keep families housed in habitable units. These supplements will be discussed in Section III.

It is important to note that the total irrationality of the shelter allowance and OTDA's failure to modify over the last twenty years likely does not satisfy the requirements of the State Administrative Procedure Act (SAPA). Pursuant to Section 207 of State Administrative Procedure Act (SAPA), OTDA is required to review its rules at least every five years.[95] At each review of its existing rules, it must provide an analysis of the need for and legal basis for its rules.[96] If it determines that a rule should continue without modification, it is legally required to set forth a reasoned justification for continuation of the rule without modification and an assessment of any public comments received.[97] The shelter allowance rule was subject to review pursuant to SAPA 207 in 2008 (finalized in 2009), 2013 (finalized in 2014), and 2018 (finalized in 2019), and is currently going through the rule review process now, in 2023. No reasoned justification was provided by OTDA for maintaining the shelter allowances when the rule was subject to review in 2008 and 2013. In January of 2019, in response to a public comment suggesting that OTDA "undertake a comprehensive evaluation of the cost of housing in each of the 58 social services districts" and adjust the shelter allowance accordingly, OTDA indicated that shelter allowances were "adequate to meet basic needs," and where necessary in districts that have "extraordinary housing situations," shelter supplement program could be proposed to OTDA. But in its response to that comment, OTDA provided no evidence to support its statement that shelter allowances are "adequate."[98]

The shelter allowance is currently under review once again pursuant to SAPA 207, and through a FOIL request, Empire Justice Center obtained copies of dozens of public comments from individuals and organizations across the State describing how the allowance's inadequacy is harming their communities and TA recipients. The final rules, with or without modification, along with an analysis of the public comments, are likely to be published in the State Register in January of 2024.

III. THE EMERGENCE OF NEW YORK'S "SUPPLEMENT PROGRAMS"

As detailed in Section II, the shelter allowance alone is inadequate for New Yorkers on public assistance to obtain safe and stable housing in the private rental market. Largely in response to *Jiggetts*, "shelter supplements" emerged to compensate for the low public assistance shelter allowance. More recently, with the rise in housing instability caused by the pandemic,[99] the legislature authorized spending to create "Rental Supplement" programs for households experiencing or at risk of homelessness. While the Shelter Supplement programs attempt to remedy the inadequacy of the shelter allowance and the Rental Supplement program attempts to prevent homelessness, neither comes close to solving the problem presented by the profound inadequacy of the shelter allowance.

A. Shelter Supplements

Shelter Supplements first arose out of litigation in several jurisdictions challenging the adequacy of shelter allowance. In *Jiggetts v. Grinker* (1997) in New York City,[100] *Golding v. Kaladjian* (1992) in Nassau,[101] *Sharp v. Perales (1991)*[102] and *Holmes v. Perales* (1991)[103] in Suffolk, and *Hedgepeth v. Wing* (2001)[104] in Westchester, courts consistently concluded that the shelter allowance was insufficient. In each instance, relief was given to recipients in these districts in the form of an additional "shelter supplement."

As noted previously, in 2003, OTDA amended 18 NYCRR § 352.3(a) to afford all social services districts the opportunity to offer rent supplements to families with children. The regulation allowed districts to submit plans to "provide additional monthly shelter supplements to public assistance applicants and recipients who will reside in private housing, or who currently reside in private housing and are facing eviction."[105] In 2009, the regulation was amended to include single individuals and childless couples.[106] Shelter Supplement Programs are at the option of the local district and are funded under the same scheme as Family Assistance (100% federal funding) and Safety Net Assistance (29% State, 71% local share).[107] Districts must submit their proposed plans for Shelter Supplements to OTDA, describing the justification for providing the supplement considering the length of temporary housing stays in the area, existing litigation challenging the shelter allowance, and other factors affecting the availability of

housing. In developing these plans, districts can determine which Temporary Assistance households to target (typically not all Temporary Assistance households are eligible) and the monetary amount of the supplements (which is permitted to vary for different groups).[108]

Currently, 21 districts offer Shelter Supplements for households receiving Temporary Assistance who are at risk for eviction pursuant to 18 NYCRR 352.3(a)(3).[109] Twenty-one districts have Shelter Supplements targeting individuals and childless couples, and five districts have supplements for families with children.

The amount of the Shelter Supplement and number of subsidies available varies drastically from county to county. For example, Rockland County's Shelter Supplement is $198 for an individual in a rooming house without food, while Dutchess County's Shelter Supplement is $608 for a one-bedroom apartment.[110] Together, the Shelter Supplement and shelter allowance are not sufficient to afford most habitable rental units in each district. The sums of shelter allowances and Shelter Supplements for each district range from 24% to 74% of the local FMR.[111] Statewide shortfalls between FMRs and Shelter Supplements can be found in Section III(C)(4) of this report.

B. Rental Supplements

To curb the rise in homelessness and housing instability during the COVID-19 public health emergency and thereafter, New York State has appropriated $100,000,000 to fund the New York State Rental Supplement Program every year since 2021.[112] The Rental Supplement Program provides supplements, at local option, for low-income individuals and families, regardless of immigration status, who are experiencing homelessness or facing imminent loss of housing.[113] At least half of the Rental Supplements in each district are to be allocated to households currently in shelter or experiencing homelessness unless there is insufficient demand, allowing more assistance to shift to households at imminent risk of losing their housing.[114] The amount of the supplement is not to exceed 100% of the area fair market rent, with the state covering up to 85% of fair market rent, and the household paying no more than 30% of its income toward its housing expenses. Beyond these requirements, each district opting into this program has wide discretion to select priority populations and other eligibility criteria.

The population targeted by the Rental Supplement Program both overlaps with and is distinct from the population targeted by the Shelter Supplement Program. Districts offering Rental Supplement Programs can opt to offer assistance to households receiving Temporary Assistance and to those that do not.[115] Districts can choose to

prioritize specific populations subject to OTDA approval and, theoretically, could restrict the supplements to non-Temporary Assistance households. For that reason, it is not clear that a significant number of Temporary Assistance households will benefit from the Rental Supplement Program.

Unlike Shelter Supplements, Rental Supplements are primarily funded by the State. At local option, a district can choose to cap the supplement value at 85% of FMR, and the state will pay the entirety of the supplement. Alternatively, the local district can choose to cap the supplement at up to 100% FMR, but the local district will be responsible for costs in excess of 85% FMR. This negligible financial impact on local districts is likely the main reason why only five counties have expressed a lack of interest in participating in the Rental Supplement Program.[116]

The administration of the Rental Supplement Program is distinctive. While Shelter Supplements are always administered by the local social services districts, Rental Supplements may be, but it is not required.[117] According to an OTDA memorandum to local district commissioners, "[d]istricts may choose to retain their allocation and use district mechanisms (e.g., direct administration or transfer of funds to county agencies) to operate this program or may delegate the administration of this program, in full or in part, to another public agency, contractor or non-profit organization."[118] Currently, 23 districts have elected to delegate administration in full to local nonprofit entities.[119]

C. Shelter Supplements and Rental Supplements don't solve the problem presented by the inadequacy of the shelter allowance.

The Shelter Supplement and Rental Supplement Programs fail to remediate the inadequacy of the meager Temporary Assistance shelter allowance. As detailed in this section, they are not available uniformly across the state, are limited in availability, and often provide insufficient benefits to those who are able to access the supplements.

New York City's shelter supplements differ significantly from the Shelter Supplements and Rent Supplements available in the rest of the State and are not discussed in detail in this report. Programs in the City, like the Family Homelessness and Eviction Prevention Supplement (FHEPS), are more comprehensive, have greater availability, and better reflect the actual cost of housing.[120] FHEPS is set at 110% FMR and there are no caps on how many households can be served if they meet the eligibility criteria. Unfortunately, FHEPS requires households who are not facing domestic violence or health crisis to be in eviction proceedings to be eligible for the program, forcing them to be at extreme risk of homelessness before they can receive needed assistance.[121] Another program available only in the five boroughs, CityFHEPS, provides rent supplements up to 110% FMR to eligible households, and receipt of Temporary Assistance is not required.[122] Because the programs available in the City are so distinct from the programs available in the rest of the state, they are not addressed further in this report.

1. Temporary Assistance recipients in some districts are shut out of supplement programs because their counties have opted not to participate or OTDA has not approved proposed plans.

As previously mentioned, Shelter and Rental Supplements are offered at the option of the districts, pursuant to plans that must be submitted to OTDA for review and approval.[123] As a result, records received by Empire Justice Center indicate that several districts are not currently offering Shelter Supplements and Rental Supplements whatsoever.

As of April 25, 2023, 21 out of New York's 57 districts (excluding New York City) have approved Shelter Supplement plans.[124] Of those, only five offer Shelter Supplement Programs to families with children.[125] Three of these counties (Nassau, Suffolk, and Westchester) had previously faced lawsuits that led to their implementation of Shelter Supplement programs.[126] It is not clear that all 21 plans are currently active. For example, Schenectady County has a Shelter Supplement plan that was approved in 2016, yet the county reported that no shelter supplement payments were made in 2022.[127] There are no public records documenting how many plans were submitted to OTDA by local districts that were denied or simply never approved.

Budget testimony of Sheila Harrigan, former Executive Director of the New York Public Welfare Association (representing New York's local social services districts), on February 2, 2022: "proposals have been denied or held indefinitely without approval. When approved, [the Shelter Supplement plan] has typically been narrowed to a tiny segment of the population." [128]

Rental Supplement plans are significantly more widespread, but actual payments to people in need are not. The program was launched in December 2021, but OTDA did not approve districts' Rental Supplement plans for months. Only 13 plans had been approved by May 2022, and as of November 7, 2022, some districts were still awaiting approval.[129] Finally, by April 25, 2023, 52 districts outside of New York City had approved Rental Supplement plans.[130] Only five districts did not submit a plan to OTDA for approval (Cayuga, Hamilton, Orleans, Wayne, Essex).[131] Once approved by OTDA, some districts still took months to start their programs. As of September 30, 2022, only 19 districts were accepting applications and only 16 districts[132] had reported any spending during any financial quarter of their program.[133] Statewide, as of the end of December 2022, only 893 applications for Rental Supplements had been approved despite the program's $100 million annual budget.[134] Of those 893 approved applications, less than half of the approved households received Temporary Assistance at the time of application.[135] To date, it is clear that the program has not benefitted the vast majority of TA recipients.

In 2022, only 419 households receiving Temporary Assistance received benefits through the Rental Supplement Program.

2. Many Temporary Assistance recipients will be ineligible for supplements due to restrictive eligibility criteria.

In the 52 districts outside of New York City that have approved Rental Supplement and/or Shelter Supplement plans, eligibility for subsidies is limited both by statutory and regulatory restrictions and pursuant to limitations set out in the county's plan for the program, as approved by OTDA. These eligibility restrictions can place significant limits on the ability of households receiving Temporary Assistance to access much-needed rental assistance.

Shelter Supplement plans may limit eligibility based on their definitions of homelessness and imminent risk of homelessness. For example, Ulster County's Shelter Supplement plan is only available to Safety Net recipients without children who are "homeless, living in motels, domestic violence shelter or temporary housing."[136] Plans that cover households at risk of homelessness rather than limiting supplements to households already experiencing homelessness require a verifiable threat of eviction, like an eviction notice from their landlord or an eviction complaint filed in court.[137] By that time, many landlords will have lost their willingness to work with a tenant who has fallen so far into arrears.

Some districts impose restrictions on where a Temporary Assistance household can live in order to receive a Shelter Supplement. Both Rockland and Suffolk Counties only provide Shelter Supplements to individuals and couples living in a rooming house (Rockland and Suffolk) or in a furnished room with kitchen privileges (Suffolk).[138] It is likely that the basis for this restriction is because the shelter allowance and supplement combined are still too meager for a household to be able to afford so much as an efficiency apartment.

3. Most counties have insufficient funds to meet the level of need.

In counties offering supplements, even within the scope of their limited eligibility criteria as described in the preceding section, it is likely that most districts do not have sufficient funds to meet the level of need.

Some districts' Shelter Supplement plans place a cap on the number of households that can receive a Shelter Supplement, while other plans will, by necessity, limit the number of households offered assistance due to limited funding. For instance, in Schenectady County, there were over 400 households without children receiving Safety Net Assistance as of December 2022,[139] but the county's plan provides that the

County shall offer no more than 25 Shelter Supplements at a time (with priority to those individuals with pending SSI applications).[140] In Monroe County, where around 4,000 families received Temporary Assistance in December 2022,[141] a maximum of 125 families with children[142] can receive a Shelter Supplement at any given time. As documented in Appendix VI, in most districts, far fewer households are receiving assistance than the maximums identified in their plans. In December 2022, for instance, Schenectady served zero households with no children and Monroe served only three households with children.

The Rental Supplements, similarly, are limited by the amount of funding allocated to each district by OTDA. The $100 million allocated to the program has been subdivided by OTDA among the 58 social services districts, with New York City receiving 68% of the funds.[143] In most districts, the allocation for the Rental Supplement Program is not sufficient to assist all households experiencing literal homelessness (i.e., in a shelter, on the streets, or in a place unfit for human habitation), much less aid those at risk of homelessness, like many of the households receiving Temporary Assistance.

Figure 6 demonstrates the limited availability of Rental and Shelter Supplements compared to the number of households on Temporary Assistance. In this chart, the second column shows the number of approved rental supplement applications for TA households as of December 2022, as reported by districts in quarterly Rental Supplement reports to OTDA. The third column shows the number of households whose landlords were issued Shelter Supplement payments in December 2022, according to public records received from OTDA. The number of households on Temporary Assistance (TA) in the fourth column reflects the number of households on TA in each county in December 2022 according to OTDA's caseload statistics. The fifth column is the percent of supplements made available as compared to the total number of households receiving TA, i.e., the sum of columns two and three divided by the number of TA households in the fourth column.

Figure 6: Supplements Are Insufficient to Meet the Level of Need

County	# of Approved Rental Supplement Applications for Households on TA as of Dec. 2022 [144]	# of Active Shelter Supplements in Dec. 2022[145]	# of Households on TA [146]	% of Supplements Distributed Compared to Households on TA
Albany	20		1,585	1%
Allegany	0		262	0%
Broome	2		2,269	0%
Cattaraugus	55		862	6%
Chautauqua	87		1,869	5%
Chemung	n/a		760	0%
Chenango	6		315	2%
Clinton	0	35	688	5%
Columbia	1	6	340	2%
Cortland	1		425	0%
Delaware	5		175	3%
Dutchess	n/a	23	812	3%
Erie	0		8,579	0%
Franklin	7		389	2%
Fulton	6		280	2%
Genesee	1		239	0%
Greene	0	0	191	0%
Herkimer	0		368	0%
Jefferson	12	63	775	10%
Lewis	1	0	65	2%
Livingston	n/a		376	0%
Madison	1	5	214	3%
Monroe	0	3	6,934	0%
Montgomery	n/a		299	0%
Nassau	0	206	3,224	6%
Niagara	90		1,429	6%
Oneida	37		2,229	2%
Onondaga	22		4,634	0%
Ontario	0	16	689	2%
Orange	3	36	1,517	3%
Oswego	9		1,118	1%
Otsego	0	9	179	5%
Putnam	1		64	2%
Rensselaer	0		763	0%
Rockland	1	16	629	3%
St. Lawrence	2		686	0%

Saratoga	1		345	0%
Schenectady	0	0	1,199	0%
Schoharie	0	3	129	2%
Schuyler	0		105	0%
Seneca	0		222	0%
Steuben	8		730	1%
Suffolk	0	547	5,268	10%
Sullivan	0	25	461	5%
Tioga	4		233	2%
Tompkins	6		685	1%
Ulster	0	0	888	0%
Warren	12		255	5%
Washington	5	1	367	2%
Westchester	12	569	4,419	13%
Wyoming	0		154	0%
Yates	1	4	133	4%

As this chart shows, there are not nearly enough supplements to assist all recipients of Temporary Assistance who need them. In districts that offer at least one supplement program, supplements are typically assisting less than 5% of Temporary Assistance households. Supplement programs are not able to bridge the gap left by an inadequate shelter allowance when they serve so few Temporary Assistance recipients.

4. For those who do get supplements, the amount is likely to be insufficient to obtain decent housing.

Even when a household qualifies for a supplement, often the amount is *still* insufficient to rent a safe and decent unit because the supplements are set below the FMR in most jurisdictions.

For the five districts that offer Shelter Supplements for families with children, below is a comparison of the Shelter Supplement and the shelter allowance combined for a household of three with at least one child versus the fair market rent for a two-bedroom apartment.

Figure 7: Shelter Supplements Fail to Close the Affordability Gap for Households with Children

County	Shelter Allowance for Household of 3 with Children	Shelter Supplement	Shelter Maximum (Allowance + Supplement)	HUD 2023 FMR for 2-Bdrm	Shortfall
Monroe	$343	$182	$525	$1,186	$661
Nassau	$445	$779	$1,224	$2,297	$1,073
Orange	$421	$421	$842	$1,583	$741
Suffolk	$447	$671	$1,118	$2,297	$1,179
Westchester	$426	$639	$1,065	$2,029	$964

For the twenty-one districts that offer plans for singles and childless couples, Figure 8 is a comparison of the Shelter Supplement and the shelter allowance combined for a single-person household versus the fair market rent for an efficiency apartment.

Figure 8: Shelter Supplements Fail to Close the Affordability Gap for Households Without Children

County	Shelter Allowance	Shelter Supplement	Shelter Maximum (Allowance + Supplement)	HUD 2023 FMR for Efficiency	Shortfall
Clinton	$156	$250	$406	$774	$498
Columbia	$191	$320	$511	$913	$ 402
Dutchess	$216	$608	$824	$1,126	$302
Greene	$197	$203	$400	$883	$483
Jefferson	$200	$325	$525	$816	$291
Lewis	$152	$301	$453	$685	$232
Madison	$199	$94	$293	$801	$508
Monroe	$257	n/a	n/a	$839	n/a
Nassau	$288	$275	$563	$1,536	$973
Ontario	$207	$350	$557	$839	$282
Orange	$229	$421	$650	$1,126	$476
Otsego	$200	$300	$500	$720	$220
Rockland	$302	$198	$500	$2,123	$1,623
Schenectady	$195	$215	$410	$968	$558
Schoharie	$199	$301	$500	$968	$468
Suffolk	$309	$316	$625	$1,536	$911
Sullivan	$211	$232	$443	$698	$255
Ulster	$263	$304	$567	$1089	$522
Washington	$199	$301	$500	$790	$290
Westchester	$271	$406.50	$678	$1,669	$991
Yates	$181	$312	$493	$667	$174

By contrast, the Rental Supplement Program covers up to 100% of FMR,[147] with OTDA reimbursing up to 85% of FMR to the districts.[148] However, most districts have declined to put in their own funding to allow participants to rent units up to 100% FMR, and it is unclear how many units are actually available and meet housing quality standards when rent is capped at 85% of FMR. In Dutchess County, for instance, the 2023 two-bedroom FMR is $1,583, and 85% of that is $1,346. There are 935 households receiving Temporary Assistance and an estimated 50 Rental Supplements available. The County's detailed 2021 Rental Housing Survey Report showed that there was only one market rate unit vacancy in an apartment complex priced at $1,346 or less, and 11 apartments in affordable housing developments (which likely had lengthy waiting lists and would not be readily available to those experiencing or at imminent risk of homelessness).[149] Even at 85% of FMR, it is likely that households will have difficulty securing a rental unit.

5. There are due process issues with the current Shelter and Rental Supplement scheme.

Under SSL § 22(3), recipients of Temporary Assistance are entitled to appeal the decision of a local social services district to OTDA.[150] The regulations and administrative guidance on Shelter Supplements do not clearly indicate that recipients have the right to appeal termination, denial, or other adverse actions. Further, nothing in the Shelter Supplement plans themselves require notice to be given prior to the termination of a supplement.

For Rental Supplements, OTDA outlines the notice requirements in its plan proposal template.[151] The template states:

> When households requesting a supplement do not meet the criteria established by the district, the denial/discontinuance letter must support the decision by explaining the criteria and the district's decision that the household does not meet such criteria. When a supplement is approved, an award letter must be provided to both the tenant and landlord and must detail the amount approved to be paid on a monthly basis and the months/term included.[152]

Nonetheless, few districts indicated that there is an opportunity to appeal termination of the Rental Supplement in their denial/discontinuance letters provided with their supplement proposals to OTDA.[153] The districts that offer a way to contest a termination do not indicate that recipients are able to request a fair hearing; rather, the notices instruct the recipient to call the local district, contact the non-profit contracted to distribute Rental Supplements, or, at best, they can partake in an organized "phone conference."[154] Most districts do nothing more than assert that the client should reapply if they think there has been a mistake.[155] In Orange County, the sample notice provided with their Rental Supplement plan specifically indicates that the recipient cannot request a fair hearing.[156]

6. There are additional problems with Shelter and Rental Supplements including durational limits, restrictions on moves, residency restrictions and marriage requirements.

A number of other restrictions on Shelter Supplements and Rental Supplements limit their ability to provide the sort of assistance needed by households on Temporary Assistance:

- **Durational Limits.** Some districts offering Shelter Supplements limit them to a set term, regardless of ongoing need. For example, in Monroe County, shelter supplements for families with children are capped at twelve months, with no exceptions, even if a family is exempt from work requirements and is unable to access additional income to help meet their shelter expenses.[157] Similarly, some counties have set durational limits on Rental Supplements. For instance, Steuben County forces recipients to reapply after 12 months.[158]

- **Restrictions on Moves.** Several Shelter Supplement and Rental Supplement plans restrict moving, even if the tenant is attempting to move to an area closer to their job or their child's school. Some plans bar moving unless there is a health and safety issue with the current apartment or another issue beyond the household's control. Some plans terminate the supplement if the household chooses to move, while other plans call only for a reassessment of the household's eligibility.[159] Others require notification and approval ranging anywhere from ten to thirty days ahead of time.[160]

- **Durational Residency Restrictions.** A number of Shelter Supplement plans impose a durational residency requirement as a condition of eligibility for a Shelter Supplement. This is particularly troublesome because durational residency requirements are unconstitutional, violating the right to travel.[161] Appendix IV summarizes the Shelter Supplement residency requirements in the counties where they exist.

- **Marriage Restrictions.** At least two Shelter Supplement plans require childless couples to be legally married in order to access Shelter Supplements as a household. Both Otsego and Suffolk counties specify that their programs are only available to "single individuals or legally married childless couples."[162] In its Shelter Supplement plan, Suffolk County states that "we will not allow the shelter supplements to be used for shared housing."[163] Unmarried Safety Net Assistance couples are thus arbitrarily and irrationally excluded from the program.

Shelter Supplements and Rental Supplements provide some level of additional assistance to the few households lucky enough to receive the supplements. But they do not do enough to close the gap between the shelter allowance and the actual cost of housing in New York. Further, most Temporary Assistance households do not have supplements because supplements are inadequately funded and eligibility criteria are restrictive, and there are significant problems with the ways some districts are administering their programs. The supplements available today are not enough to alleviate the extreme housing instability New Yorkers receiving Temporary Assistance face.

IV. PUBLIC ASSISTANCE HOUSEHOLDS FACE SIGNIFICANT HOUSING INSTABILITY BECAUSE THE SHELTER ALLOWANCE AND SUPPLEMENTS ARE INADEQUATE

Because safe and habitable units are unaffordable for public assistance households and because supplements are often unavailable or insufficient, many public assistance households will face significant housing instability. They are likely to be cost-burdened, be doubled up, be in substandard units, or experience homelessness, and then suffer the effects of that housing instability, including poor health outcomes. Further, because a disproportionate number of Temporary Assistance recipients are BIPOC, these consequences most heavily burden racial groups that have suffered and continue to experience housing discrimination and poorer health outcomes overall.

A. Cost-burdened Temporary Assistance recipients are less able to attend to their basic needs and are at risk of experiencing homelessness.

Tenants receiving public assistance simply cannot afford the rent. Households are considered cost-burdened if they spend more than 30% of their income toward their rent.[164] They are considered severely cost-burdened if they pay more than 50% of their income toward rent.[165] In New York, 72.5% of tenants with incomes less than $15,000 (which includes households receiving public assistance) are severely cost-burdened.[166]

Because there are no rental units in the private market at the shelter allowance's price point, Temporary Assistance recipients will often use most or all of the remainder of their Temporary Assistance grant to pay for rent. As noted earlier in this report, outside of New York City, a family of three receiving TA in December 2022 paid an average of $811.48 in rent for an unfurnished apartment – more than the standard of need in many districts. Unless recipients have some other source of income, they are regularly left with little to nothing to meet their basic needs because they have no choice but to tap into the remainder of their TA grant as they attempt to maintain their homes. Cost-burdened tenants like TA recipients are always at risk of not having enough money to pay for other necessities of life, "such as food, clothing, and transportation"[167] and will often postpone or forgo healthcare services.[168] Cost-burdened tenants experience higher rates of stress, depression, and asthma.[169] And for those with jobs, cost-burdened tenants are more likely to make mistakes due to their preoccupation with their unstable housing situation, or they have to miss work to engage in housing searches, increasing absenteeism.[170]

"High housing costs can lead the working and disabled poor to homelessness or to forgo other basic needs like food, transportation or medical care."[171]
-Westchester Department of Social Services

Through the rulemaking and rule review processes for the shelter allowances currently in effect, OTDA has indicated that the agency believes the shelter allowances are adequate on their own, even for households with no other income or resources, but that a large proportion of recipients have other resources to contribute to their housing costs. In reality, most Temporary Assistance households have no other income to contribute to their shelter costs. Of households without children receiving Safety Net Assistance, 50.8% are exempt from work requirements because they are unable to work or are caring for a disabled household member and are therefore unable to bring in earned income.[172] And 78.8% of Family Assistance households do not receive any other income outside of Family Assistance.[173] Temporary Assistance recipients with other income (wages, unearned income, or child support) are likely to become ineligible for cash assistance altogether (because the standard of need is so low) before the combination of their shelter allowance and their income is enough to be able to afford a reasonably priced apartment.

Severely cost-burdened renters receiving Temporary Assistance recipients are never able to save for the future. So, with one setback, or just because they are never able to keep up, they may end up subject to eviction proceedings. One in three rent-burdened New Yorkers fall behind on rent at least once in an average year.[174] They are regularly on the brink of eviction and homelessness. More than half of New Yorkers who were evicted or involuntarily forced from their homes were rent-burdened.[175]

Attorney Lily Sarkisian of the Legal Aid Society of Rochester (pictured right) noted that "it's very easy for tenants to fall behind on rent" and that the lowest income tenants "have virtually no leverage." She reports that "the best we can do is triage" in eviction court.

There's simply no way to save the tenancy of a Temporary Assistance recipient – their incomes are just too low.

NO HEAT, COCKROACHES

Maria is a domestic violence survivor who currently lives in a rooming house for $430 per month. She receives $440 per month in public assistance, $430 of which goes directly to her landlord. There is no heat in Maria's room, so it was brutally cold during the winter, especially at night. But the cold never deterred the cockroaches – Maria reports that she sees around 100 of them every day.

Despite the horrible living conditions of her current room, Maria cannot move out because she cannot find another place to live that she can afford. She can't even afford to pay the application fees for other apartments. Maria has only $10 a month to buy hygiene products, pay for transportation, and afford everything else she needs to survive. It's just not enough.

Even though her rent is vendored directly to her landlord, Maria is currently being evicted. When we asked Maria where she would go if she were evicted, she said that she would either end up in a homeless shelter or go back to her abuser.

In December 2022, according to data received by Empire Justice Center from OTDA in response to a FOIL request, at least 17.6% of Temporary Assistance recipients were experiencing homelessness. That does not include households who were doubled-up in the home of a friend of family member – 17.6% were experiencing homelessness in the form of living in temporary housing in hotels or motels, living in shelters, or were otherwise undomiciled. That rate is dramatically higher than the homelessness rate of the population of New York as a whole: 0.4%.[176] The average monthly cost, statewide, to place a TA recipient household in temporary housing in a hotel or motel was $3,341.21 – far higher than fair market rents for apartments. In New York City, 27% of the single adult recipients of Safety Net Assistance were experiencing homelessness in December 2022. Although that rate of homelessness is horrific, it cannot be a shock – the shelter allowance for a single adult in New York City is only $215. And for the thousands of single adult SNA recipients experiencing homelessness in New York City in December 2022 placed in temporary housing in hotels or motels, the average cost was $2,582.83 for just one month. For a family of three on FA, temporary housing in a hotel or motel cost an average of $5,222.74 statewide.

If a Temporary Assistance recipient is evicted or otherwise becomes homeless, it is nearly impossible for them to obtain new housing, despite the existence of the Shelter Supplement and Rent Supplement programs. In their Homeless Service Plans, numerous local departments of social services specifically cited low Temporary Assistance grants as a reason for homelessness in their communities, and almost all districts indicated that insufficient affordable housing compared to incomes was a primary driver of homelessness. Brianna Kirk, a case manager at Family Promise WNY, reports that families are often stuck in the shelter system for months because they have a hard time finding permanent housing if they are relying on Temporary Assistance alone. Heather Campbell, former Director of the Advocacy Center, a program serving domestic violence and sexual assault survivors in Tompkins County, reported that if a client is "only on Temporary Assistance, there is almost zero chance of finding a unit in Tompkins County." She said that some women have almost gone back to their abusers, "not because they were emotionally connected to the abuser, but because they had no hope of being able to find stable housing with Temporary Assistance alone."

B. Temporary Assistance recipients are more likely to rent substandard housing because they cannot afford habitable units.

Housing should be both affordable and healthy. Safe, decent, and sanitary housing is necessary to prevent poor health outcomes like asthma and lead poisoning, and to prevent injuries.[177] As noted previously, in calculating the FMR, HUD excludes two-bedroom units priced below $495 per month in every jurisdiction in the State because they are either in subsidized housing or they are so likely to be substandard. Yet the TA shelter allowance for a household of 3 is below $495 in every district. Because the shelter allowance and supplements fall so far below FMR, it is likely that housing in substandard condition is often the only housing that Temporary Assistance recipients can afford.[178]

Empire Justice Center has not been able to access records documenting the prevalence of TA recipients residing in substandard housing. But several reported cases provide support beyond anecdotes from clients and advocates in the field. For example, between 2016 and 2019, a Syracuse landlord collected $998,000 in public assistance payments directly from the Onondaga Department of Social Services while letting 200 code violations go unremedied, including broken windows and peeling paint.[179] Similarly, the Attorney General recently won a $5.1 million lawsuit against a Buffalo-area landlord who rented low-cost units in predominantly low-income communities of color that failed to comply with city, state, and federal laws by failing to address lead paint-related hazards.[180] Dozens of children at the properties were poisoned by lead, and, as a result, may suffer lifelong adverse health effects.[181]

Collapsed ceiling of an apartment rented by an Empire Justice client

COLLAPSED CEILING, MOLD

Ariana pays $750 per month for her three-bedroom apartment. That's more than the shelter allowance, but it was the cheapest thing she could find. Her ceiling collapsed due to water intrusion. (Image above.) The pieces of ceiling that fell to the floor showed significant mold development. Ariana stated: "In Monroe County, if you are trying to rent an apartment for less than $900 a month, this is the only quality of apartment that you will be able to afford."

> *"Tenants with Temporary Assistance and other income-based subsidies are finding it increasingly difficult to find a dignified home in the constantly shrinking and dangerously costly rental market. In turn, the greatest beneficiary of these paltry "benefits" are the slumlords that are directly engaged in degrading our communities."*
>
> *-Canyon Ryan, Executive Director of United Tenants of Albany*

The lowest income tenants are likely to face a range of health hazards in their homes.[182] Poor indoor air quality and mold are associated with respiratory illness, headaches, fever, nausea, and vomiting.[183] Over 20% of asthma cases can be attributed to damp or moldy conditions in the home.[184] Cockroaches and mice can also trigger asthma, along with allergies.[185] Bedbugs can cause sleep disorders and severe anxiety.[186] For children, the impacts can be severe. They may experience poor health and educational outcomes as a result of substandard housing that can have a lasting impact into their adulthood.[187]

C. Temporary Assistance households often cannot afford to rent in the private market, so they may double-up in overcrowded housing.

It is extremely likely that many households receiving Temporary Assistance are living in overcrowded conditions, but data is not readily available. A 2022 report found that New York State had high rates of doubling up, extending beyond areas where sheltered and unsheltered homelessness tend to be higher.[188] Looking to data collected pursuant to the McKinney-Vento Homeless Assistance Act (McKinney-Vento), which tracks the number of children "who are sharing the housing of others due to loss of housing, economic hardship, or other similar reason,"[189] most New York jurisdictions show that twice as many children are doubled-up with others as are in shelters or other temporary housing.[190]

People living in overcrowded housing are more likely to experience adverse mental health effects and poor sleep.[191] Children in overcrowded housing have demonstrated less of an ability to cope with stress,[192] poor social relationships,[193] and bad sleep.[194] Overcrowded housing also increases the risk of childhood injuries,[195] respiratory conditions,[196] and exposure to infectious diseases.[197] Part of the reason for such poor outcomes is because when low income households double up with relatives of friends, the people that they are relying on for housing are often not much better off financially than they are.[198]

When OTDA last amended the shelter allowances in 2003, it noted in the State Register that TA recipients often share housing with others. However, rather than acknowledge the harms caused when households double-up in overcrowded or unsafe housing because they cannot afford an apartment on their own, OTDA used doubling up as part of its justification for setting such profoundly low shelter allowances.

D. The Inadequacy of the Shelter Allowance and the Harm It Causes Disproportionately Affects BIPOC New Yorkers

All Temporary Assistance recipients are harmed by the inadequacy of the shelter allowance, as described above. But as a result of systemic and longstanding patterns of employment discrimination, economic disinvestment, disproportionate (and purposeful) exclusion from a variety of entitlement programs, and patterns of segregation in low opportunity areas,[199] as of 2021, FOIL data obtained from OTDA indicates that 83.4% of Temporary Assistance recipients in New York are BIPOC.

To further New York's commitment to racial equity, the harm of the low shelter allowance must be addressed. Entities receiving federal funding, including OTDA, are required to take proactive steps to address patters on segregation, discrimination, and disinvestment as part of their obligation to affirmatively further fair housing.[200] That goal would be furthered by ensuring that all Temporary Assistance recipients can access quality housing in high opportunity areas with a shelter allowance and supplements increased to 100% of HUD fair market rents or the housing payment standard for their jurisdiction.

CONCLUSIONS AND RECOMMENDATIONS

The shelter allowance and supplements are insufficient to meet the high housing costs in New York State. And the housing instability suffered by Temporary Assistance recipients as a result of this inadequacy is likely to lead to adverse health, educational, and social outcomes. The lowest-income New Yorkers are owed more by their government.

In New York State, thanks to a unique constitutional directive to care for the needy, the government has an affirmative duty to protect the health and welfare of the State's residents. That obligation is set forth in Section 1 of Article XVII of our Constitution:

> The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.[201]

Our state's highest court, the New York Court of Appeals, looked to Article XVII and held that aid to the needy is "not a matter of legislative grace; rather, it is specifically mandated by our Constitution."[202]

Temporary Assistance must better meet the needs of those who depend on it. Currently, the shelter allowance is inadequate, and Shelter Supplements and Rental Supplements fail to bridge the gap. The shelter allowance should reflect the reality of housing costs and keep current with inflation in the ever-changing housing market. Otherwise, recipients will continue to be doomed to experience severe housing instability and its consequences, further entrenching inequities by negatively impacting the long-term economic prospects of households that have been historically marginalized.[203]

> *An increase in the shelter allowance, which has been woefully flat for a very long time - for literally decades - would provide an immediate boost to support families across the state who are currently receiving public assistance."*
> *-Former Commissioner of OTDA, Daniel W. Tietz*[204]

There are several actions that the State should take to address the inadequacy of the public assistance shelter allowance and reduce deep poverty and housing instability:

1. New York State should allocate sufficient funding to allow OTDA to provide adequate assistance for housing costs to all public assistance recipients by increasing the shelter allowance to 100% of HUD fair market rent or the payment standard of the local Public Housing Authority while ensuring that other federal and state benefits are not adversely affected. Unless and until that goal is achieved, all public assistance households experiencing housing instability should be entitled to rent supplements at 100% of the HUD fair market rent or the payment standard of the local Public Housing Authority.

2. Rent supplement programs should not have time limits, must not include illegal restrictions based on residency or marriage, and should allow for portability within counties or across counties. They should also provide basic due process protections, including notice and a right to review adverse actions.

3. Low-income New Yorkers who are ineligible for public assistance should also be able to secure safe and affordable housing. Rent supplements should be available to all households experiencing or at risk of homelessness.

The shelter allowance and supplement programs are inadequate to achieve the goals of Temporary Assistance and meet the basic needs of the lowest-income New Yorkers. New York must immediately address these shortfalls to live up to our constitutional promise to our neighbors in need.

Appendix I:
Shelter Allowance Compared to HUD's 2023 Fair Market Rent

	Shelter Allowance for a 3 Person Household, with Children, Compared to HUD 2023 FMRs for a 2-Bedroom Rental Unit				Shelter Allowance for a 1 Person Household, no Children, Compared to HUD 2023 FMRs for a 1-Bedroom Rental Unit		
County	**Allowance**	**2-BR FMR**	**Shortfall**		**Allowance**	**1-BR FMR**	**Shortfall**
Albany	$309	$1,313	($1,004)		$184	$1,079	($895)
Allegany	$273	$826	($553)		$190	$669	($479)
Bronx	$400	$2,451	($2,051)		$215	$2,170	($1,955)
Broome	$290	$964	($674)		$218	$758	($540)
Cattaraugus	$269	$826	($557)		$179	$658	($479)
Cayuga	$290	$937	($647)		$179	$734	($555)
Chautauqua	$285	$826	($541)		$167	$657	($490)
Chemung	$283	$1,039	($756)		$197	$810	($613)
Chenango	$264	$829	($565)		$189	$696	($507)
Clinton	$275	$992	($717)		$156	$779	($623)
Columbia	$290	$1,107	($817)		$191	$952	($761)
Cortland	$281	$947	($666)		$199	$780	($581)
Delaware	$274	$826	($552)		$200	$723	($523)
Dutchess	$412	$1,583	($1,171)		$216	$1,233	($1,017)
Erie	$301	$1,069	($768)		$169	$908	($739)
Essex	$268	$934	($666)		$199	$822	($623)
Franklin	$259	$826	($567)		$161	$710	($549)
Fulton	$272	$962	($690)		$159	$739	($580)
Genesee	$294	$946	($652)		$202	$777	($575)
Greene	$281	$1,123	($842)		$197	$931	($734)
Hamilton	$267	$1,013	($746)		$159	$770	($611)
Herkimer	$275	$995	($720)		$173	$759	($586)
Jefferson	$276	$1,221	($945)		$200	$928	($728)
Kings	$400	$2,451	($2,051)		$215	$2,170	($1,955)
Lewis	$279	$899	($620)		$152	$692	($540)
Livingston	$307	$1,186	($879)		$187	$950	($763)
Madison	$304	$1,109	($805)		$199	$897	($698)
Monroe	$343	$1,186	($843)		$257	$950	($693)
Montgomery	$283	$889	($606)		$158	$751	($593)

Nassau	$445	$2,297	($1,852)		$288	$1,914	($1,626)
New York	$400	$2,451	($2,051)		$215	$2,170	($1,955)
Niagara	$294	$1,069	($775)		$174	$908	($734)
Oneida	$287	$955	($668)		$179	$759	($580)
Onondaga	$303	$1,109	($806)		$203	$897	($694)
Ontario	$308	$1,186	($878)		$207	$950	($743)
Orange	$421	$1,583	($1,162)		$229	$1,233	($1,004)
Orleans	$302	$1,186	($884)		$202	$950	($748)
Oswego	$300	$1,109	($809)		$183	$897	($714)
Otsego	$280	$990	($710)		$200	$827	($627)
Putnam	$441	$2,451	($2,010)		$237	$2,170	($1,933)
Queens	$400	$2,451	($2,051)		$215	$2,170	($1,955)
Rensselaer	$296	$1,313	($1,017)		$153	$1,079	($926)
Richmond	$400	$2,451	($2,051)		$215	$2,170	($1,955)
Rockland	$434	$2,451	($2,017)		$302	$2,170	($1,868)
Saratoga	$316	$1,313	($997)		$185	$1,079	($894)
Schenectady	$311	$1,313	($1,002)		$195	$1,079	($884)
Schoharie	$286	$1,313	($1,027)		$199	$1,079	($880)
Schuyler	$275	$900	($625)		$194	$703	($509)
Seneca	$288	$926	($638)		$204	$732	($528)
St. Lawrence	$281	$909	($628)		$182	$742	($560)
Steuben	$271	$844	($573)		$159	$714	($555)
Suffolk	$447	$2,297	($1,850)		$309	$1,914	($1,605)
Sullivan	$297	$1,008	($711)		$211	$838	($627)
Tioga	$285	$964	($679)		$201	$758	($557)
Tompkins	$317	$1,487	($1,170)		$217	$1,276	($1,059)
Ulster	$350	$1,498	($1,148)		$263	$1,155	($892)
Warren	$299	$1,119	($820)		$215	$896	($681)
Washington	$295	$1,119	($824)		$199	$896	($697)
Wayne	$302	$1,186	($884)		$207	$950	($743)
Westchester	$426	$2,029	($1,603)		$271	$1,669	($1,398)
Wyoming	$279	$826	($547)		$199	$628	($429)
Yates	$286	$997	($711)		$181	$757	($576)

Appendix II:

New York State's Public Assistance Grant Leaves Families Below 45% of the Federal Poverty Level in Every County

County	Maximum PA Grant for a 3 Person Household	2023 Poverty Level for a 3 Person Household	Maximum PA Grant as Percentage of Poverty
Albany County	$698	$2,072	34%
Allegany County	$662	$2,072	32%
Bronx County (NYC)	$789	$2,072	38%
Broome County	$679	$2,072	33%
Cattaraugus County	$658	$2,072	32%
Cayuga County	$679	$2,072	33%
Chautauqua County	$674	$2,072	33%
Chemung County	$672	$2,072	32%
Chenango County	$653	$2,072	32%
Clinton County	$664	$2,072	32%
Columbia County	$679	$2,072	33%
Cortland County	$670	$2,072	32%
Delaware County	$663	$2,072	32%
Dutchess County	$801	$2,072	39%
Erie County	$690	$2,072	33%
Essex County	$657	$2,072	32%
Franklin County	$648	$2,072	31%
Fulton County	$661	$2,072	32%
Genesee County	$670	$2,072	32%
Greene County	$670	$2,072	32%
Hamilton County	$656	$2,072	32%
Herkimer County	$664	$2,072	32%
Jefferson County	$665	$2,072	32%
Kings County (NYC)	$789	$2,072	38%
Lewis County	$668	$2,072	32%
Livingston County	$696	$2,072	34%
Madison County	$693	$2,072	33%
Monroe County	$732	$2,072	35%
Montgomery County	$672	$2,072	32%
Nassau County	$834	$2,072	40%
New York County (NYC)	$789	$2,072	38%
Niagara County	$683	$2,072	33%
Oneida County	$676	$2,072	33%

Onondaga County	$692	$2,072	33%
Ontario County	$697	$2,072	34%
Orange County	$810	$2,072	39%
Orleans County	$691	$2,072	33%
Oswego County	$689	$2,072	33%
Otsego County	$669	$2,072	32%
Putnam County	$830	$2,072	40%
Queens County (NYC)	$789	$2,072	38%
Rensselaer County	$685	$2,072	33%
Richmond County (NYC)	$789	$2,072	38%
Rockland County	$823	$2,072	40%
Saratoga County	$705	$2,072	34%
Schenectady County	$700	$2,072	34%
Schoharie County	$675	$2,072	33%
Schuyler County	$664	$2,072	32%
Seneca County	$677	$2,072	33%
St. Lawrence County	$670	$2,072	32%
Steuben County	$660	$2,072	32%
Suffolk County	$836	$2,072	40%
Sullivan County	$686	$2,072	33%
Tioga County	$674	$2,072	33%
Tompkins County	$706	$2,072	34%
Ulster County	$739	$2,072	36%
Warren County	$688	$2,072	33%
Washington County	$684	$2,072	33%
Wayne County	$691	$2,072	33%
Westchester County	$815	$2,072	39%
Wyoming County	$668	$2,072	32%
Yates County	$675	$2,072	33%

*Maximum grants do not reflect the addition of special allowances that are only allowed in limited circumstances.

Appendix III

Availability of Shelter Supplements and Rental Supplements Outside of New York City

County	Shelter Supplement Plan for Families with Children	Shelter Supplement Plan for Singles & Childless Couples	Rental Supplement Program Plan
Albany			Albany RSP
Allegany			Allegany RSP
Broome			Broome RSP
Cattaraugus			Cattaraugus RSP
Cayuga			Declined to participate
Chautauqua			Chautauqua RSP
Chemung			Chemung RSP
Chenango			Chenango RSP
Clinton		Clinton SSP	Clinton RSP
Columbia		Columbia SSP	Columbia RSP
Cortland			Cortland RSP
Delaware			Delaware RSP
Dutchess		Dutchess SSP	Dutchess RSP
Erie			Erie RSP
Essex			Declined to participate
Franklin			Franklin RSP
Fulton			Fulton RSP
Genesee			Genesee RSP
Greene		Greene SSP	Greene RSP
Hamilton			Declined to participate
Herkimer			Herkimer RSP
Jefferson		Jefferson SSP	Jefferson RSP
Lewis		Lewis SSP	Lewis RSP
Livingston			Livingston RSP
Madison		Madison SSP	Madison RSP
Monroe	Monroe SSP	Monroe SSP	Monroe RSP
Montgomery			Montgomery RSP
Nassau	Nassau SSP	Nassau SSP	Nassau RSP
Niagara			Niagara RSP

Oneida			Oneida RSP
Onondaga			Onondaga RSP
Ontario		Ontario SSP	Ontario RSP
Orange	Orange SSP	Orange SSP	Orange RSP
Orleans			Declined to participate
Oswego			Oswego RSP
Otsego		Otsego SSP	Otsego RSP
Putnam			Putnam RSP
Rensselaer			Rensselaer RSP
Rockland		Rockland SSP	Rockland RSP
Saratoga			Saratoga RSP
Schenectady		Schenectady SSP	Schenectady
Schoharie		Schoharie SSP	Schoharie RSP
Schuyler			Schuyler RSP
Seneca			Seneca RSP
St. Lawrence			St. Lawrence RSP
Steuben			Steuben RSP
Suffolk	Suffolk SSP	Suffolk SSP	Suffolk RSP
Sullivan		Sullivan SSP	Sullivan RSP
Tioga			Tioga RSP
Tompkins			Tompkins RSP
Ulster		Ulster SSP	Ulster
Warren			Warren RSP
Washington		Washington SSP	Washington RSP
Wayne			Declined to participate
Westchester	Westchester SSP	Westchester SSP	Westchester RSP
Wyoming			Wyoming RSP
Yates		Yates SSP	Yates RSP

(Last updated April 25, 2023)

For more information and to access individual supplement plans, scan the QR code below or visit: www.empirejustice.org/resources_post/standard-need-charts. Empire Justice will continue to update this page as we receive notice of additionally approved or modified plans.

Appendix IV

Shelter Supplement Plans and Residency Requirements

County	Plan for Families with Children	Residency Requirement	Plan for Singles & Childless Couples	Residency Requirements
Clinton			X	Must reside in county 3 months prior to application.
Jefferson			X	To retain housing, must have resided in residence for 3 months prior to application.
Madison			X	To retain housing, must have resided in residence for 6 months prior to application.
Orange	X		X	To retain housing, must have resided in residence for 6 months prior to application.
Suffolk	X		X	Must reside in county 6 months prior to application.
Sullivan			X	Must reside in county 6 months prior to application.
Washington			X	Recipients must corroborate residency in county for 6 months prior to being homeless/at risk of homelessness. In special circumstances, the county may exercise discretion in the required length of stay, including unforeseen and uncontrollable circumstances.
Westchester	X	Working TA family: Must have resided in apartment	X	Must reside in county 6 months prior to application.

		or shelter for 1 year prior to application. TA family in shelter: Must have resided in county for 1 year prior to application. Family including an adult with a disability: Must have resided in apartment or shelter for 1 year prior to application.		

This chart was developed using information from specific Shelter Supplement plans available at https://empirejustice.org/resources_post/standard-need-charts/.

Appendix V

Approved Rental Supplement Applications 2022

County	# of Applications Approved in 2022	# of Applications Denied	# of Approved Households Receiving TA at Application
Albany	28	8	20
Allegany	3	0	0
Broome	4	0	2
Cattaraugus	109	154	55
Chautauqua	170	154	87
Chemung	n/a	n/a	n/a
Chenango	19	47	6
Clinton	0	1	0
Columbia	2	0	1
Cortland	3	0	1
Delaware	22	9	5
Dutchess	n/a	n/a	n/a
Erie	0	0	0
Franklin	7	0	7
Fulton	7	0	6
Genesee	2	0	1
Greene	0	0	0
Herkimer	0	0	0
Jefferson	35	0	12
Lewis	1	0	1
Livingston	n/a	n/a	n/a
Madison	2	4	1
Monroe	0	22	0
Montgomery	n/a	n/a	n/a
Nassau	0	0	0
Niagara	106	111	90
Oneida	116	66	37
Onondaga	29	1	22
Ontario	0	1	0
Orange	32	2	3
Oswego	20	3	9
Otsego	4	0	0
Rensselaer	5	0	1
Putnam	0	0	0
Rockland	1	0	1
Saratoga	14	13	2
Schenectady	7	1	1

Schoharie	0	0	0
Schuyler	0	0	0
Seneca	0	0	0
St. Lawrence	0	0	0
Steuben	38	3	8
Suffolk	0	0	0
Sullivan	7	4	0
Tioga	29	40	4
Tompkins	20	24	6
Ulster	0	0	0
Warren	12	20	12
Washington	5	1	5
Westchester	22	13	12
Wyoming	3	2	0
Yates	9	17	1
Total	**893**	**721**	**419**

Appendix VI

Active Shelter Supplements in Dec. 2022

District	No Children in Household	Children in Household	Total
Albany	0	0	0
Allegany	0	0	0
Broome	0	0	0
Cattaraugus	0	0	0
Cayuga	0	0	0
Chautauqua	0	0	0
Chemung	0	0	0
Chenango	0	0	0
Clinton	34	1	35
Columbia	6	0	6
Cortland	0	0	0
Delaware	0	0	0
Dutchess	23	0	23
Erie	0	0	0
Essex	0	0	0
Franklin	0	0	0
Fulton	0	0	0
Genesee	0	0	0
Greene	0	0	0
Hamilton	0	0	0
Herkimer	0	0	0
Jefferson	63	0	63
Lewis	0	0	0
Livingston	0	0	0
Madison	5	0	5
Monroe	1	2	3
Montgomery	0	0	0
Nassau	80	126	206
Niagara	0	0	0
Oneida	0	0	0
Onondaga	0	0	0
Ontario	16	0	16
Orange	8	28	36
Orleans	0	0	0
Oswego	0	0	0
Otsego	9	0	9
Putnam	0	0	0
Rensselaer	0	0	0
Rockland	16	0	16
St. Lawrence	0	0	0
Saratoga	0	0	0
Schenectady	0	0	0

Schoharie	3	0	3
Schuyler	0	0	0
Seneca	0	0	0
Steuben	0	0	0
Suffolk	375	172	547
Sullivan	25	0	25
Tioga	0	0	0
Tompkins	0	0	0
Ulster	0	0	0
Warren	0	0	0
Washington	1	0	1
Wayne	0	0	0
Westchester	301	268	569
Wyoming	0	0	0
Yates	4	0	4
New York City	741	10,249	10,990
Total	**1,711**	**10,846**	**12,557**

NOTES

Documents obtained by Empire Justice Center through the Freedom of Information Law are available upon request by contacting Jessica Radbord at jradbord@empirejustice.org or Haley Kulakowski at hkulakowski@empirejustice.org.

[1] TJ Frederick et al., *How Stable is Stable? Defining and Measuring Housing Stability*, J. of Cmty. Psychology, vol 42(8) at 964-79 (2014).
[2] Child Poverty Reduction Advisory Council, Data Orientation (October 13, 2022), at minute 1:12, available at https://totalwebcasting.com/view/?func=VOFF&id=cprac&date=2022-10-13&seq=1.
[3] Ramona K.C. Finnie et al., *Tenant-Based Housing Voucher Programs: A Community Guide Systematic Review*, J. of Pub. Health Mgmt. & Practice, vol 28(6) at 795-803 (2022), available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9555591 /pdf/jpump-28-e795.pdf; US Dept. of Hous. & Urban Dev., *Family Options Study: 3-Year Impacts of Housing and Services Interventions for Homeless Families* (2016), available at https://www.huduser.gov/portal/sites/default/files/pdf/Family-Options-Study-Full-Report.pdf; Will Fischer et al., Ctr. on Budget and Policy Priorities, *Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families* (Dec. 5, 2019), available at https://www.cbpp.org/research/housing/research-shows-rental-assistance-reduces-hardship-and-provides-platform-to-expand#:~:text=Reduces%20crowding%2C%20housing%20instability%2C%20and,than%20half%2C%20among%20other%20benefits (last accessed Jan. 17, 2023).
[4] *See* Ctr. on Budget and Policy Priorities, *76% of Low-Income Renters Needing Federal Rental Assistance Don't Receive It*, https://www.cbpp.org/research/housing/three-out-of-four-low-income-at-risk-renters-do-not-receive-federal-rental-assistance (last accessed Dec. 14, 2022).
[5] Studies have shown that households with incomes below $15,000 per year (which includes households on public assistance) are the most severely rent-burdened and are thus likely to experience housing insecurity. *See* NYU Furman Ctr., The Stoop, *New York's Housing Insecurity by the Numbers* (March 24, 2020), https://furmancenter.org/thestoop/entry/nyc-housing-insecurity-by-the-numbers.
[6] NY Off. of Temp. and Disability Assistance, Admin. Directive 09 ADM-10 at 2 (May 28, 2009), available at https://otda.ny.gov/policy/directives/2009/ADM/09-ADM-10.pdf (OTDA noting that because of high housing costs, when households on temporary assistance experience homelessness, it has become "increasingly difficult" for them to obtain permanent housing).
[7] To protect client confidentiality, pseudonyms are used throughout this report.
[8] Nat'l Low Income Hous. Coal., *Out of Reach: The High Cost of Housing*, available at https://nlihc.org/oor (last accessed July 11, 2023) (showing that New York ranks fourth in housing costs nationwide).
[9] NY Comptroller, *New Yorkers in Need: A Look at Poverty Trends in New York State for the Last Decade* at 1 (Dec. 2022), available at https://www.osc.state.ny.us/files/reports/pdf/new-yorkers-in-need-poverty-trends.pdf.
[10] *Id.* at 13.
[11] Nat'l Low Income Hous. Coal., *Gap Report: New York*, https://nlihc.org/gap/state/ny (last accessed July 11, 2023).
[12] *Id.*
[13] *Id.*
[14] 24 CFR 888.113. Because the COVID-19 pandemic caused significant interruptions in the data HUD traditionally uses to set FMRs, it used a slightly different methodology in 2023. *See Fact Sheet: HUD Releases FY 2023 Fair Market Rents*, available at https://www.hud.gov/sites/dfiles/PA/documents/FMR_factsheet_FAQs.pdf. Also note that a proposed change to the methodology used for calculating fair market rents has been published in the Federal Register, Vol. 88, No. 120, 88 FR 41118 (June 23, 2023), available at https://www.huduser.gov/portal/datasets/fmr/fmr2024/notices-2023.pdf.
[15] *Id.*

[16] Shawn Bucholtz et al., US Dept. of Hous. & Urban Dev., *Identifying Subsidized Housing Units within the American Community Survey through Administrative Record Linkage: A Technical Report* (2019), available at https://www.huduser.gov/portal/sites/default/files/pdf/Identifying-Subsidized-Housing-Units.pdf.
[17] *Id.*; *see also* Frederick J. Eggers et al., US Dept. of Hous. & Urban Dev., *Housing Survey Housing Adequacy and Quality as Measured by the AHS* (2013), available at https://www.census.gov/content/dam/Census/programs-surveys/ahs/publications/HousingAdequacy.pdf.
[18] *See e.g.* US Dept. of Hous. & Urban Dev., *ACS 2020 5-Year Adjusted Standard Quality Gross Rent Calculation for Albany-Schenectady-Troy, NY MSA*, https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2023_code/2023acs_dist_calc_sq5.odn?cbsasub= METRO10580M10580&percentile=0.4&year=2023&fmrtype=Final&areaname=Albany-Schenectady-Troy,%20NY%20MSA&tabletype=cbsasub&act_rent=1044.0&br_size=2 (last accessed Dec. 14, 2022) [hereinafter HUD Rent Calculation Albany].
[19] *See* Joint Ctr. for Hous. Studies of Harvard Univ., *America's Rental Housing 2020* at figure 2 (2020), available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf.
[20] See 24 C.F.R. § 982.503(b).
[21] Craigslist, *Binghamton Bedroom in Binghamton*, https://binghamton.craigslist.org/apa/d/binghamton-bedroom-in-binghamton/7558412286.html (last accessed Nov. 28, 2022).
[22] Craigslist, *Newburgh Studio Apartment with Parking*, https://hudsonvalley.craigslist.org/apa/d/newburgh-studio-apartment-with-parking/7557330980.html (last accessed Dec. 14, 2022).
[23] Craigslist, https://newyork.craigslist.org/brk/apa/7561496845.html (last accessed Dec. 14, 2022).
[24] Nat'l Low Income Hous. Coal., *A Brief Historical Overview of Affordable Rental Housing* (2015), available at https://nlihc.org/sites/default/files/Sec1.03_Historical-Overview_2015.pdf.
[25] *Id.*
[26] *Id.*
[27] Nat'l Hous. L. Proj., *Project-Based Rental Assistance*, https://www.nhlp.org/resource-center/project-based-rental-assistance/ (last accessed Jan. 17, 2023).
[28] *Id.*
[29] 42 USC § 1437 *et seq.*
[30] 26 USC § 42.
[31] 42 USC § 1437f.
[32] Will Fischer & Barbara Sard, Ctr. on Budget and Policy Priorities, *Chart Book: Federal Housing Spending Is Poorly Matched to Need* (March 8, 2017), https://www.cbpp.org/research/housing/federal-housing-spending-is-poorly-matched-to-need (last accessed Jan. 17, 2023).
[33] Off. of Family Assistance, US Dept. of Health & Hum. Servs., *Characteristics and Financial Circumstances of TANF Recipients Fiscal Year (FY) 2021* at Tables 11 & 67 (2021), https://www.acf.hhs.gov/ofa/data/characteristics-and-financial-circumstances-tanf-recipients-fiscal-year-2021 [hereinafter TANF Statistics 2021]. The estimated proportion of single individuals receiving Safety Net Assistance in subsidized housing is based on data received by Empire Justice Center through a Freedom of Information Law request to OTDA on June 9, 2023.
[34] HUD Off. of Policy Development and Research (PD&R), Picture of Subsidized Households, 2009-2022 Data, 2022, State, available at https://www.huduser.gov/portal/datasets/assthsg.html#null.
[35] Empire Justice Ctr., *Standard of Need by County*, https://empirejustice.org/resources_post/standard-need-charts/ (last updated Jan. 2023), follow hyperlink for *Tompkins County Homeless Services Plan*. Access to each district's homeless service report and plan is available at Empire Justice Ctr., *Standard of Need by County*, https://empirejustice.org/resources_post/standard-need-charts/ (last updated Jan. 2023).
[36] *Id.*, follow hyperlink to Monroe County Homeless Services Plan.
[37] Social Services Law § 350(2)(a).
[38] Social Services Law § 350(1)(a).
[39] Social Services Law § 158(1)(a).
[40] *Id.*

[41] NY Off. of Temp. and Disability Assistance, *Temporary Assistance Source Book* at 20 (Oct. 2022), available at https://otda.ny.gov/programs/temporary-assistance/tasb.pdf [hereinafter *Temporary Assistance Source Book*].
[42] Social Services Law § 157.
[43] Social Services Law § 131-a.
[44] Social Services Law § 131-a(2).
[45] Social Services Law § 131-a.
[46] US Bur. of Labor Statistics, *Databases, Tables & Calculators by Subject: CPI for all Urban Consumers 2012-2022*, https://data.bls.gov/timeseries/CUUR0000SA0L1E?output_view=pct_12mths (last accessed Dec. 14, 2022) (showing that inflation has increased drastically over the last two years); US Bur. of Labor Statistics, *CPI Inflation Calculator: 2012-2022*, https://data.bls.gov/cgi-bin/cpicalc.pl?cost1=158.00&year1= 201210&year2=202210 (last accessed Dec. 14, 2022) (showing that 158 in October 2012 has the same buying power as 203.56 in October 2022).
[47] Social Services Law § 131-a(3-c, 3-d).
[48] Social Services Law § 131-a(2).
[49] Social Services Law § 131-a(1).
[50] 18 NYCRR 352.5.
[51] 18 NYCRR 352.3.
[52] Social Services Law § 350(1)(a).
[53] In Albany County, for instance, the HUD 2023 FMR for a two bedroom is $1,313 while in 2003, it was $633. *See* US Dept. of Hous. & Urban Dev., *HUD FMR History 1983-Present*, https://www.huduser.gov/portal/datasets/fmr.html#history (last accessed Dec. 14, 2022).
[54] A full list of shelter allowances and the non-shelter grant for each county can be found at Empire Justice Ctr., *Standard of Need by County*, *supra* n 35, follow hyperlink to *Standard of Need Chart*.
[55] *HUD FMR History 1983-Present*, *supra* n 53 (showing that in Albany County, the HUD 2023 FMR for a two bedroom is $1,313, while in 1988, it was $438).
[56] The price of a 13'w x 4'd x 10'h storage unit was $218.99 per month as of November 27, 2022. Manhattan Mini Storage – Morningside Heights, www.storage-mart.com, https://www.storage-mart.com/manhattan/1983-riverside-dr-morningside-heights (last accessed Dec. 15, 2022).
[57] *Standard of Need by County*, *supra* n 35, follow hyperlink to Greene County Homeless Services Plan.
[58] *See, e.g.,* HUD Rent Calculation Albany *supra* n 18.
[59] For access to the shelter allowance and public assistance grant breakdown for each district, *see generally*, *Standard of Need by County supra* n 35, Standard of Need Chart.
[60] *See* HUD Rent Calculation Albany, *supra* n 18.
[61] *See supra* Appendix II, *New York State's Public Assistance Grant Leaves Families Below 45% of the Federal Poverty Level in Every County*.
[62] *Id.*
[63] 09-ADM-10, *supra* n 6.
[64] *Standard of Need by County*, *supra* n 35, Steuben County Homeless Services Plan.
[65] *Id.*, Ontario County Homeless Services Plan.
[66] *Id.*, Tompkins County Homeless Services Plan.
[67] *Id. See generally Standard of Need by County*, *supra* n 35.
[68] *Bernstein v. Toia*, 43 NY2d 437, 444 (1977); *see also Rosado v. Wyman*, 397 US 397 (1970).
[69] *Jiggetts v. Grinker*, NY Sup. Ct., NY County, April 26, 1997, Moskowitz, J., index No. 40582/87 at *9.
[70] *Id.*
[71] *Bernstein, supra* n 68.
[72] *Jiggetts, supra* n 69.
[73] Social Services Law § 17(a).
[74] *North Shore Univ. Hosp. v. Axelrod,* 612 AD2d 485, 486 (3d Dept 1994) (*citing N.Y. State Ass'n of Cntys. v. Axelrod*, 78 NY2d 158, 166 (1991)); *see also Howard v. Wyman*, 28 NY2d 434 (1971).
[75] *Kelly v. Bane*, 192 AD2d 236, 243 (1st Dept 1993).

[76] Social Services Law § 157(1).
[77] *Jiggetts, supra* n 69 at *12.
[78] *Id.* at *18.
[79] *Id.* at *19.
[80] *Id.* at *108.
[81] *Id.*
[82] *Jiggetts v. Grinker,* 75 NY2d 411, 415 (1990).
[83]*Id.*
[84] *Id.* at 417.
[85] *Jiggetts, supra* n 69 at *110.
[86] *Id.* at *103.
[87] *Id.* at *1
[88] *Id.* at *104.
[89] *Id.* at *107.
[90] *Id.* at *108.
[91] *Id.* at *110.
[92] New York State Register, Notice of Adoption, Shelter Allowance, TDA-32-02-00004-A, at 36-40 (Aug. 6, 2003), available upon request from Empire Justice Center.
[93] *Id*.; NY Off. of Temp. and Disability Assistance, Admin. Directive 03 ADM-07 at 2 (Aug. 4, 2003), available at https://otda.ny.gov/policy/directives/2003/ADM/03_ADM-07.pdf.
[94] *Id.*
[95] State Administrative Procedure Act 207(1).
[96] State Administrative Procedure Act 207(2).
[97] State Administrative Procedure Act 207(4).
[98] New York State Register, Rule Review, TDA-32-02-0004 Shelter Allowance (Jan. 30, 2019).
[99] Consumer Fin. Prot. Bur., *Housing Insecurity and the COVID-19 Pandemic* (2021), available at https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf.
[100] *Jiggetts, supra* n 69.
[101] *Golding v Kaladjian*, Sup. Ct., Nassau County, March 12, 1992, Segal, M., index No. 6111/92.
[102] *Sharp v. Perales*, 175 AD2d 800 (2d Dept 1991).
[103] *Holmes v. Perales,* 175 AD2d 797 (2d Dept 1991).
[104] *Hedgepeth v. Wing*, 2001 WL 36363995 (N.Y. Sup. Ct. June 01, 2001, No. 1450/01, Diblasi, J.).
[105] 18 NYCRR 352.3(a)(3)(i).
[106] NY Off. of Temp. and Disability Assistance, Admin. Directive 09 ADM-10 (May 28, 2009), available at https://otda.ny.gov/policy/directives/2009/ADM/09-ADM-10.pdf.
[107] Temporary Assistance Source Book, *supra* n 41.
[108] NY Off. of Temp. and Disability Assistance, Admin. Directive 03 ADM-07 (Aug. 4, 2003), available at https://otda.ny.gov/policy/directives/2003/ADM/03_ADM-07.pdf.
[109] For a complete a list of all counties offering shelter supplements, see Appendix III, *Availability of Shelter Supplements and Rental Supplements Outside of New York City*.
[110] *See generally, Standard of Need by County*, *supra* n 35, follow hyperlinks to Shelter Supplement Plans.
[111] *Id.*
[112] Ch. 53 of the Laws of 2021, § 1 at 629; Ch. 53 of the Laws of 2022, § 1 at 655; Ch.53 of the Laws of 2023, § 1 at 660.
[113] NY Off. of Temp. and Disability Assistance, Local Comm'r Memo 23 LCM-07 (May 11, 2023), available at https://otda.ny.gov/policy/directives/2023/LCM/23-LCM-07.pdf.
[114] *Id.*
[115] *Id.*
[116] *See* Appendix III, *Availability of Shelter Supplements and Rental Supplements Outside of New York City.*
[117] Local Comm'r Memo 23 LCM-07, *supra* n 113.

[118] *Id.*
[119] *Standard of Need by County*, *supra* n 35, follow hyperlinks to Shelter Supplement Plans.
[120] For more information on FHEPS, see NYC Hum. Res. Admin., *FHEPS*, https://www.nyc.gov/site/hra/help/fheps.page.
[121] *Id.*
[122] For more information on CityFHEPS, see NYC Hum. Res. Admin., *CityFHEPS*, https://www.nyc.gov/site/hra/help/cityfheps.page; also see NYC Hum. Res. Admin., *DSS CityFHEPS Payment Standards Effective 01/01/2023*, https://www1.nyc.gov/assets/hra/downloads/pdf/cityfheps-documents/DSS-8r-E.pdf.
[123] *See* Section III, *infra*.
[124] *See* Appendix III, *Availability of Shelter Supplements and Rental Supplements Outside of New York City.*
[125] *Id.*
[126] *Golding v. Kaladjian* (1992) in Nassau, *Sharp v. Perales* (1991) and *Holmes v. Perales* (1991) in Suffolk, and *Hedgepeth v. Wing* (2001) in Westchester. *See supra* n 101-104.
[127] *Standard of Need by County*, *supra* n 35, follow hyperlink to Shelter Supplements 2022
[128] NY Pub. Welfare Ass'n, *NYPWA Statement on the Executive Budget for SFY 2022-23 for the Joint Legislative Budget Committee on Human Services* (Feb. 2, 2022), available at https://nyassembly.gov/write/upload/publichearing/001272/003711.pdf.
[129] NY Off. of Temp. and Disability Assistance, *Rental Supplement Program* (Oct. 2022), available at https://otda.ny.gov/resources/reports/Rental-Supplement-Program-Report.pdf [hereinafter OTDA Rental Supplement Report.
[130]*See* Appendix III, *Availability of Shelter Supplements and Rental Supplements Outside of New York City*.
[131] *Id.*
[132] Albany, Allegheny, Cattaraugus, Chautauqua, Chenango, Cortland, Jefferson, Onondaga, Orange, Oswego, Otsego, Saratoga, Steuben, Tioga, Warren and Wyoming.
[133] OTDA Rental Supplement Report, *supra* n 129.
[134] *See* Appendix V, *Approved Rental Supplement Applications 2022.*
[135] *Id.*
[136] *Standard of Need by County*, *supra* n 35, follow hyperlink to Ulster County Shelter Supplement Plan.
[137] *See generally, id.*, Shelter Supplement Plans.
[138] *Id.*, follow hyperlinks to Rockland and Suffolk County Shelter Supplement Plans.
[139] NY Off. of Temp. and Disability Assistance*, Temporary and Disability Assistance Statistics December 2022* (2023), available at https://otda.ny.gov/resources/caseload/2022/2022-12-stats.pdf [hereinafter OTDA December 2022 Statistics]
[140] *Standard of Need by County*, *supra* n 35, follow hyperlink to Schenectady County Shelter Supplement Plan.
[141] OTDA December 2022 Statistics, *supra* n 139.
[142] *Standard of Need by County*, *supra* n 35, follow hyperlink to Monroe County Family Shelter Supplement Plan.
[143] Local Comm'r Memo. 23 LCM-07, *supra* n 113, follow hyperlink to Attachment A.
[144] Estimated number derived from local districts' quarterly Rental Supplement Plans, *see* Appendix V.
[145] For more information, *see* Appendix VI.
[146] OTDA December 2022 Statistics, *supra* n 139.
[147] Local Comm'r Memo 23 LCM-07, *supra* n 113.
[148] *Id.*
[149] Heather LaVarnway & Charonique Roberts, Dutchess County Dept. of Planning and Dev., *2021 Dutchess County Rental Housing Survey* (2021), available at https://www.dutchessny.gov/Departments/Planning/Docs/2021-Rental-Housing-Survey-Report-FINAL.pdf.
[150] Social Services Law § 22(3).
[151] Local Comm'r Memo. 23 LCM-07, *supra* n 113, follow hyperlink to Attachment B.
[152] *Id.*
[153] *See generally*, *Standard of Need by County*, *supra* n 35, follow hyperlinks to Rental Supplement Plans.

[154] *Id.*
[155] *Id.*
[156] *Id.*, follow hyperlink to Orange County Rental Supplement Plan.
[157] *Id.*, follow hyperlink to Monroe County Family Shelter Supplement Plan.
[158] *Id.*, follow hyperlink to Steuben County Rental Supplement Plan.
[159] *See generally*, *id.*, follow hyperlinks to Rental and Shelter Supplement Plans.
[160] *Id.*
[161] *See, e.g.*, *Saenz v. Roe*, 526 U.S. 489 (1999); *Aumiick v. Bane*, 161Misc. 2d 271 (1994); *Shapiro v. Thompson*, 394 U.S. 618 (1969). In addition, SSL § 62 states: "Each public welfare district shall be responsible for the assistance and care of any person who resides or is found in its territory and who is in need of public assistance and care which he is unable to provide for himself."
[162] *Standard of Need by County*, *supra* n 35, follow hyperlinks to Otsego and Suffolk County Shelter Supplement Plans.
[163] *Id*., follow hyperlink to Suffolk County Shelter Supplement Plan.
[164] The federal government, academic circles, and policy analysts have long utilized a 30% rule for housing affordability, tracing back to the Brooke Amendment of 1969, Pub L 91-152, § 213(a) (1969), which capped public housing rent at 25% of a household's income (increased to 30% in 1981 by Congress).
[165] *Out of Reach: The High Cost of Housing*, *supra* n 8 at 8.
[166] *New York's Housing Insecurity by the Numbers*, *supra* n 5.
[167] PD&R Edge, *Rental Burdens: Rethinking Affordability Measures*, https://www.huduser.gov/portal/pdredge/pdr_edge_featd_article_092214.html (last accessed Dec. 15, 2022).
[168] Rachel Meltzer & Alex Schwartz, *Housing Affordability and Health: Evidence from New York City*, Hous. Policy Debate, vol 26(1) at 1-25 (Apr. 27, 2015), available at https://www.researchgate.net/publication/276134762_Housing_Affordability_and_Health_Evidence_From_New_York_City.
[169] Diana Hernández, *Affording Housing at the Expense of Health: Exploring the Housing and Neighborhood Strategies of Poor Families*, J. of Family Issues, vol 37(7) at 921-46 (May 2016), author manuscript available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4819250/.
[170] Matt Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, Social Problems, vol 63 at 46-67 (Jan. 11, 2016), available at https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.socprob.2016.pdf.
[171] *Standard of Need by County*, *supra* n 35, follow hyperlink to Westchester County Homeless Services Plan.
[172] NY Off. of Temp. and Disability Assistance, Bureau of Data Mgmt. & Analysis, *2022 Statistical Report on the Operations of New York State Public Assistance Programs* at 6 (2022), available at https://otda.ny.gov/resources/legislative-report/2022-Legislative-Report.pdf.
[173] TANF Statistics 2021, *supra* n 33 at Table 40.
[174] Sophie Collyer et al., Ctr. on Poverty & Social Policy at Columbia Univ., *Policy Spotlight on Housing* at 3 (Jan. 2022), available at https://static1.squarespace.com/static/610831a16c95260dbd68934a/t/61eae13b04fade3f63c01648/1642783035902/POVERTY_TRACKER_REPORT30.pdf.
[175] *Id.* at 8.
[176] US Dept. of Hous. & Urban Dev., *The 2022 Annual Homelessness Assessment Report (AHAR) to Congress* at 16, https://www.huduser.gov/portal/sites/default/files/pdf/2022-AHAR-Part-1.pdf (last accessed July 13, 2023).
[177] *See* US Dept. of Hous. & Urban Dev., *Making Homes Healthier for Families*, https://www.hud.gov/program_offices/healthy_homes/healthyhomes (last accessed Dec. 15, 2022).
[178] US Dept. of Hous. & Urban Dev. Off. Of Policy Development and Research, *Worst Case Housing Needs: 2021 Report to Congress* at 86 (July 2021), available at https://www.huduser.gov/portal/sites/default/files/pdf/Worst-Case-Housing-Needs-2021.pdf.

[179] Chris Baker, *Syracuse slumlord reaps $1M from taxpayers, even while city fights him in court*, Syracuse.com, Oct. 21, 2019 (updated Dec. 12, 2022), https://www.syracuse.com/news/2019/10/syracuse-slumlord-reaps-1m-from-taxpayers-even-while-city-fights-him-in-court.html.
[180] NY Attorney General, *Attorney General James Wins $5.1 Million from Notorious Buffalo Landlord To Fund Childhood Lead Poisoning Prevention in Erie County* (Nov. 7, 2022), https://ag.ny.gov/press-release/2022/attorney-general-james-wins-51-million-notorious-buffalo-landlord-fund-childhood.
[181] *See* complaint, *New York v. Dalfin*, NY Sup. Ct., Erie County, Sept. 18. 2020, Panepinto, J., index No. 810362/2020, available at https://ag.ny.gov/sites/default/files/complaint_as-filed_0.pdf.
[182] Hernández, *supra* n 169.
[183] James Krieger & Donna Higgins, *Housing and Health: Time Again for Public Health Action*, Am. J. of Pub. Health, vol 92(5) at 758-68 (May 2002) available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447157/.
[184] D. Mudarri et al., *Public Health and Economic Impact of Dampness and Mold*, Indoor Air, vol 17(4) at 226-35 (June 2007), manuscript available at https://www.osti.gov/servlets/purl/925535#:~:text=exposure%20to%20dampness%20and%20mold%20and%20that%20the%20resulting%20economic,them%20when%20they%20do%20occur.
[185] Krieger, *supra* n 183.
[186] Ctrs. for Disease Control et al., *Joint Statement on Bed Bug Control in the United States from the U.S. Centers for Disease Control and Prevention (CDC) and the U.S. Environmental Protection Agency (EPA)* (2010), https://stacks.cdc.gov/view/cdc/21750 (last accessed Jan. 17, 2023).
[187] Will Schupmann, Housing Matters an Urban Institute Initiative, *How Housing Quality Affects Child Mental Health* (Oct. 26, 2017), https://housingmatters.urban.org/articles/how-housing-quality-affects-child-mental-health#:~:text=Poor%20living%20conditions%20can%20also,from%20the%20world%20around%20them.
[188] M.K. Richard et al., *Quantifying Doubled-Up Homelessness: Presenting a New Measure Using U.S. Census Microdata*, Housing Policy Debate at 9-10 (Jan. 17, 2022), available at https://nlihc.org/sites/default/files/Quantifying-Doubled-Up-Homelessness.pdf. .
[189] 42 U.S.C. 11434a(2)(B)(i).
[190] New York's McKinney-Vento data is available at NYSTEACHS.ORG, *Data on Student Homelessness*, https://www.nysteachs.org/data-on-student-homelessness (last accessed Dec. 14, 2022). To reach this conclusion, Empire Justice assumed that the households characterized as "families who received homeless services" in each local district's homeless services report had at least one child in their family. Comparing this number to the number of children listed as homeless in each district according to McKinney-Vento data, we found that there were many children not accounted for in the districts' numbers. More information available upon request from Empire Justice Center.
[191] Omer Gale et al., *Overcrowding in the Home: An Empirical Investigation of its Possible Pathological Consequences*, Am. Sociological R., vol 44(1) at 59-80 (1979), available at https://www.jstor.org/stable/2094818; Gary W. Evans et al., *Social Hassles and Psychological Health in the Context of Chronic Crowding*, J. of Health and Social Behavior, vol 32(4) at 357-67 (1991), available at https://www.jstor.org/stable/2137103.
[192] *Id.*
[193] Gale, *supra* n 191.
[194] *Id.*
[195] A. Bazan et al., *Risk Factors of Burns in Children: Crowding, Poverty, and Poor Maternal Education*, Injury Prevention, vol 8(1) at 38-41 (Mar. 1, 2002), available at https://injuryprevention.bmj.com/content/8/1/38.long.
[196] M.R. Alves Cardozo et al., *Crowding: Risk Factor or Protective Factor for Lower Respiratory Disease in Young Children?* BMC Pub. Health, vol 4:19 (June 3, 2004), available at https://bmcpublichealth.biomedcentral.com/articles/ 10.1186/1471-2458-4-19.
[197] *Id*.
[198] Kathryn J. Edin and H. Luke Shaefer, $2.00 A DAY at 78-80 (2015)
[199] *See generally*, FPWA, *A Look at the March on Washington 60 Years Later: Dreams and Promises Yet To Be Realized* (July 19, 2023), available at https://www.fpwa.org/wp-content/uploads/2023/07/March-on-Washington-2023.pdf; Matt Desmond, POVERTY, BY AMERICA (2023); Nina Banks, *Black women's labor market history reveals*

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[200] 24 C.F.R. Part 5, along with conforming amendments to Parts 91, 570, and 903.

[201] NY Const. article XVII.

[202] *Tucker v. Toia,* 43 NY2d 1, 7 (1977).

[203] For instance, greater access to cash assistance has been shown to reduce homelessness, and that reduction is particularly strong for majority Black and Native American school districts. *See* Zachary Parolin, *Income Support Policies and the Rise of Student and Family Homelessness*, Annals of the Am. Acad. of Pol. and Social Sci., vol 693(1) at 46-63 (Jan. 2021), available at https://journals.sagepub.com/doi/epub/10.1177/0002716220981847.

[204] Child Poverty Reduction Advisory Council, *supra* n 2 at minute 34:43.