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**\*\*\*FOR IMMEDIATE RELEASE\*\*\***

***Legal Aid Files Lawsuit to Temporarily Waive Onerous  
“Lawsuit Requirement” for Family Homelessness and  
Eviction Prevention Supplement (FHEPS) Program Eligibility  
During the COVID-19 Pandemic***

***Lawsuit Requirement Arbitrarily Requires Families to Prove  
That Their Landlord has Sued to Evict Over Non-Payment,  
Which Only Serves as an Extra Barrier for Thousands of  
Vulnerable Families in Need***

(NEW YORK, NY) – The Legal Aid Society and Hughes Hubbard & Reed LLP today filed a class action [lawsuit](#) in New York State Supreme Court on behalf of two individual plaintiffs representing all low-income families in New York City who are seeking to apply for the Family Homelessness and Eviction Prevention Supplement (FHEPS) program and have been unable to do so because of the “Lawsuit Requirement.” The regulation requires that families demonstrate that their landlords have sued to evict them for failure to pay rent before they can qualify for

FHEPS rent subsidies. Thousands of New York City families seek to apply for FHEPS each month.

In light of the economic emergency caused by the COVID-19 pandemic, the State enacted moratoriums on nonpayment eviction proceedings. As a result, no new FHEPS applicants are able to satisfy the Lawsuit Requirement because the law currently prohibits the filing of any new nonpayment eviction proceedings. Thus, continued enforcement of the Lawsuit Requirement acts as a blanket bar on approval of any new FHEPS applications.

“Since the onset of the COVID-19 pandemic, unemployment rates in New York City have skyrocketed and tens of thousands of families have come to rely on public assistance for their survival. As the pandemic continues, ever-increasing numbers of families need FHEPS assistance to avoid losing their homes,” said **Lilia I. Toson, Supervising Attorney in the Civil Law Reform Unit at The Legal Aid Society**. “It is unlawful and immoral for the State to prevent these families from accessing the rental assistance they need now, and it would be negligent and dangerous to force those families into Housing Court later.”

“The State’s decision to cut off the ability of needy families with children to access critical rent subsidies during the most devastating pandemic in a century is contrary to public health objectives and places New York City’s most vulnerable families at risk,” said **Fara Tabatabai, a litigation partner at Hughes Hubbard & Reed**. “Under the law, families who need assistance in order to keep their homes are entitled to access that assistance now, without having to risk eviction, homelessness, or infection with a deadly virus.”

To make matters worse, by the time the State resumes nonpayment eviction proceedings, many needy families will have become ineligible for FHEPS because their rental arrears will have accumulated beyond the \$9,000 limit for FHEPS. After the moratoriums expire, the Lawsuit Requirement will require those families that remain eligible for FHEPS to appear in overburdened and overcrowded Housing Court facilities to contest eviction proceedings, putting them at unnecessary risk of exposing themselves and others to infection.

The complaint was filed against the New York State Office of Temporary and Disability Assistance (OTDA) and its Commissioner, Michael P. Hein, for refusing to waive the regulation during the COVID-19 pandemic, unlawfully restricting the ability of otherwise eligible families to obtain FHEPS benefits. It seeks to temporarily waive the “Lawsuit Requirement” and permit the New York City Department of Social Services to approve FHEPS applications that include a written rent demand.

The lawsuit was brought under Sections 131 and 350 of the New York Social Services Law; Article I, Section 6 of the New York State Constitution; and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

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*The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. [www.legalaidnyc.org](http://www.legalaidnyc.org)*