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## ***Stem the Tide: A New Certification Program for Government Benefits Advocates as a Response to the Growing Crisis in Poor Communities***

### **Summary**

The constitutional right to a fair hearing regarding a government benefits program has been one of the cornerstones of anti-poverty efforts for the past 33 years. Up to now, fair hearings were an effective means of ensuring that governmental agencies followed the law regarding entitlement eligibility. However, due to the seismic changes caused by the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), hundreds of thousands of poor people across the country are losing their benefits without access to appeal. This right to appeal an administrative decision is being lost not because of any direct legislative action, but because the large number of people in need of fair hearings is far greater than the existing supply and capacity of government benefits advocates. The passage of the PRWORA coupled with changes in Medicaid, SSI, Food Stamps and immigration laws has caused the need for fair hearings to double in volume. Welfare experts predict this trend will continue to grow.

The PRWORA requires every state to meet annual goals for moving people on public assistance into work programs. With local legal services offices and community groups already overwhelmed by the sheer numbers of poor people in need of representation, ***new and more aggressive strategies have to be designed and implemented.*** This proposal describes a new and innovative project to ensure that the constitutional rights of poor people are not diminished due to the new burdens of legislation and an overwhelmed administrative machinery.

The centerpiece of this proposal is to create the first state government certified program for becoming a government benefits advocate. Through the creation of state certification, hundreds of community workers in New York City and New York State will receive professional training in fair hearings advocacy and government benefits programs. Comparable models for certification can be found in the credentialed alcoholism and substance abuse counselor (CASAC) and emergency medical technician certificate (EMT).

As the number of certified government benefits advocates increases, the lawyers in neighborhood legal services offices can focus their efforts on the most complicated cases and provide technical assistance back up to the certified government benefits advocate workers. After receiving the letter of termination or suspension of benefits, hundreds of thousands of poor people will be able to go back to the government agency (local social services department), appeal

a decision and have representation by a professionally trained and certified government benefits advocate. Taking the New York City Human Resources Administration as an example, 90% of all fair hearings for public assistance result in a decision in favor of the petitioner. In New York City alone, within two years of certification becoming available, an estimated 300 people will enroll in the classes and take a test to receive certification.

To develop this program, the main groups involved in poverty law and efforts at representation on a community level, need to be brought together. These groups include community based organizations, legal services, law and social work faculty, public policy advocates and elected officials. The state certification program could be in full operation within a year. If the certification program is successful here in New York, it can be replicated throughout the country.

**Statement of Need**

Up to now, much of the touted successes of Governors and Mayors in reducing the number of people receiving public assistance, has partially resulted from an overwhelmed legal services staff capacity, and lack of access to appeals through the administrative appeals process. The appeals process includes the various stages beginning with the chain of command at the neighborhood Income Maintenance Center to a fair hearing with NYS-Dept.of Social Services at 80 Centre Street.

Almost every observer of welfare reform agrees on one certainty- thousands of people are in jeopardy of losing their welfare benefits, have already lost them, will lose them temporarily, or will not receive them upon application. Many families are finding their benefits suspended for 90 days due to their inability to meet the mandatory work requirements of the NYC-HRA Work Experience Program- (WEP). A similar situation can also be found in Medicaid, SSI and Food Stamps programs. Of the various consequences of welfare reform, the most urgent is the need for representation at fair hearings to reinstate benefits. Legal services and community organizations have been flooded with requests for representation at a fair hearing by a skilled advocate. A hodgepodge of training events are being held on fair hearings and changes in benefits. In this highly fluid environment, an untold number of poor people have lost their benefits or had them suspended for 90 days

**Increase in NYC-HRA Fair Hearings Requested for Public Assistance, Food Stamps, Office of Employment Services (OES) Under Mayor Guiliani:**

FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999
77,800	80,600	65,100	120,800	128,900	137,100	138,200

notes: all data comes from the Mayor Management Reports. Data on the number of OES fair hearings was first recorded in FY 1996.

In the fifth year, after the enactment of the PRWORA of 1996, the situation will cause a crisis in poor communities that may rival the Great Depression of the 1930's for severity. When families reach the five year limit for Temporary Assistance to Needy Families (TANF), only 20% of this group, will still be able to receive TANF due to the adult member having a physical or mental disability. Many families will need representation to contest the negative administrative decisions regarding a mental or physical disability.

Most strategies proposed so far for responding to welfare reform have been of a defensive and accommodating nature. While these efforts are necessary and practical, a more aggressive response is equally warranted. The only way to slow down the negative consequences of welfare reform is to create programmatic responses that are bold, practical and forceful.

## **Program Components:**

### **A. Design and launch the first state certification for representing poor people at government benefits fair hearings:**

The centerpiece of this new program is to create a new State approved certification- *a certified government benefits advocate*. This certification could be granted by the New York State Department of Education. It will function like other certifications that are required to perform a professional or skilled service.

To receive the certificate, a person will enroll in a State approved training and education program. A curriculum will be established that will enable anyone who completes a set number of classes and *passes an exam* to receive a New York State approved certification as a government benefits advocate. It will require around 15 to 20 credits of classes (a total of five to six classes where three credits will be granted per class) or could be also offered on a non-credit basis. The cost per credit will be competitively priced to be affordable to individuals with moderate incomes. The certificate program will be much more comprehensive and serious than existing training efforts- *and it will carry much more weight.*

To ensure that the curriculum will successfully prepare an advocate in all of the necessary skills and knowledge, a consortium of legal and social welfare scholars, representatives from legal services and the neighborhood human services organizations will be consulted on design and development. In addition to a comprehensive classroom instruction, there would also be a requirement that includes teacher observation of students representing clients at fair hearings.

**B. Market Potential:** In New York City alone, approximately 2,000 organizations provide government contracted social services. Examples of government agencies include Department of Youth and Community Development, Human Resources Administration, Administration for

Childrens Services, Department for the Aging (an informal survey of government agencies that contract out programs that employ benefits advocates is attached). Hundreds of community workers will have a strong incentive to enroll in the certification program so that they can increase their skill and effectiveness, gain an extra credential (for many their only credential), and be more marketable as professionals. Models already exist and can be found in the burgeoning field of programs related to alcoholism. The credentialed alcoholism counselor (CAC) and related certification for substance abuse is a title that carries much weight in all direct service areas of alcoholism, substance abuse and mental health including hospitals yet does not even require a college degree. The CAC is granted by the New York State Office of Alcoholism and Substance Abuse Services (OASAS). *If this model can work with alcoholism , it can certainly work in government benefits.*

### C. How the Certificate Program Would Differ From Existing Methods of Service Delivery

While community and legal services organizations employ people other than lawyers to provide representation at fair hearings, this existing system cannot begin to respond to the demand created by welfare reform. The model that would seem to most closely resemble the new certification proposed here is the para-legal degree and license. However, the class instruction required to receive the para-legal degree covers a wide range of legal instruction and areas of law. The course instruction has to be offered through a college as part of two or four year degree. Since very little of para-legal curriculum directly relates to the skills one needs to provide representation at fair hearings, it is not an answer to the need for the systematic and professional education of government benefits advocate workers.

The legal services network of neighborhood offices in New York City hires and trains individuals to do para-legal work. These workers technically are not para-legals since they do not have the license. They are trained in house and receive supervision from the attorneys. However effective this division of labor between lawyers and non-lawyers is, it only covers the legal services offices. *The aim of the certification program is primarily intended for the hundreds of social service agencies that are trying to respond to the increase in demand for benefits appeals.*

The certification program will be a strong complement to the existing training programs that offered by Legal Services of New York, Legal Aid Society and the Community Service Society. These existing efforts are helping to train community workers; however, the gravity of the crisis caused by the PRWORA demands that new and more aggressive strategies be employed as well. The training of community workers in entitlement changes and representation at fair hearings needs to become more structured and systematic. A certification will provide that structure and attract *more* people to learn and use these skills. Staff at human service agencies will have a stronger self interest to upgrade their advocacy skills if they see professional status conferred on them.

*Certification will always remain optional. Individuals with experience working with government benefits programs and the appeals process can choose as to whether they want to pursue the certification path.*

#### **D. Short Term Implementation Steps**

1. A lead organization needs to take on the issue to coordinate implementation. The lead organization will act as a catalyst for bringing together representatives from legal services, law faculty, human service organizations and social welfare experts to form an advisory board and working group.
2. Initiate the legislative process to get a certification requirement passed by the New York State Legislature. Initiate an application with the New York State Department of Education. If State certification becomes too political and time consuming, a coalition of New York City educational institutions and public policy organizations could lend their names to the certificate and give it the prestige and recognition it needs to attract community workers. It is fair to assume that the Governor's Office will strongly oppose any State certification for government benefits advocacy.
3. Design a curriculum, range of instruction, classes, and test for receiving certification. As a preliminary matter, recognize that training should cover each of the government benefit programs available to needy New York residents: a) TANF b) Food Stamps, c) SSI d) Social Security Disability e) Medicaid f) Medicare g) Emergency Assistance/Rent Supplement
4. Identify an organization(s)/colleges that would want to offer the program and class instruction leading to certification.

#### **Anticipated and Measurable (direct and indirect) Benefits**

1. **Increase the supply of trained government benefits advocates:** The number of requests for fair hearings will continue to increase as the Welfare Reform Act moves forward and thousands more people are required to enter 20 hour per week Work Experience Programs (WEP). In New York City, failure to comply with the WEP requirement results in 90 day sanctions in which the recipient does not receive any benefits. The need for advocacy will also increase in Medicaid, Food Stamps and SSI. With the certification program in place, people in need of representation will be more likely to receive it. As need grows with each passing year, so will the capacity to respond
2. **More effective distribution of skills and services:** The new certification will enable neighborhood legal services offices to separate routine from complicated cases. These neighborhood legal services offices can also provide technical assistance back up to the community organizations that operate in their neighborhoods. The volume of poor people requesting representation and advocacy can be spread more evenly among community organizations. The new certification will

require and demand that legal services offices determine which cases are complicated and which ones are routine. Most legal services experts, will agree that many of the cases that come into the neighborhood legal services offices are routine, do not require the services of an attorney, and thus could be responsibly handled by a social worker, para-legal or community worker.

**3. Force government agencies to follow the law:** The new certificate program will slow down all governors and mayors in their efforts to throw thousands of families off welfare or discourage thousands more from applying in order to meet the annual requirements of the PRWORA. It can be applied to cities and counties through out the country. It help will help thousands of families to get their benefits reinstated.

**4. Raise standards of accountability for government benefits advocates:** One immediate result of welfare reform has been the need for community organizations to offer representation at appeals and fair hearings. While many community workers are now assisting clients with fair hearings, there is little accountability to this process. Training workshops, newsletters, fact sheets are all helpful but are at best only a partial solution. The government benefits certification program will raise the standards, ensure accountability, and safeguard the rights of poor people far more effectively than present efforts. Furthermore, similar to other State granted certifications, each certified advocate will be required to attend a class or workshop on an annual basis. These classes or workshops will explain the most pertinent changes in government benefits law.

**5. Upgrade the status of community work:** The field of government benefits (and case management) has always had a low status for people who completed the Masters of Social Work (MSW) degree. Few individuals pursue an MSW to specialize in government benefits and case management. Most people who presently work in government benefits have at best a college degree; many are high school graduates. The vast majority of community workers learned their skills on the job (or through the direct experience of receiving benefits). This new certification program will bring professional standing to a crucially important area of work that has been under appreciated. It would also reduce the chronic job turnover of community workers that many agencies suffer from.

**6. Help stabilize poor communities:** Government benefits are a highly significant part of the economy of poor neighborhoods. They translate into millions of dollars for buying basic necessities: rent, food and clothing. Not only are individual families, small businesses and merchants affected, but also the housing stock. If landlords see less rent money and more costly eviction battles, then maintenance and repairs will be the first to suffer. However meager individual AFDC and Home Relief grants were, they still comprised part of the financial equation that allowed apartment buildings to be maintained and store owners to operate in poor communities.

**7. Measurable Indicators:** The number of people whose benefits are restored through fair hearings is recorded by New York City-Human Resources Administration. This data will be used to assess the effectiveness of the certification program.

**Addendum:**

**Survey of New York City and State Government Contracted Programs That Presently Employ Caseworkers with Expertise in Government Benefits and Advocacy**

**New York City:**

Human Resources Administration

- Homelessness Prevention program
- AIDS case management program

Department for the Aging

- case management program
- senior citizen centers
- information and referral

Administration for Children Services

- preventive services
- protective services

Department for Youth and Community Development

- community services (anti-poverty) block grant

Department of Mental Health, Mental Retardation and Alcoholism Services

- case management
- Community Support Services- on site rehab and case management

Department of Homeless Services

- SRO Support Services
- Tier Two Shelters

Councilmanic and Borough President Discretionary Grants



RHODA S. JACOBS  
42nd Assembly District

THE ASSEMBLY  
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LEGISLATIVE TASK FORCES  
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Women's Issues  
AIDS  
New Americans  
Puerto Rican/Hispanic

November 19, 1997

David Rubel  
David Rubel Associates  
266 East Broadway, Rm. 808  
New York, NY 10002

Dear Mr. Rubel:

I have received your concept paper concerning the creation of a certification program for government benefits fair hearing advocate. I have forwarded it to my Legislative Director, Michael Doyle, for consideration as to possibly introducing legislation in support of this proposal.

We will be looking for your assistance in preparing language, statistical information, and supporting educational criteria and curriculum relative to this proposal. Feel free to contact Michael Doyle at 518-455-5385.

If I can be of any further assistance do not hesitate to contact me.

Sincerely,

Rhoda S. Jacobs  
Member of Assembly

**Text of New York State Bill A00486**

S T A T E O F N E W Y O R K

486

1999-2000 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 6, 1999

Introduced by M. of A. JACOBS, DAVIS, LOPEZ -- Multi-Sponsored by -- M. of A. GRIFFITH, HARENBERG, LAFAYETTE, LUSTER, ORTIZ, WEINSTEIN -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to licensing government benefits advocacy

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The education law is amended by adding a new article 154-A  
2 to read as follows:  
3  
4 ARTICLE 154-A  
5 GOVERNMENT BENEFITS ADVOCATE  
6 SECTION 7710. INTRODUCTION.  
7 7711. DEFINITION.  
8 7712. USE OF THE TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE."  
9 7713. STATE BOARD FOR GOVERNMENT BENEFITS ADVOCACY.  
10 7714. REQUIREMENTS FOR CERTIFICATION.  
11 7715. SEPARABILITY.  
12 S 7710. INTRODUCTION. THIS ARTICLE APPLIES TO THE PROFESSION OF  
13 GOVERNMENT BENEFITS ADVOCACY. THE GENERAL PROVISIONS FOR ALL PROFESSIONS  
14 CONTAINED IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE APPLY TO THIS  
15 ARTICLE.  
16 S 7711. DEFINITION. THE PRACTICE OF THE PROFESSION OF GOVERNMENT BENE-  
17 FITS ADVOCACY IS DEFINED AS ENGAGING IN THE REPRESENTATION OF GOVERNMENT  
18 BENEFITS RECIPIENTS AT FAIR HEARINGS AND APPEALS WHERE THE GOVERNMENT  
19 BENEFITS RECIPIENT HAS HAD GOVERNMENT BENEFITS DENIED, TERMINATED, OR  
20 SUSPENDED. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO  
21 PERMIT ANY HOLDER OF A CERTIFICATION OF GOVERNMENT BENEFITS FAIR HEARING  
22 ADVOCATE TO PRACTICE LAW OR ASSUME PARA-LEGAL STATUS.  
23 S 7712. USE OF THE TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE."  
24 ONLY A PERSON CERTIFIED OR AUTHORIZED UNDER THIS ARTICLE SHALL USE THE  
25 TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE."  
26 S 7713. STATE BOARD FOR GOVERNMENT BENEFITS ADVOCACY. A STATE BOARD  
FOR GOVERNMENT BENEFITS FAIR HEARING ADVOCACY SHALL BE APPOINTED BY THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
{ } is old law to be omitted.

LBD03104-01-9

A. 486

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- 1 BOARD OF REGENTS ON THE RECOMMENDATION OF THE COMMISSIONER FOR THE  
2 PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPARTMENT ON MATTERS  
3 OF CERTIFICATION AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION SIX  
4 THOUSAND FIVE HUNDRED EIGHT OF THIS CHAPTER. THE BOARD SHALL BE COMPOSED  
5 OF FOUR ATTORNEYS LICENSED TO PRACTICE LAW IN THIS STATE, TWO SOCIAL  
6 WORKERS CERTIFIED IN THIS STATE AND TWO GOVERNMENT BENEFITS ADVOCATES.

7 NOTWITHSTANDING THE FOREGOING, THE MEMBERS OF THE FIRST BOARD WHO ARE  
8 GOVERNMENT BENEFITS FAIR HEARING ADVOCATES NEED NOT BE CERTIFIED PRIOR  
9 TO THEIR APPOINTMENT.

10 S 7714. REQUIREMENTS FOR CERTIFICATION. 1. TO QUALIFY FOR CERTIF-  
11 ICATION TO USE THE TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE," AN  
12 APPLICANT SHALL FULFILL ALL THE FOLLOWING REQUIREMENTS:

13 (A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

14 (B) EDUCATION: HAVE A SECONDARY EDUCATION AND HAVE COMPLETED A PROGRAM  
15 OF STUDY COVERING ALL ASPECTS OF GOVERNMENT BENEFITS APPROVED BY THE  
16 DEPARTMENT;

17 (C) EXPERIENCE: HAVE EXPERIENCE SATISFACTORY TO THE BOARD AND IN  
18 ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

19 (D) EXAMINATION: PASS AN EXAMINATION SATISFACTORY TO THE BOARD AND IN  
20 ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

21 (E) AGE: BE AT LEAST EIGHTEEN YEARS OF AGE;

22 (F) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPART-  
23 MENT; AND

24 (G) FEES: PAY A FEE OF ONE HUNDRED DOLLARS TO THE DEPARTMENT FOR  
25 ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION AND FOR AN INITIAL  
26 CERTIFICATION; A FEE OF EIGHTY DOLLARS FOR EACH RE-EXAMINATION; A FEE OF  
27 ONE HUNDRED DOLLARS FOR AN INITIAL CERTIFICATION FOR PERSONS NOT REQUIR-  
28 ING ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION AND A FEE OF ONE  
29 HUNDRED FIFTY DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD;

30 2. ON THE RECOMMENDATION OF THE BOARD, THE DEPARTMENT MAY EXEMPT:

31 (A) FROM THE REQUIREMENTS OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS  
32 SECTION, AN APPLICANT WHO HOLDS A LICENSE OF CERTIFICATION TO PRACTICE  
33 AS A GOVERNMENT BENEFITS ADVOCATE OR SIMILAR TITLE ISSUED TO HIM OR HER  
34 UPON EXAMINATION BY A LEGALLY CONSTITUTED BOARD OF EXAMINERS IN ANY  
35 OTHER STATE OR POLITICAL SUBDIVISION OF THE UNITED STATES, PROVIDED THAT  
36 THE APPLICANT CAN MEET THE REQUIREMENTS OF PARAGRAPH (D) OF SUBDIVISION  
37 ONE OF THIS SECTION;

38 (B) FROM THE REQUIREMENTS OF PARAGRAPH (B) AND PARAGRAPH (D) AND FROM  
39 THE INITIAL CERTIFICATION FEE OF PARAGRAPH (G) OF SUBDIVISION ONE OF  
40 THIS SECTION, AN APPLICANT WHO SUBMITS, PRIOR TO THE DATE OF ENACTMENT,  
41 SATISFACTORY EVIDENCE THAT THE APPLICANT HAS BEEN PRACTICING AS A  
42 GOVERNMENT BENEFITS ADVOCATE FOR A PERIOD OF THREE YEARS.

43 S 7715. SEPARABILITY. IF ANY SECTION OF THIS ARTICLE, OR PART THEREOF,  
44 SHALL BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID,  
45 SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER OR  
46 ANY OTHER SECTION OR PART THEREOF.

47 S 2. This act shall take effect on the three hundred sixtieth day  
48 after it shall have become a law, provided, however, that effective  
49 immediately, the addition, amendment and/or repeal of any rule or regu-  
50 lation necessary for the implementation of this act on its effective  
51 date is authorized and directed to be made and completed on or before  
52 such effective date.

.SO DOC A 486

\*END\*

BTXT

1999

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### Bill A00486

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