



**NEW YORK
CITY BAR**

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REPORT ON LEGISLATION BY THE SEX & LAW COMMITTEE

**A.3498
S.2275**

**M. of A. People-Stokes
Sen. Montgomery**

AN ACT to amend the social services law, in relation to notice requirements to families and providers when funding cuts are made

THIS BILL IS APPROVED

On behalf of the Committee on Sex and Law¹ of the New York City Bar Association, we write to urge you to support A.3498/S.2275, a bill that would amend §34-a of the Social Services Law by adding a new subdivision 9 that incorporates a 90-day notice requirement. Subdivision 9 would require that local social services districts notify the Office of Children and Family Services (OCFS) 90 days before the effective date of a planned across-the-board reduction in eligibility or increase in co-payments for childcare assistance; it would not apply to individualized benefit determinations. OCFS, in turn, would be required to post notice of the proposed change on its website within 10 days and, within 30 days, notify child care providers, the state Child Care Resource and Referral organization (CCR&R), and local CCR&R organizations that serve the social services district of the proposed change. Providers and CCR&Rs would then be required to post the information so that parents are aware of the changes and can assess the impact on their households and act accordingly.

Currently, New York State law requires that notice for a reduction or discontinuance of social services benefits be mailed to the individual family 10 days before the effective date. This 10-day notice provision generally applies when the social services district has changed the overall eligibility level to receive benefits. This limited timeframe does not make sense for dramatic changes in childcare eligibility levels or co-payment multipliers that are made across an entire social services district and affect hundreds of families. Since counties receive their subsidy funding annually, it is more than reasonable to expect that they will be able to project the number of families that can be served 90 days in advance. To make the process as easy as possible for the counties, the bill is drafted in such a way that notification can take place while

¹ The Committee on Sex and Law of the New York City Bar Association studies how sex and gender affect the formulation and operation of law and policy. Among other areas, it addresses issues that particularly affect women and girls. Our membership includes attorneys from government agencies, private law firms, and nonprofit organizations.

the social services district is in the process of getting approval from OCFS for its state plan amendment. This new provision will afford families “meaningful” due process.²

Without ample notification, many families do not have sufficient time to plan for such a dramatic financial loss. As a result, parents regularly have to make choices that are not in the best interest of their families, such as quitting their jobs or placing their children in childcare that is unreliable or unregulated.³ Without time to make arrangements for their children, some of these parents end up relying on welfare benefits as a direct result of these cuts. 10 days is simply not sufficient time to make necessary alternative arrangements. Childcare is usually the most burdensome household cost for families, more than rent or mortgage payments.⁴ Loss of a subsidy or an increase in co-payments without adequate notification can have severe repercussions not only for families but also for daycare providers and businesses placed at risk of losing employees. This bill provides a simple and cost-effective way to ensure that parents and providers are made aware of critical financial decisions made by the counties that will impact their household budgets and business income so that they have time to develop a plan to respond to this loss of financial assistance.

Due to shortfalls in childcare funding, counties are regularly discontinuing otherwise eligible families because they do not have enough funds.⁵ To cope with the loss of this important work support, it is critical that families receive more than 10 days notice. For these reasons, we support A.3498/S.2275.

May 2013

² The seminal Supreme Court decision *Goldberg v. Kelly* requires that due process be provided “at a meaningful time and in a meaningful manner.” 397 U.S. 254, 267 (1970); *see also Matter of Kaur v New York State Urban Dev. Corp.*, 15 N.Y.3d 235, 260 (2010).

³ *See* Spina, Matthew, “Day care issue is a game of numbers: Welfare route called cheaper by county,” *Buffalo News* (January 31, 2010) available at: <http://www.buffalonews.com/2010/01/31/941222/day-care-issue-is-a-game-of-numbers.html> (last visited May 20, 2013).

⁴ D. Pearce, “The Self-Sufficiency Standard for New York State,” 2010, available at www.fiscalpolicy.org. Appendix C documents the cost of living in every county of the state. Consistently, childcare costs are significantly higher than housing costs. *See also* Westchester County Board of Legislators. Martin, Tara L, Director of Communications, “Westchester Lawmakers Vow to Fight Country Executive’s Child Care Cuts,” (April 5, 2010) available at www.westchesterlegislators.com (last visited May 20, 2013).

⁵ Here is just a sample of some of the counties in which cuts have been made: Dutchess County lowered eligibility from 200% of poverty to 150% of poverty (January 2011) then further lowered eligibility to 125% of poverty (July 2011); Essex County closed the cases of all families that had received subsidies for more than 12 months (October 2011); Fulton County discontinued 140 families (October 2011); Suffolk County notified all families over 185% of the poverty level that they would be losing their subsidies (December 2011), then notified all families over 100% of the poverty level that they would be losing their subsidies (July 2012); Cortland County notified 40 families that they would lose their subsidies because of insufficient funding (October 2012) and then 30 more families lost their subsidies for the same reason (December 2012); and Schenectady County notified all families over 125% of the poverty line that they would be losing their subsidies (December 2012).