



# ADVANCING ECONOMIC JUSTICE

*Advancing the cause of economic justice for low-income families, individuals, and communities across the country*



Winter 2009

## NCLEJ Helps More States Comply with the ADA in Their Benefits Programs

Building on its successful work in New York, New Jersey, Virginia, and other states, NCLEJ has expanded its efforts to improve the way in which public benefits programs serve individuals with disabilities. Despite the large numbers of individuals with disabilities applying for and receiving cash assistance, Medicaid, and food stamps around the country, many public benefits programs have given little thought to their obligation to provide meaningful access to these programs to people with disabilities.

The Americans with Disabilities Act (ADA) requires these programs to make a wide range of reasonable accommodations for people with disabilities. Still, most public benefits programs around the country fail to make accommodations. Staff are not trained on their legal obligation to accommodate. Applicants, recipients and the public are not informed about the ADA and how it applies to the agencies' programs. Agencies lack written policies requiring accommodations for people with disabilities.

We are working to change this. Most recently we have focused on Arizona and Kentucky, where advocates asked us to help persuade state benefits agencies that their policies, consumer education materials and other documents need major revamping. We have urged those states to accept our leadership and expertise in guiding them in improving their policies, consumer education materials, screening tools, and other materials. Both states now appear poised to

make major changes in their policies and procedures.

In Arizona, the Department of Economic Security (DES), an umbrella agency for dozens of state programs including cash assistance, food stamps, Medicaid, child care, job training, protective services, unemployment insurance, vocational reha-

ilitation services, and many other programs, is developing a comprehensive policy to identify and provide reasonable accommodations to individuals served by DES programs.

In Kentucky, the state has already indicated its intention to make significant changes in

the process for screening cash assistance applicants and recipients to determine whether they may have disabilities needing accommodations, in ADA consumer education pamphlets, and in cash assistance work plan agreements.

In both states, state agency staff have been extremely receptive to our proposals and comments. While staff training, monitoring, and advocacy will be necessary to ensure that agency staff comply with these new policies and procedures, the critical first steps will be adopting strong written policies and procedures, establishing a clear process for identifying which clients have disabilities, and distributing good materials informing clients of their rights.

In states that have already adopted policies with our help we have seen concrete results. For example, New Jersey's ADA policy requires county welfare agencies to review a client's records and

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***"These state policies lay the essential groundwork for public benefits programs to provide equal and meaningful access to people with disabilities."***

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— Cary LaCheen  
NCLEJ Senior Attorney

## DID YOU KNOW?

- A General Accountability Office study found that 44% of families getting TANF (cash assistance) benefits have a parent or child with a disability.
- Mental health problems and learning disabilities are some of the most common disabilities among TANF recipients.
- The ADA requires public benefits programs to help people with disabilities fill out an application, gather documents in support of eligibility, and have flexible appointment policies for clients with disabilities.
- The ADA protects parents with disabilities from being punished for not performing welfare work activities beyond their capabilities.

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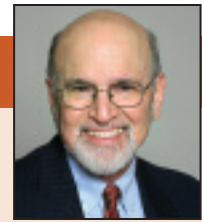
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## FROM THE EXECUTIVE DIRECTOR



It just doesn't make sense. As economic prospects grow bleaker, as income insecurity and poverty rise – welfare rolls for low-income families shrink.

The number of families receiving basic cash assistance (TANF) in the United States fell 9%, from 1.88 million families in October 2006 to 1.62 million families in October 2008 (the most recent information available). During the same period in New York City the number of families served also dropped 9%, from 197,000 families to 179,000.

How can this be? Welfare programs were thought to be counter-cyclical, to meet increased need – and fuel recovery – in times of downturn. And some programs, such as food stamps and Medicaid, have been growing. But food stamps and Medicaid cannot pay the rent, cannot pay for clothes, cannot pay for soap, pots and pans, or transportation.

Sadly, staff shortages at welfare agencies, misapplied program rules, inept administration, outright hostility to applicants and recipients, and the like deprive hundreds of thousands, perhaps millions, of eligible families of critical benefits.

And that's where we come in. We work tirelessly to assure that agencies comply with the law, that programs are administered to respond to human need – in short, that the institutions established to meet human needs perform as they should. Agencies controlled by the settlements and court orders we have won continue to operate as they should because we have provided for our ongoing oversight. We look forward to reporting on many more such victories.

Our nation is now moving forward under a new President who is pressing for an economic recovery that will address the needs of the poorest persons in our land. We are eager to support program improvements and new approaches – and will continue to insist that new and old programs alike work as they are intended and help individuals and families escape poverty.

These are difficult times for nonprofit organizations such as NCLEJ that require the support of generous donors to continue moving our country forward. I am so grateful to so many of you who renewed – and in some cases significantly increased – your support of our year-end appeal. There are families all around this city and nation who have a better chance to succeed because of your help.

Henry A. Freedman  
Executive Director

### NCLEJ HELPS MORE STATES COMPLY *continued from front page*

take other measures before closing a case or sanctioning benefits, to ensure that the agency is not taking action against a client with a disability who needed an accommodation that was not provided. Advocates have been able to reverse decisions to reduce or discontinue clients' benefits where these reviews have not occurred.

"These state policies lay the essential groundwork for public benefits programs to provide equal and meaningful access to people with disabilities" said Cary LaCheen, NCLEJ Senior Attorney.

In the months ahead, we hope to expand this work into other states.

# We've Been Busy!

## Getting the word out on economic justice

In November, NCLEJ Program Director/Senior Attorney Gina Mannix presented at a workshop on privatization and public benefits at the annual National Legal Aid and Defenders Association Conference. The goal of the workshop was to raise awareness of the key issues that privatization presents for low-income people and their advocates and to encourage advocates to be involved in addressing initiatives that may develop in their states. Also in attendance at the conference was Executive Director Henry Freedman.

In December, Staff Attorney Laura Redman participated in the annual National Health Law Program Conference, which is attended by national health advocates, state-based legal services attorneys, and disability rights advocates from across the country.

Laura also recently joined the Low-Income Contraceptive Access Coalition, a national coalition of advocates working to ensure access to over-the-counter emergency contraception through Medicaid as well as creating innovative new programs so that all women who face financial barriers can access needed contraception. The coordinators of the group include the Center for Reproductive Rights, National Institute for Reproductive Health, National Health Law Program, National Latina Institute for Reproductive Health, National Network of Abortion Funds, and National Women's Law Center.

In December, Senior Attorney Cary LaCheen attended an invitation-only roundtable on disability issues sponsored by the New York City's Comptroller's Office.

In January, Health Policy Coordinator Denise Soffel was invited to present at grand rounds at the Children's Evaluation and Rehabilitation Center, a program of the Albert Einstein College of Medicine. She spoke about proposed changes in New York's Medicaid program, especially as they affect people with disabilities. She also spoke about the new federal administration, and what New York has to contribute to a national conversation about health care reform.

Denise, along with other members of the Medicaid Matters New York Steering Committee, met with New York Governor David Paterson in January. The meeting provided a rare opportunity to have a substantive discussion with the Governor and express support for the continuation of the "patient first" agenda as proposed in New York's budget. Denise and other advocates shared their concerns about the magnitude of the across-the-board cuts in the health arena in a meeting that was filmed for ABC's *Nightline*.

Staff Attorney Lynn Lu served as an advisory board member to Community Voices Heard in connection with its November publication of *Missing the Mark: A Report on NYC's Back to Work Program & Its Effectiveness In Meeting Employment Goals for Welfare Recipients*. The report confirms that public assistance recipients continue to face difficulty in receiving information about and accessing education and training programs, largely as a result of misinformation and disregard for education as a proven path towards long-term economic security. NCLEJ continues to work closely with advocates to ensure that barriers to education and training are overcome.

## Training advocates for low-income Indianans

NCLEJ staff have been working closely with advocates in Indiana to identify and address the problems that public benefits applicants and recipients experience as a result of Indiana's roll-out of a privatized system to revamp the system for filing and processing applications. The new system uses call centers and online applications, reduces

the opportunity for an applicant or recipient to have face-to-face contact with an eligibility worker, and makes it more difficult for applicants to apply for and receive benefits. Gina Mannix worked closely with Indiana Legal Services staff to design a full-day training for advocates to prepare them for representing clients, and she and NCLEJ Director of Litigation Marc Cohan participated in the training, which was conducted in January.

## Arguing for adequate benefits to prevent homelessness in friend-of-court brief

NCLEJ was invited to submit a friend-of-the-court brief to the New York Court of Appeals, New York's highest court, in *Brownley v. Doar*. The *Brownley* plaintiffs are families in receipt of public assistance who have exhausted the five-year time limit for receipt of federally reimbursed assistance and are now receiving solely state and locally funded assistance. While New York State law requires public assistance shelter allowances to be adequate for the purpose of raising a child in his or her own home, the shelter allowances in most social service districts are woefully insufficient to prevent eviction and long-term homelessness for many families.

NCLEJ, representing more than a dozen nonprofit organizations dedicated to ending poverty and homelessness, filed a friend-of-the-court brief in November. We argued that New York's constitutional requirement to provide aid to the needy prohibits the denial of the right to challenge a shelter allowance that is so inadequate that families with children risk eviction and homelessness.

## Researching the challenges faced by eligible but uninsured adults in New York City

In December 2008, the United Hospital Fund presented a grant to NCLEJ to support the research project, "*Who Are the Eligible but Uninsured Adults in New York City?: A Qualitative Study*." New York State has committed itself to finding and enrolling all uninsured New Yorkers who are currently eligible for coverage. To do this most effectively, a better understanding of why these individuals fail to enroll is needed.

Through this research, to be undertaken by Denise Soffel, we expect to generate a profile of eligible-but-unenrolled single adults that catalogs and evaluates the factors that contribute to their being unenrolled; a descriptive analysis of the experiences of the single adult/childless couple population as they try to navigate the Medicaid system; and a set of recommendations on how to connect people to care that includes educational efforts, outreach strategies, and administrative systems change.

## Intern Update

**Jessica Grant**, a second-year law student at the University of Ottawa, served as a full-time intern for the month of January at NCLEJ. She worked closely with Staff Attorney Laura Redman.

In late January, NCLEJ welcomed **Pouya Bavafa** as an intern for the spring semester. Pouya is a second-year law student at Columbia University School of Law, where he was a Harlan Fiske Stone Scholar in 2007-2008.

**Cherie Samuels**, a 2008 law graduate of King's College London, UK (a partner of Columbia University), is also interning at NCLEJ this spring. She was active in the moot court and debating societies.



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## Bryan Cave Associate Peter Urias Completes Productive Tenure at NCLEJ

Bryan Cave third-year associate **Peter Urias** recently completed a four-month secondment at NCLEJ (from September 2008 to January 2009).

A 2006 graduate of New York University Law School, Peter played a key role in a number of NCLEJ cases, notably our ongoing litigation in Suffolk County, New York, which challenges Suffolk County's severe delays in processing Medicaid and food stamps applications.

During the course of the externship, Peter had the opportunity to take depositions, draft pleadings, interview clients, and actively par-



icipate in litigation strategy. Further, we are pleased that through the externship we have developed a strong pro bono partnership with Bryan Cave, as partner **Kira Watson**, and associates **Adam Rosen, Courtney Peterson, and Ryan Walsh**, have also contributed substantial pro bono legal assistance to NCLEJ in the last few months.

We look forward to continuing to develop our relationship with Bryan Cave, in ongoing and future litigation, and express our sincere thanks for their partnership and significant contribution to our work.

## Mark Your Calendars!

### NCLEJ's ANNUAL AWARDS DINNER

will be

**June 2, 2009**

at Chelsea Piers – The Lighthouse.

Distinguished honorees will include

**Michael D. Fricklas**

*Executive Vice President,  
General Counsel, and Secretary  
Viacom Inc.*

and

**John DeWitt Gregory**

*Sidney and Walter Siben  
Distinguished Professor of Family Law  
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