



## **Memo in Support: A. 11125**

### **Amend Social Services Law 131-n to Provide a Fair and Realistic Automobile Resource Rule**

Persons who apply for public assistance [Family Assistance and Safety Net Assistance] are not eligible for benefits if they have resources in excess of amounts set forth in Social Services Law §131-n. This law permits applicants to retain a vehicle with a fair market value of not more than \$4650, unless the individual needs the vehicle to work or look for work. In that case, the person is allowed to have a vehicle with a fair market value which does not exceed \$9300.

The Empire Justice Center supports this bill which will raise the resource level for automobiles to a uniform \$9300 and thereby permit low income families to own reliable cars. This bill would also remove the inherent illegal discrimination against individuals with disabilities in the current law.

Particularly in rural areas, individuals need their automobiles to get to medical appointments and engage in other activities such as shopping. It makes no sense to require disabled individuals to give up their automobiles while they are temporarily on public assistance and waiting for their Social Security Disability or Supplemental Security Income applications to be processed, since they can retain their automobiles once they are approved for SSD or SSI. A person may own one automobile of any value and maintain eligibility for food stamps or Supplemental Security Income (SSI). 20 CFR 416.1218.

New York's current automobile resource level of \$4650 is extremely outdated. The food stamp program set the automobile resource limit at \$4500 in 1977, and now permits states to exempt one vehicle per adult per household. Currently 32 exempt at least one automobile altogether, regardless of value.<sup>1</sup> Although we would prefer that New York follow the lead of these other states and adopt an exemption for one vehicle

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<sup>1</sup> 14 of those states exempt all vehicles owned by the household, and 4 of these states exempt one car per driver or adult. G. Rowe and M. Murphy, *The Welfare Rules Databook: State Policies as of July, 2006* (The Urban Institute).

regardless of value, we support this bill which is a vast improvement over current law.

This bill would also remedy the fact that New York's current policy discriminates against those with disabilities. A rule permitting only those who work or who are looking for work to have a vehicle exceeding the \$4650 fair market value creates an eligibility standard that is different for persons with disabilities and violates the Americans with Disabilities Act (ADA). 42 USC §12132. Persons on public assistance, who are disabled and unable to work, are "qualified individuals with a Disability" under the ADA. Local Social Services districts and the Office of Temporary and Disability Assistance are "public entities" as defined under this statute. The ADA plainly prohibits public entities from excluding the disabled from participating in or benefitting from a public program, activity or service "solely by reasons of disability." Additionally, the ADA regulations promulgated by the U.S. Department of Justice place an affirmative obligation on DSS to prevent this type of disability discrimination.<sup>2</sup>

Finally we would suggest that the bill be amended so that the valuation of the vehicle is based on equity value. The current rule values the car based fair market value in evaluating a public assistance applicant's car as a resource. This makes no sense. The assumption underlying the counting of resources in evaluating the financial eligibility of an applicant for benefits is the assumption that an applicant can sell the resource and thereby reduce or eliminate their need for assistance. However, utilizing the fair market value in assessing the worth of the car as a resource assumes that the applicant owns the car free and clear. This is rarely the case in low income households. In fact, many public assistance applicants with cars above the current resource level cannot sell their cars because they have so little equity value in the car. Rather than reap a benefit if they sold the car that could be used for their support, they would be left with nothing. Even worse, if the amount owing on the car is greater than what they could sell it for, they would be left with continuing payments and no car.

For more information contact

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<sup>2</sup> "A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program or activity unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered." 28 CFR §35.130(b)(8).