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Pataki Welfare Plan Rattles Housing

The Pataki Administration's proposal to reform welfare could mean big problems for affordable housing in New York. Legislation sponsored by the Governor, which would lower benefit levels and impose strict time limits on recipients, could threaten the financial stability of hundreds of thousands of publicly-supported and private-sector housing units. Meanwhile, provisions changing the system for delivering cash grants could eliminate programs protecting both tenants and owners.

Major Welfare Revamp

The Administration's proposal, which was submitted along with the Governor's Fiscal Year 1996-97 Executive Budget, is designed to take advantage of expected reforms coming out of Washington while conforming to the requirements of the New York State Constitution. Under its provisions, the existing Aid to Families with Dependent Children would be replaced by a "Temporary Assistance for Families with Children" program. Beneficiaries of that program would be subject to a five-year lifetime limit on cash benefits. New York State's Home Relief system, which provides assistance to childless adults, would be replaced by a "Temporary Assistance Program," that would provide benefits to adults for a maximum of 60 days per year for no more than five years. Persons with AIDS, the elderly, the disabled or those residing in domestic violence shelters or facilities for the homeless under contract with a social service district would be exempt from the Temporary Assistance Program time limit.

The Governor's plan would cut cash assistance levels for individuals and families by an average of 25 percent. For a family of three, total monthly cash assistance would decline by $156 per month, from $577 to $421. Individuals would see a reduction of $74 per month, from $352 to $278. The plan would also change the manner in which beneficiaries receive this assistance. Currently, cash assistance is divided among a basic grant, a shelter grant and a heating fuel grant, with the shelter and fuel grant levels established by the Commissioner of the state Department of Social Services. Under the Governor's bill, cash assistance would be combined in a single flat grant, with benefit levels set by statute.

The proposal would somewhat offset decreases in benefit levels by increasing from $30 to $153 per month the amount a family can earn without reducing welfare benefits. The bill would also ease rules for welfare families that share residences. In the past, the state Commissioner of Social Services has ruled that welfare families sharing a residence should be treated as a single family. Two families of two could, thus, receive only the maximum grant of a four-person family ($688) rather than their combined individual grants (totalling $938). Under the Governor's proposals, each public assistance household with children that shared a residence would receive 90 percent of its grant, while families without children would receive 85 percent. This would apply whether or not both families were receiving public assistance.

Along with time limits, the legislation would add a range of new restrictions on public assistance eligibility and benefits. The plan would require drug testing of all new welfare applicants and current recipients. Those testing positive would be required to participate in treatment programs. The plan would also eliminate grant increases for families that have additional children while on welfare, although those children would remain eligible for in-kind assistance.

To serve those eliminated from the welfare rolls by time limits or other restrictions, the legislation would create a "Basic Care for the Needy Program," to be funded through a block grant from the state to individual social service districts. Designed to conform to New York's constitutional mandate to provide for the needy, the program would provide in-kind support or vouchers on an emergency basis for shelter, food, clothing, transportation or job placement services.

One in Five Households

As of June 1995, there were over 534,000 welfare households in New York City, including 314,000 families with children and 220,000 Home Relief cases. About one in every five households in New York City receives some sort of public assistance income; among poor families, that number is three out of every five. Only 25 percent of public assistance households reside in public or *in rem* housing while just under half live in private, rent-stabilized units.

Even under the existing system, welfare benefits are insufficient to maintain decent housing conditions. Currently, a family of three in New York City may receive a maximum welfare shelter allowance of $286 per month. By comparison, the Rent Guidelines Board estimates the average cost of operating an apartment in a pre-1947 building at $364. Citywide, the vacancy rate for apartments renting for under $300 is less than one percent. As a result, over 77 percent of welfare households pay rents either at or above

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the maximum shelter grant level, with the average family facing a deficit of $180 per month.

Jiggets and the Shelter Grant

One explicit goal of the Governor's proposal to eliminate the separate shelter grant is to pre-empt a court-ordered system of supplemental rent payments established for welfare families under the 1990, *Jiggets v. Grinker* decision. In that case, the New York State Court of Appeals ruled that welfare shelter allowances must bear a reasonable relationship to the actual cost of housing in order to comply with the requirements of the state Social Services Law. Pursuant to that ruling, welfare families can now receive supplemental rent payments of up to 210 percent of the maximum shelter grant on an emergency basis. More than 25,000 New York City families now receive supplemental rent payments averaging $234 per month under this program.

In past years, both the Pataki and Cuomo Administrations have tried to undercut the Court's decision in *Jiggets* by obtaining legislative endorsement of the existing shelter grant levels. In 1992, Governor Cuomo included in his Aid to Localities bill a provision stating that shelter grant schedules established by the Commissioner of Social Services "are hereby deemed to be in conformance with the requirements of the Social Services Law." That language was eventually eliminated. In 1995, the Pataki Administration proposed welfare reform legislation that would have placed the shelter grant schedules within the Social Services Law, as well as declaring those grant levels in conformance with the statutory mandate. Those provisions were also eliminated. In its current proposal, the Pataki Administration is seeking to eliminate the shelter grant entirely and to replace it with a single flat grant established by statute. Whether that strategy will fare any better than previous attempts is yet to be seen.

In the face of declining benefit levels, eliminating the *Jiggets* payments could be disastrous for both tenants and owners. For example, under existing grant levels, an average family of three faces a monthly rent burden of $466 (based on a $286 shelter grant plus a $180 monthly deficit). That is $45 more than the entire welfare grant for that family under the Governor's proposal. Eliminating *Jiggets* would leave both the tenant and the landlord with no recourse for addressing this shortfall. One possible result would be widespread evictions — a prospect that is both disturbing and unlikely given the hesitancy of Housing Court judges to leave families homeless. A more likely scenario would be a wholesale shifting of responsibility for subsidizing the poor from government to private landlords, as owners struggle to operate without adequate income.

Confusion over Vendor Payments

Another question raised by the elimination of the shelter grant regards the current system for making restricted rent payments on behalf of welfare recipients. Current federal and state regulations permit social service districts to make rent payments on a recipient's behalf either through a two-party check or by direct vendor payment to the landlord. Although this is often done voluntarily, direct vendor payments may also be made without consent in cases where a recipient has shown an inability to manage cash. Under state regulations, two months' nonpayment of rent is presumptive evidence of such inability.

HRA officials estimate well over 150,000 welfare cases are now subject to restricted rent payments. Accounting for a large portion of these cases are families living in *in rem* buildings and other publicly-supported housing specifically set aside for homeless families. Sponsors generally request that all families placed in these units sign voluntary restricted rent agreements. An estimated 40 percent of tenants in HPD-owned buildings have either voluntary or involuntary direct vendor payment agreements in place, which contributes significantly to that agency's 79 percent rent collection rate.

The Governor's proposed legislation would maintain provisions of the state Social Services Law authorizing direct vendor payments. However, without a delineated shelter allowance, there would be no clear-cut basis on which to make these payments. Under the Governor's bill, a social service official would be authorized to furnish "all or a portion" of a recipient's assistance in the form of "direct payments to the owner of such housing accommodations or his or her designated agent." Presumably, however, social service officials could not be expected to divert a recipient's entire grant to a landlord. There is also the case of households who fail to pay rents in excess of their welfare benefits. Under existing regulations, failure to pay rent in excess of the shelter grant cannot be used as the basis for an involuntary rent restriction. Were the shelter grant eliminated, there would have to be a new standard for evaluating these situations.

Public- and private-sector housing professionals warn that, in the face of declining grant levels, maintaining a viable direct payment system takes on a renewed importance. They fear that giving recipients a new obligation to deliver rent payments just as their incomes are cut is a recipe for rising delinquency rates.

Compounding Budget Cuts

The Governor's welfare plan comes at a time when the housing community is already confronting a general retrenchment in government housing programs. One key issue in this regard is the uncertain future of federal rental subsidies under the Section 8 program. Legislation signed

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HUD WATCH

Budget Stalemate Benefits HUD

While the fiscal 1996 HUD budget remains snared in the bitter political dispute over how best to eliminate the federal deficit, legislation shaping the future of national housing programs is making its way through Congress.

During the early months of the 104th Congress it appeared that an unusual amount of substantive program changes would be legislated by the Appropriations sub-committees that determine the budgets of HUD, the VA and other independent agencies. The budget deadlock between the White House and Congress, however, has stalled many of the changes contemplated by those committees, while reforms of the public housing and the Section 8 Existing Housing programs, produced through a more traditional "authorization" process, have moved forward. The full Senate has already passed an amended version of Connie Mack's "Public Housing Reform and Empowerment Act" (*The Urban Prospect,* September/October 1995) and similar legislation is moving toward the floor of the House.

The shift in legislative focus from subcommittees of the House and Senate appropriations committees to subcommittees of the respective banking committees is generally favorable for New York's housing interests. The state has virtually no representation on the HUD appropriations subcommittees (only Syracuse Congressman James Walsh), while New York's Alphonse D'Amato chairs the Senate Committee on Banking, Housing and Urban Affairs and Long Island Representative Rick Lazio chairs the housing subcommittee of the House Banking and Financial Services Committee.

Hot Money

In early December, Congress passed a spending bill for HUD and the several other agencies with which it is grouped for budgeting purposes. That bill would have reduced HUD's budget by about 21 percent (roughly the equivalent of last year's budget after the mid-summer recisions). President Clinton, however, vetoed the measure on December 18, primarily because of the severe cuts it would have imposed on the Environmental Protection Agency, and because it would have virtually eliminated the National Service program. The HUD budget bill has since been mired in the stalemated deficit negotiations and remains one of the five major annual appropriations bills that have yet to be enacted.

Once it became apparent that the resulting government shutdowns were exacting a political toll on Congressional Republicans, Congress agreed to enact "continuing resolutions" that permit agencies to operate without formal appropriations bills. On January 26, Congress passed a temporary spending resolution that covers HUD and a number of other agencies. The President signed it the next day, providing HUD funding through March 15 at a spending level equivalent to that of the vetoed bill.

As the Presidential election cycle heats up, the prospects for a general fiscal year 1996 budget compromise appear to be receding, with the possibility growing that major federal agencies will operate the entire year on continuing resolutions. Ironically, many HUD watchers believe that to be the most favorable scenario for the agency. The President's veto of the appropriations bill was not based on the HUD budget reductions; although he has called for a $2 billion increase in Congress's $81 billion appropriation for HUD, the VA and Independent Agencies, Republicans are unlikely to consent. If a compromise is struck, it is likely that at least some portion of increased EPA and National Service funding will be offset by further reductions in housing programs.

The most severe spending cuts implemented by the continuing resolution are the virtual elimination of new public housing development and incremental Section 8 certificates and vouchers. The Community Development Block Grant and HOME programs are held at last year's levels.

Reforms Scaled Back

The vetoed appropriations bill contained numerous substantive provisions affecting housing programs. The continuing resolution contains far fewer. Among its most significant programmatic provisions is the repeal of federal tenant-selection preferences for public and Section 8 housing. For admittance to public housing, local housing authorities are now required to implement a written system of local tenant-selection preferences, after public notice and an opportunity for public comment, that is not inconsistent with the jurisdiction's Comprehensive Housing Affordability Strategy. For the Section 8 Existing certificate and vouchers programs, a PHA may implement a system of local preferences for the purpose of selecting families to be assisted, while all federal preferences are repealed for Section 8 New Construction and Substantial Rehabilitation projects.

Several other changes were made to the public and Section 8 housing programs. The continuing resolution requires the establishment of minimum rents of at least $25 per month (and up to $50 per month) for residents of public and project-based Section 8 housing, and for families assisted through the existing and moderate rehabilitation certificate and voucher programs. The law also permits housing authorities to establish ceiling rents for residents of public housing projects.

The continuing resolution also requires HUD, at the request of the owner, to renew expiring Section 8 project-based contracts for one year at current rent levels. One ominous provision, carried over from the vetoed appropriations measure, is a requirement that PHAs delay for three months the reissue of any Section 8 certificate or voucher assistance that becomes available due to the termination of assistance to a current beneficiary. That, many observers fear, is indicative of Congress's intention to "recapture" some Section 8 tenant-based subsidies that have already been allocated.

The stop-gap budget measure also reduces the basis for HUD's fair market rents to the 40th percentile of an area's rental distribution, a change that many considered a *fait accompli.* Most of the changes were supported by HUD and remain in effect until the end of the fiscal year or until they are superseded by new legislation. ■

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by the President has already effectively eliminated funding for new Section 8 certificates. Although there have been no overt attempts to halt the renewal of existing certificates, pending legislation would reduce the term of renewed certificates from five years to two, while a continuing budget resolution now in effect contains provisions to facilitate the recapture of active certificates (see story, page 3). In the context of receding federal rental subsidies, New York's low-income housing development and preservation goals are increasingly dependent on the welfare system.

Housing developed for homeless families provides a case in point. Nonprofit organizations that develop housing with funds authorized under certain provisions of Article 11 of the New York State Private Housing Finance Law, or rehabilitate housing under provisions of Article 8 of that law, are required to retain 30 percent of vacant units in that housing for formerly homeless families. In most cases, these families are provided with Section 8 certificates, along with lease riders stating that their rent will be either 30 percent of income or the maximum shelter grant level, whichever is higher.

In financing these buildings, housing sponsors work on the assumption that Section 8 subsidies will only be available for five years. After that period, receipts for those units would drop down to the maximum shelter grant, with higher income units within the building and extensive operating reserves subsidizing those rent levels. With both Section 8 and welfare facing uncertain futures, however, housing sponsors and their financing agencies can no longer make these assumptions.

It is difficult to predict how housing providers and regulatory agencies would respond if policy changes undermined their financing arrangements. Tenant advocates might reasonably argue that, in the absence of a dedicated shelter grant, lease riders only entitle housing sponsors to 30 percent of the tenant's basic grant — $126.30 for a family of three under the Pataki Plan. In another scenario, housing sponsors could be forced to use reserve funds intended for social services to subsidize the rents of formerly homeless families, or seek to decrease the percentage of their apartments set aside for these families. If it wished to retain these resources, the City of New York might very likely have to come up with a new source of subsidies.

The extensive housing preservation and rehabilitation efforts that have been sponsored by New York City with financing from private lenders would also be endangered if both Section 8 and welfare were withdrawn. These projects rely on a combination of federal subsidies and the welfare shelter grant to maintain affordability while supporting the costs of rehabilitation. Lenders warn that the reduction of welfare support and the elimination of the dedicated shelter grant would undermine millions of dollars of investments already made in low-income areas, as well as jeopardize any plans for future development.

Sponsors of permanent housing for low-income singles would face more immediate challenges, as approximately one-third of their tenants are supported by Home Relief payments. With most of those recipients subject to the 60-day time limit, enactment of the Governor's legislation could quickly result in a dramatic loss of income for these projects. Over the past decade, these developments have proven themselves to be an essential, cost-effective alternative to homeless shelters.

A Hard Fight Ahead

Governor Pataki's welfare proposal represents his administration's second attempt at revamping welfare in New York State. In its first attempt, initiated as part of the Fiscal Year 1995-96 Executive Budget, the Administration sought to cut the basic welfare grant, impose a 90-day limit on Home Relief and halt *Jiggets* payments, only to have much of its proposal eliminated in protracted negotiations with the state Assembly. This year, the Administration is counting on changes in federal welfare programs, and the perceived vulnerability of some Assembly Democrats, to drive substantial reform at the state level.

Much of the Governor's plan depends on the outcome of federal welfare reform. In its proposal, the Pataki Administration justifies a number of provisions — time limits, for example — as necessary to meet the mandates of federal reform. If Congress and the President fail to achieve a compromise measure this year, that argument might lose its credibility. More pressing, however, are the financial implications of federal reform. The Executive Budget includes $241 million in savings resulting from changes in the state's income support program. However, $120 million of that total is dependent on the federal government shifting welfare to a block grant, which would allow the state to retain savings resulting from declining welfare rolls.

With these and other questions still surrounding the Governor's plan, it is difficult to say what positions the various combatants in budget negotiations will take. Some Democrats in the Assembly have quietly voiced support for provisions such as time limits. Although the Giuliani Administration was initially critical of the benefit reduction, the City of New York Financial Plan for Fiscal Years 1996-2000 includes savings from those changes in its budget estimates. Released in January, that plan includes $127 million in welfare savings for Fiscal Year 1997.

Ultimately, any debate over the Governor's welfare plan will take place within the larger context of the budget process. Despite the Administration's efforts to speed approval by submitting the Executive Budget two months early, practically no one expects negotiations to end anywhere near the April deadline. Between the usual rankling of the New York State Legislature, and the protracted budget conflicts in Washington, some predict a budget season stretching into summer. ■

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