



## **Memo in Support: A. 11216**

### **Require Local Districts to Credit the Minimum Wage Value of Workfare when Recovering Properly Paid Public Assistance**

Persons who receive public assistance in New York State are required to repay the local social services district for the assistance they receive. Properly paid public assistance is a debt owed by the individual who received such assistance and is subject to recovery under a number of provisions of the Social Services Law. The recovery of such assistance is expressly authorized against windfalls such as inheritances (SSL 104), lawsuit proceeds (SSL 104-b), lottery winnings (SSL 131-r) and retroactive SSI awards (SSL 158(3)). Additionally, local districts are entitled to recover properly paid public assistance by requiring applicants for public assistance who own their own homes to provide the district with a mortgage equal to the sum of public assistance paid, as a condition of eligibility for assistance (SSL 106).

When an individual works off his or her grant by participation in workfare, it is only fair that the value of that work be credited against any recovery that the local district is entitled to make. This bill would amend Social Services Law 336-c to require local social services districts to credit the value of workfare by calculating the number of hours worked times the higher of the state or federal minimum wage applicable at the time, when determining the amount of properly paid public assistance that the local social services district is entitled to recover.

This legislation would codify the holding of the United States District Court for the Western District of New York in *Elwell v. Weiss*, 2007 WL 2994308, which addressed a challenge to a County's seizure of a former recipient's retroactive SSI benefits, holding that the Fair Labor Standards Act requires that workfare participants receive a credit equal to the minimum wage value of their labor when a local district calculates the value of a public assistance recovery. This proposed legislation is consistent with the provisions of the social services law that recognize workfare as work and require that workfare workers be provided with worker's compensation, and that the hours assigned can not exceed the total of public assistance and food stamps received divided by the higher of the state or federal minimum wage.

Prior to 1997, it was the longstanding policy of the state to require local social services district to credit workfare against any recovery of properly paid public assistance. When welfare was "reformed" in 1997, chapter 436 of the laws of 1997, section 148, repealed a provision similar to this proposal. This bill would restore the prior policy, which recognized the value of such work.

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