

THE LEGAL AID SOCIETY

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

***In Response to Legal Aid, Hughes Hubbard & Reed LLP Litigation,
NYS Agrees to Waive Onerous “Lawsuit Requirement” for Family
Homelessness and Eviction Prevention Supplement (FHEPS)
Program Eligibility Until At Least May 1***

***Attorneys Press Albany to Assist with Outreach, Approve Arrears
Payments in Excess of \$9,000 Threshold***

(NEW YORK, NY) – The Legal Aid Society and Hughes Hubbard & Reed LLP announced that, in response to recently filed [litigation](#), New York State has decided to [waive](#) the Lawsuit Requirement for Family Homelessness and Eviction Prevention Supplement ([FHEPS](#)) applications through May 1 or the end of any eviction moratorium, whichever comes later. Albany has instructed the New York City Department of Human Resources, the agency responsible for administering FHEPS locally, to approve applications with a rent demand and a hardship declaration.

However, attorneys have yet to receive confirmation that Albany will assist with outreach to notify New Yorkers of the change or provide relief for families whose rental arrears exceeded the FHEPS threshold of \$9,000.

“This issue should have never required litigation, but we welcome New York’s decision to waive this requirement so families who need assistance have access to it now,” said **Lilia I. Toson, Supervising Attorney in the Civil Law Reform Unit at The Legal Aid Society**. “However, we need Albany’s help getting the word out to our clients and immediate action in those cases where the arrears have exceeded \$9,000. COVID-19 is still a deadly virus, and Albany and City Hall

must do their part to keep families protected in their homes. We will monitor this development to ensure that our clients and other New Yorkers are not deprived of this critical resource.”

“New York State has done the right thing in recognizing that families who are struggling through the COVID-19 pandemic need access to rental assistance now,” said **Fara Tabatabai of Hughes Hubbard & Reed LLP**. “The next step is making sure that eligible families know that the requirements have changed and that no family is penalized for the arrears that accumulated while they were waiting to be able to apply for relief. The State’s assistance will be critical in ensuring meaningful access to these subsidies.”

Background

This lawsuit was brought in February in New York State Supreme Court on behalf of two individual plaintiffs representing all low-income families in New York City who were seeking to apply for the Family Homelessness and Eviction Prevention Supplement (FHEPS) program and were unable to do so because of the “Lawsuit Requirement.” The regulation required that families demonstrate that their landlords have sued to evict them for failure to pay rent before they could 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 were able to satisfy the Lawsuit Requirement because the law prohibited the filing of any new nonpayment eviction proceedings. Thus, continued enforcement of the Lawsuit Requirement acted as a blanket bar on approval of any new FHEPS applications.

To make matters worse, by the time the State resumes nonpayment eviction proceedings, many needy families would have become ineligible for FHEPS because their rental arrears would have accumulated beyond the \$9,000 limit for FHEPS. After the moratoriums expire, the Lawsuit Requirement would 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.

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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