

188. State OTDA issued a decision on that fair hearing dated July 29, 2005. The decision directed the center to process L.W.'s public assistance and food stamps applications. The center has failed to fully comply with the decision.

189. L.W. began receiving public assistance in September 2005 as a result of the extensive advocacy of her attorneys who repeatedly called and faxed the Dekalb Job Center and personnel in HRA's Brooklyn Regional Manager's office.

190. Despite this advocacy, L.W. has never received food stamps. The caseworkers at the Dekalb Job Center have refused to refer L.W. for a Medicaid disability determination so that she can receive food stamps. If she was referred, there is no doubt that she would be found disabled. L.W. suffers from several severe medical ailments, including kidney stones, a hernia, and high blood pressure. Earlier this year, she had a heart attack and had surgery for kidney stones. She recently had multiple surgeries and is scheduled to have another surgery later this month.

191. L.W. has suffered greatly as a result of the denials of her applications. For five months, until she received public assistance, she received only \$20 food vouchers per week from the shelter and had to rely on other shelter residents to share food with her. Because she still does not have food stamps, she still does not have enough food. When she has spent her small public assistance grant and no one has food to give her, she has to go without food. She worries that not eating well will cause her health to deteriorate further. She already suffers from stomach and chest pain almost every day.

192. Because she was denied public assistance for five months, she was unable to apply for a housing subsidy until recently. She was not able to find subsidized housing before she was asked to leave the domestic violence shelter because she had long exceeded the allowable time.

She is staying with a friend temporarily, but she cannot stay there long. She does not know where she will go. She is afraid to go to a shelter for single adults because those shelters are very dirty; she would have to sleep on a cot in a room with many other women, most of them much younger than she. She does not think she would be able to recover from her scheduled surgery if she were forced to live in a dirty shelter.

Plaintiff M.A.

193. M.A. is a 36-year-old battered qualified immigrant from the Dominican Republic who lives in a homeless shelter in the Bronx, New York with her 3-year-old daughter. USCIS has approved an I-130 petition filed on M.A.'s behalf. Because she has an approved I-130 petition and proof of abuse, she is a Qualified Alien. Because she arrived in the United States after August 22, 1996, she is eligible for State Medicaid and Safety Net Assistance. Her daughter, a U.S. citizen, is eligible for all federal public benefits.

194. M.A. has been wrongly denied public assistance and Medicaid since July 2005.

195. M.A. moved to the United States in September 1999 in order to be reunited with her husband, who is a U.S. citizen. On or about October 2003, M.A.'s husband filed an I-130 family-based petition on her behalf. USCIS approved the I-130 petition on February 5, 2004.

196. After she came to the United States, M.A.'s husband became inexplicably angry and violent. He threatened her with weapons and said he would kill her. He also often hit her head and body with his hands. The abuse soon became unbearable and, in the summer of 2004, M.A. fled to a domestic violence shelter with their then two-year-old daughter. They lived there until February 2005, when their allowed time at the shelter expired. Since then, they have lived in a homeless shelter in the Bronx.

197. After M.A. left the domestic violence shelter, her husband continued to threaten her. On February 16, 2005, she obtained an order of protection against her husband.

198. On July 14, 2005, M.A. went to the Crotona Job Center in the Bronx to ask to be added to her daughter's open public assistance case. She spoke with a Ms. Bonilla and gave her a copy of her I-130 receipt notice and the order of protection. Ms. Bonilla told her that she needed a copy of the I-130 approval notice and that M.A. was ineligible unless she had the original approval notice.

199. On July 21, 2005, M.A. went back to the Crotona Job Center with a printout from the USCIS website indicating that her I-130 petition had been approved. M.A. first was directed to Mr. Perreira, an HRA caseworker, but he refused to meet with her and would not look at the USCIS printout. He told her she was not eligible due to her immigration status. M.A. gave the printout to another worker who told M.A. that she would receive a decision in writing.

200. M.A. did not receive any correspondence from the Crotona Job Center after her July 21, 2005 visit. On September 30, 2005, she attended a fair hearing to challenge the failure of the Crotona Job Center to add her to her daughter's case. At the hearing, her attorney gave the judge copies of her order of protection, the I-130 receipt notice, and the USCIS printout showing the petition was approved.

201. M.A. received a decision on her fair hearing dated October 21, 2005. The decision directed the center to continue processing her application, taking into account her approved I-130 status. The decision did not state whether she was an eligible immigrant or explain which immigrants are eligible.

202. M.A. returned to the Crotona Job Center on or about November 15, 2005 and again asked Ms. Bonilla to add her to her daughter's case. She showed Ms. Bonilla all of the papers

she had shown her the first time she came into the center, as well as a copy of the computer printout showing that the I-130 was approved.

203. Ms. Bonilla told M.A. that she was not eligible due to her immigration status. She said that M.A. needed a "prima facie." Ms. Bonilla told M.A. to return to the center on November 18, 2005 to meet with someone else to discuss her eligibility.

204. On November 18, 2005, M.A. returned to the Crotona Job Center and gave her papers to a woman named Delone. Delone said that she is not eligible for public benefits because she is not a lawful permanent resident.

205. M.A. has never received a notice regarding any of her requests to be added to her daughter's case and still has not received public assistance or Medicaid.

206. As a result, M.A. cannot afford to buy enough food for her daughter and herself. Usually she buys only milk, cheese, and bread. She also cannot afford to buy her daughter winter clothes, and is concerned that her daughter will freeze without warmer clothes.

207. M.A. has been unable to find housing outside of the shelter because her application for public assistance was denied.

208. Because she does not have Medicaid, M.A. is unable to receive all of the medical treatment she needs. She suffers from depression as a result of the abuse, but does not have money to pay for counseling. She has also been unable to go to the dentist and suffers daily from pain in her teeth. She also fears that if she gets sick, she will not be able to pay for medical treatment or care for her daughter.

Plaintiff Marieme Diongue

209. Marieme Diongue is 29-year-old immigrant from Senegal who is PRUCOL because the USCIS granted her deferred action. She lives in a one-bedroom apartment in the Bronx, New

York, with her eleven-month-old daughter Mouslymadou. Because she is PRUCOL, Ms. Diongue is eligible for State Medicaid and Safety Net Assistance. Her daughter, who is a U.S. citizen and therefore eligible for all federal public benefits, is the only one in the family receiving any benefits.

210. Ms. Diongue has been wrongly denied public assistance and Medicaid since March 2005 because workers at the Melrose Job Center think she is ineligible until she receives a green card.

211. Ms. Diongue was granted deferred action on April 12, 2004 because she has a pending U visa application. She is eligible for a U-visa because she assisted in the prosecution of her sister's murderer, who was sentenced to 15 years to life in prison.

212. In June 2000 when Ms. Diongue returned to the apartment she shared with her sister, her sister's boyfriend was hiding inside the door. He tortured her for five hours. He pushed her onto a bed and tried to strangle her. He then left her naked with her hands bound behind her back. Because he heard Ms. Diongue's friends outside of the apartment, he panicked and ran away. When he left, she went to her sister's bedroom and found her dead on the floor. He had strangled and murdered her sister.

213. In March of 2004, Ms. Diongue became pregnant and was no longer able to work because of constant illness. Forced to quit her job, she moved in with her brother. Her daughter Mouslymadou was born in December of 2004.

214. In March of 2005, Ms. Diongue applied for public benefits at the Melrose Job Center because she could not afford basic necessities and did not have enough money to pay the rent she owed her brother. She gave Ms. Swaby, a caseworker at the center, her work permit, Social Security card, deferred action notice, and a letter outlining the benefits for which her

daughter and Ms. Diongue were entitled. Ms. Swaby told her that she was not eligible because she did not have a green card.

215. In April of 2005, Ms. Diongue received a notice stating that one person in her family would receive public benefits. The notice did not state who was accepted, and Ms. Diongue never received a denial notice for herself.

216. On July 5, 2005, Ms. Diongue attended a fair hearing to challenge HRA's decision to deny her benefits. At the hearing, HRA's representative stated that Ms. Diongue was denied due to her immigration status. The fair hearing decision, dated October 5, 2005, states that the HRA's determination concerning Ms. Diongue's request for public benefits was not correct and should be reversed. The decision does not, however, state whether she is an eligible immigrant or explain which immigrants are eligible.

217. On October 20, 2005, Ms. Diongue received a Fair Hearing Compliance Action Letter from the Melrose Job Center stating, "you are not eligible for assistance due to your alien status which is only temporary and work only."

218. Ms. Diongue is still not receiving any benefits.

219. As a result of being denied public benefits for nine months, Ms. Diongue and her daughter have suffered greatly. Ms. Diongue often does not have enough money for basic necessities like soap, clothing, diapers, toys, or a crib. Because she cannot afford to buy a crib, she sleeps with her baby on a used old mattress placed on the living room floor. She also often runs out of food and has to rely on food pantries.

220. Even though Ms. Diongue recently got a job as a bathroom attendant, the job does not pay much and she still has trouble buying food and other basic necessities.

Plaintiff M.E.

221. M.E. is a 37-year-old battered qualified immigrant from Mexico who lives in New York City with her 12-year-old daughter, E.R., who is also a battered qualified immigrant, and her two citizen children, D.E., age 10, and J.E., age 7.

222. In October 1994, M.E. and E.R. joined M.E.'s husband, a lawful permanent resident, in Texas. In 1997, M.E.'s husband filed I-130 family-based petitions for M.E. and E.R. M.E.'s I-130 petition was approved in December 1998 and E.R.'s was approved in February 2000.

223. Because they have approved I-130s and proof of domestic violence, M.E. and E.R. are Qualified Aliens. As Qualified Aliens who arrived in the country before August 22, 1996, M.E. and E.R. are eligible for federal Medicaid and Family Assistance. As a Qualified Alien under the age of eighteen, E.R. is also eligible for federal food stamps. D.E. and J.E., the citizen household members, are the only family members currently receiving public benefits.

224. During M.E.'s relationship with her husband, he physically abused her. On one occasion, he punched M.E. in the face, threw a television at her feet, threw her against a wall, and began to choke her. M.E. later learned that her husband had sexually abused E.R., hit her, and threatened that he would hurt her if she told M.E. what he was doing. In July 2000, M.E. and her children left her husband. In September 2000, while drunk, her husband arrived at her sister's house, got into an argument, pulled out a gun, and shot her brother-in-law in the leg. Fearing for her safety, she left Texas and took the children to New York, moving in with one of her brothers and his family.

225. After seven months, M.E.'s husband came to New York looking for her. They reconciled for a short period. In July 2002, however, he punched M.E. in the face so hard that he

split her lip. In order to get away from him, she moved with her three children to live with another one of her brothers.

226. Left with no means to provide for her children, M.E. applied for public benefits in July 2002. At the time, she applied only for her two younger U.S. citizen children because she assumed she and E.R. were not eligible for benefits because of their immigration status. Her two citizen children's applications for public benefits were approved.

227. In May 2004, M.E.'s husband found her again. He came to the apartment drunk, pushed her, and threatened to kill her. After that incident, M.E. obtained an order of protection from family court prohibiting her husband from contacting her and their children. On May 19, 2004, M.E. and the children entered a domestic violence shelter. In July 2004, she returned to court and obtained a final two-year order of protection.

228. At about this time, a social worker referred M.E. to Sanctuary for Families, where an attorney advised her that she and E.R. were eligible for public benefits based on the approved I-130 petitions and the domestic violence they had suffered. In June 2004, her attorney asked that M.E. be added to her children's public benefits case. In response, HRA asked M.E. to apply for a Social Security number. She did so as requested and was denied around July 1, 2004. After staff at Sanctuary for Families spoke with several workers at the Family Service Call-in Center (#17), M.E. was added to her children's public benefits case.

229. In August 2004, staff at Sanctuary for Families requested that E.R. be added to M.E.'s case as well. M.E. received a Medicaid card for E.R. in September 2004, and a notice dated October 14, 2004 listing E.R. on the case.

230. In November 2004, the Hamilton Job Center advised a counselor at the domestic violence shelter that the Center had made a mistake, that M.E. and E.R.'s case had been

miscoded in the computer system, and that their benefits would be discontinued. Because of advocacy by M.E.'s attorney at Sanctuary for Families, the Center did not close M.E. and E.R.'s case at that time.

231. On June 9, 2005, M.E. went to the Hamilton Job Center for a recertification appointment. The caseworker told her that she needed a new "prima facie notice" in order to keep her public benefits case open. M.E. tried to explain that the immigration document the worker was reading was not a prima facie notice, but the worker did not understand. A month later, M.E. received a notice removing herself and E.R. from their public benefits case. M.E.'s attorney requested a fair hearing on her behalf to challenge these actions.

232. On July 18, 2005, M.E. went to an appointment at the Hamilton Job Center to discuss why she had requested a fair hearing. A supervisor, Mr. Hane, informed her that she needed to bring in a "prima facie notice" or a form I-797.

233. On August 18, 2005, M.E.'s case was transferred to the Bushwick Job Center. On August 25, she met with Ms. Baptiste, who asked for M.E.'s Social Security number. When M.E. told her she did not have one, Ms. Baptiste responded that she was not eligible for benefits if she did not have a Social Security number.

234. On September 27, 2005, a fair hearing decision was issued in M.E.'s favor finding that she was entitled to continued assistance.

235. At the end of September, M.E.'s case was transferred to the Euclid Job Center. On October 31, she was given forms to use to apply for and verify a Social Security number. After some effort, M.E. was able to secure Social Security number denials for herself and her daughter from the Social Security Administration. She provided copies of these denials to the Euclid Job Center on November 15, 2005.

236. On or about November 30, 2005, M.E. learned that benefits for herself and E.R. had been discontinued without notice because they had been denied Social Security numbers. Ms. Wright, who took the action, stated that if M.E. could not show the SSA a prima facie notice in order to obtain a Social Security number, then she did not have an immigration status that makes her eligible for public benefits. Ms. Wright stated that M.E. needed a Social Security number to get benefits.

237. E.R. attends counseling several times a week and takes prescription medication to address the emotional and psychological effects of enduring and observing years of abuse at the hands of her stepfather. She suffers from depression, anxiety, and has expressed suicidal thoughts. M.E. fears that E.R. will imminently lose her therapy and prescription drugs because her Medicaid has been discontinued. If she loses these, M.E. worries that E.R. may hurt herself, and will not be able to concentrate, sleep at night, and will have behavioral problems in school as she did before she received counseling and medication.

238. Due to the food stamp and public assistance reduction, M.E. will be unable to feed her children enough nutritious food. This will severely impact E.R. who needs to eat nutritious food to prevent adverse side effects of her medication. Also, M.E. will not be able to buy clothes for her three growing children nor pay to use a laundry machine. M.E. will have to wash clothes less frequently and sometimes by hand. She will also not be able to provide her children with needed school supplies, such as their gym uniforms and money for class trips, because HRA has erroneously denied her and E.R. the benefit for which they are eligible.

Plaintiff P.E.

239. P.E. is a 32-year-old battered qualified immigrant from Jamaica who lives with her two sons, ages 12 and 2. P.E. and her older son, E.E. have been Qualified Aliens since June

2003 when they first applied for benefits because they had proof of abuse and were covered by I-130 family-based petitions filed by P.E.'s abusive husband. They now have an approved VAWA self-petition. Because P.E. and her older son arrived in the United States after August 22, 1996, they are eligible for State Medicaid and Safety Net Assistance. P.E.'s older son is also eligible for federal food stamps as a Qualified Alien child, and P.E. was eligible for state food stamps until the program was discontinued in September 2005. Because P.E.'s younger son is a United States citizen, he is eligible for all federal public benefits.

240. For over two years, P.E. and her son E.E. have been attempting to obtain the public benefits they are entitled to from the Euclid, Riverview, and Linden Job Centers. They are now receiving ongoing benefits only due to constant advocacy of their attorneys and a directive from State OTDA that their benefits should remain the same pending a fair hearing decision regarding the discontinuance of their benefits in April 2005. They are also still owed over \$2000 in retroactive public assistance benefits and have over \$5000 in unpaid medical bills because of HRA's delay in accepting her Medicaid application.

241. P.E. fled from her husband in 2001 because of his physical abuse. Earlier in 2001, her husband had choked her, smothered her with a pillow, and almost suffocated her. When she fled to her mother's home, he found and raped her. Her youngest son is a product of that rape.

242. P.E.'s husband provided no support and she needed milk to feed her baby. As a result, she applied for public benefits for herself and two children in June 2003. An HRA worker told her she was not eligible for public benefits because she was married to a green card holder. She and her son were denied, in part, due to her immigration status.

243. Desperate and unable to provide for her family, P.E. applied again in early November 2003. HRA accepted only her citizen son's application. P.E. and her older son were

wrongly denied assistance, although HRA never provided her with a notice of denial. The notice she did receive failed to apprise her that only her citizen son would receive any benefits.

244. In November 2004, P.E. received a prima facie notice on her VAWA self-petition, on which E.E. is a derivative beneficiary. She returned to HRA and asked that she and her immigrant son be added to her citizen son's case. Due to her attorney's extensive advocacy, HRA granted the request, providing her and her immigrant son public assistance and Medicaid, and also issuing her immigrant son food stamps.

245. However, starting January 2005, every time P.E. went to an appointment HRA workers said she and her immigrant son were receiving benefits by mistake, either because she is not a citizen or because she has no Social Security number or work authorization. She only remained on benefits because her attorney called the center each time HRA threatened to close her case.

246. On April 19, 2005, P.E. received notice that her family's public assistance and food stamps benefits were being reduced to the amounts payable for one person. The notice did not explain why she and her immigrant son were being removed from the case.

247. On June 21, 2005, P.E. attended a fair hearing challenging HRA's decision to take P.E. and her immigrant son off of the family's case. No decision has been issued on this hearing.

248. On August 19, 2005, P.E. attended a second fair hearing, this one challenging HRA's refusal to add her and her immigrant son to the case until November 2004. The decision on that fair hearing, issued on September 20 2005, found that HRA wrongly denied P.E. and her immigrant son public benefits in June 2003 and again in November 2003 due to a misapplication of the immigrant eligibility rules. The decision directed HRA to provide the missing retroactive public benefits back to July 2003. HRA has only partially implemented that decision: P.E.

received all the retroactive food stamps that her family was owed, but she is still owed \$2,233 in public assistance and her medical bills are still unpaid.

249. While P.E. has been waiting for her fair hearing decisions, numerous different HRA workers have repeatedly threatened to discontinue her benefits. For example, on June 29, 2005, Ms. Wright, an HRA caseworker, said that she was going to close P.E.'s case because P.E. did not have a green card or Social Security number.

250. Several other workers have told her that she and E.E. are not eligible because their VAWA prima facie notice has expired. They do not realize that a VAWA approval notice supersedes a prima facie notice and entitles them to benefits. A different worker said they were not eligible because they did not have employment authorization. Recently, several HRA workers have threatened to close their cases because they do not have Social Security numbers or green cards.

251. P.E. has been harmed in several ways because of HRA's inability to apply immigrant eligibility rules correctly. She was unable to pay rent in 2003 and was forced to move into a homeless shelter in March 2004. She did not have enough money for food from March 2004 until November 2004 and had to skip meals or eat only noodles for days. In the fall of 2004, she suffered from excruciating pain for weeks but did not go to a doctor because she had been denied Medicaid and could not afford to pay a doctor. In October 2004, she was rushed to the hospital by ambulance and had her gallbladder removed. P.E. is still harassed by collection agencies because she has over \$5,000 in unpaid medical bills from the gallbladder surgery that should have been covered by Medicaid. She was also unable to attend school until October 2005 because HRA refused to provide her with childcare assistance until she received a Social Security number.

252. P.E. desperately needs the \$2,233 in retroactive public assistance benefits that she is owed so that she can buy furniture for her apartment, as well as warm coats, clothes, and shoes for her children. She constantly fears that her benefits will be cut off because every time she goes to her job center for an appointment, the caseworkers tell her that she should be removed from the case.

Plaintiff Anna Fedosenko

253. Anna Fedosenko is an 88-year-old disabled lawful permanent resident from the Ukraine who speaks only Russian. She lives in an apartment in Brooklyn with her disabled daughter.

254. Ms. Fedosenko has been a lawful permanent resident since September 27, 2002. Because she came to the United States after August 22, 1996, she is eligible for State Medicaid and Safety Net Assistance. Because she is disabled, she would be eligible for federal food stamps if HRA had complied with its legal obligation to refer her for a Medicaid disability determination.

255. Ms. Fedosenko received public assistance, Medicaid, and food stamps until September 2004 when her food stamps were discontinued without notice. Despite a favorable fair hearing decision, she has not received food stamps since then. She has continued to receive public assistance and Medicaid, however.

256. On June 27, 2005, Ms. Fedosenko's attorney spoke to Ms. Williams, the Deputy Director of the Senior Works Center, who said that Ms. Fedosenko is not eligible for food stamps because she has not had her green card for five years. During that conversation and in subsequent ones, Ms. Fedosenko's attorney explained that she is eligible for food stamps if

Medicaid finds her disabled. Her attorney asked Ms. Williams to refer Ms. Fedosenko for the necessary disability determination. Ms. Williams did not know how to make the referral.

257. If properly referred, Ms. Fedosenko would undoubtedly be found disabled. She is 88 years old. She is legally blind and suffers from age-related macular degeneration, severe arthritis, anemia, depression, and has extremely limited mobility that prevents her from taking public transportation or walking more than a short distance.

258. On July 21, 2005, an attorney represented Ms. Fedosenko at a fair hearing challenging the discontinuance of her food stamps without notice.

259. The decision after the fair hearing, issued on August 29, 2005, found that HRA's determination to discontinue her food stamps without notice was incorrect and was reversed. The decision directed the Senior Works Center to immediately restore her food stamp benefits retroactive to August 31, 2004 based on the lack of notice.

260. On September 7, 2005, the Senior Works Center issued a Fair Hearing Compliance Statement stating that the Center would not comply with the fair hearing decision because "in order to receive food stamps, you must lawfully reside in the United States for five years."

261. On November 18, 2005, Ms. Fedosenko's attorney faxed Ms. Williams, the Deputy Director of the Senior Works Center, a copy of a Medicaid disability determination form that had been completed by Ms. Fedosenko's doctors and requested that Ms. Fedosenko be referred for a Medicaid disability determination. This fax also requested that the center comply with the fair hearing decision and issue Ms. Fedosenko's food stamps retroactive to August 31, 2004. There has been no response from the Center and Ms. Fedosenko is still not receiving food stamps.

262. The discontinuance of Ms. Fedosenko's food stamps has caused and is continuing to cause Ms. Fedosenko irreparable harm. Ms. Fedosenko has anemia so it is vitally important

that her diet contains lots of fresh food that is rich in iron. The food stamps that her disabled daughter receives cannot be stretched to feed them both. Ms. Fedosenko frequently goes without these foods because she cannot afford them, even though her doctor has advised her of the importance of these foods in her diet and the dangers of not treating her anemia in this way.

263. Because Ms. Fedosenko must use her \$68.50 semi-monthly public assistance grant to purchase food, she has difficulty pay for other basic necessities, such as laundry, clothing, and travel.

Plaintiff A.I.

264. A.I. is a 32-year-old battered qualified immigrant from Bangladesh who lives in an apartment in Brooklyn, New York with her two children, S.A., who is 2 years old, and W.A., who is 6 years old. USCIS has approved an I-130 petition filed on A.I. and W.A.'s behalf. Because they have an approved I-130 and proof of abuse, they are Qualified Aliens. Because they arrived in the United States after August 22, 1996, they are eligible for State Medicaid and Safety Net Assistance. W.A. is also eligible for federal food stamps because she is a child. S.A., who is a citizen and therefore eligible for all federal public benefits, is the only one in the family who is receiving public benefits.

265. A.I. and W.A. have not received any of the benefits for which they are eligible even though they have applied repeatedly since March 2004.

266. A.I. and W.A. came to the United States in September 2002 on V-1 and V-3 visas, respectively. They received these visas because A.I.'s husband, who is a lawful permanent resident, had filed an I-130 family petition on her and their daughter's behalf.

267. A.I.'s life in the United States has been very difficult. Her husband, who has been hospitalized repeatedly for mental illness, controlled her every move until she fled to a domestic

violence shelter. About a month or two after she arrived, while she was pregnant with their second daughter, he kicked her in the stomach repeatedly, threatened to kill her, and choked her. The abuse continued on a regular basis.

268. After their daughter was born in June 2003, A.I. got a job because her husband was not working and they were barely making ends meet. But this made her husband furious. He accused her of sleeping with other men while she was at work and would beat her or lock the door so that she could not go to work. He cut up all her clothes so that she could not go out.

269. In February 2004, the abuse became unbearable. During an argument about money, A.I.'s husband hit her in the face and threatened to kill her with a knife. He then threw her and their older daughter W.A. out of the house. He would not let her take their baby daughter though. As a result, the police arrested him and took him to a mental hospital for observation. A.I. then received an order of protection from family court that said that her husband must stay away from and refrain from contacting her and the children.

270. Soon after this incident, A.I. and her children fled to a domestic violence shelter in Brooklyn. They lived in the domestic violence shelter until September 2004 when they moved into the apartment where they now live.

271. While living in the shelter, on March 12, 2004, A.I. applied for public benefits for herself and her two children at the Jamaica Job Center. She showed her HRA worker, an Asian-American woman, copies of her and her daughter's V visas, employment authorization cards, and Social Security cards. The V visas and the code on her employment authorization card indicate that A.I.'s husband filed I-130 family-based petitions for her and W.A. Despite this, the caseworker told her that only her citizen daughter was eligible.

272. In April 2004, her citizen daughter started receiving public assistance, food stamps, and Medicaid. A.I. never received a notice stating that she and her immigrant daughter were denied, or that her citizen daughter was accepted. Although A.I. and her immigrant daughter were denied Medicaid at this time, they started receiving Medicaid in June 2004 and October 2004, respectively, when they applied at a local hospital.

273. Starting in July 2004, A.I. repeatedly asked her caseworker Ms. Walker to add her and her immigrant daughter to the case. Each time, she showed Ms. Walker all of her and her daughter's immigration papers. She also gave Ms. Walker a copy of her order of protection and a letter stating that she lived in a domestic violence shelter. Ms. Walker always told A.I. that she could only receive benefits for her citizen daughter because she and her immigrant daughter only have work permits.

274. In the summer of 2005, her citizen daughter's case was transferred to the Greenwood Job Center. A.I. asked her new worker, Mr. Conley, to add her and her immigrant daughter to the case. After looking at her immigration papers and checking in the computer, he too told her that only her citizen daughter is eligible for benefits.

275. On November 14, 2005, A.I. again asked Mr. Conley to add her and her immigrant daughter to the case. This time she took with her a letter from her attorney explaining their eligibility. Attached to the letter was a copy of their V visas, employment authorization cards, I-130 approval notice, and proof of abuse in the form of an order of protection and letter from the domestic violence shelter.

276. After reviewing the letter, Mr. Conley agreed to add her and her immigrant daughter to the case and entered their information into the computer system.

277. But, due to computer problems related to their immigration status, A.I. and her immigrant daughter still have not received public assistance. The case has repeatedly "errored out" of the system. The Deputy Director of the center, Ms. Wallace, and Mr. Conley have both tried on numerous occasions to open the case. But they cannot figure out how to do so.

278. A.I. has never received a notice in response to her multiple requests for her and her immigrant daughter to be added to the case.

279. A.I. and her two children have struggled to survive on the limited public assistance and food stamps they receive.

280. A.I. and her children can barely afford the basics. They survive on good will and charity. Organizations frequently provide food, diapers, Metrocards, and toiletries, and A.I.'s family assists when they visit from Bangladesh. However, this assistance is not enough, and they often go without necessities. A.I. must sometimes subsist on beans and cereal alone. She does not have enough warm clothes for herself or the children. For eight months, she had no phone.

281. A.I. wants a job so that she will no longer depend on public benefits to survive, but her work authorization expired in September 2004. Her immigration attorney filed for renewal and is planning to file Violence Against Women Act petitions and applications to adjust so that A.I. and W.A. can become lawful permanent residents. Until she receives work authorization, A.I. and her children must rely on charity and public benefits.

Plaintiff L.A.M.

282. L.A.M. is a 34-year-old immigrant from Trinidad who is PRUCOL because the USCIS granted her deferred action on June 3, 2005. She lives in a domestic violence shelter with her two-year-old son. Because L.A.M. is PRUCOL, she is eligible for Safety Net

Assistance and State Medicaid. Her son, who is a citizen, is eligible for all federal public benefits.

283. L.A.M. has been wrongly denied public assistance since June 2005 because the workers at the Linden Job Center mistakenly think she is ineligible because she does not have a green card. In October 2005, L.A.M.'s attorney convinced the Administrative Assistant to the Director of Linden to add L.A.M. to her son's case. But due to computer problems related to her immigration status, L.A.M. is still not receiving public assistance.

284. While visiting the United States on vacation, L.A.M. met her abuser, who is a U.S. citizen. After they had been dating for a while, he promised to marry her and file papers so that she could stay in the country and become a lawful permanent resident. In May of 2002, when she found out that she was pregnant, he again promised to marry her, but he kept pushing back the date.

285. In January 2003, L.A.M. moved in with him and his mother. After that, he became abusive. At first the abuse was emotional and financial. But after their baby was born, he became physically abusive too. The worst incident occurred in January 2004 when she told him that she was going to leave him. When she was taking her son's clothes out of the drawers to pack them, he slammed the drawer closed, almost smashing her fingers. He then started punching her repeatedly in the head. Blood dripped from her head all over the floor and her clothes. As a result of the punches, her face swelled, and she got a black eye, bruised lips, and cuts on her nose, eye, tongue, and ear. She had severe head pain and her ear kept bleeding for days. She could not eat, and had to sleep sitting up because it hurt to lie on her ear.

286. The abuser was arrested for this abuse. She helped the District Attorney prosecute him, and he was sentenced to jail until September 2005. Because she assisted in the prosecution

of a violent crime, she was eligible to apply for a U visa. She applied and was granted deferred action on June 3, 2005. She also received employment authorization.

287. While her abuser was in jail, she lived in a small room in an office building with her son. At first she was able to support herself with odd jobs like babysitting and cleaning. But in July 2004, however, she could not find another job. She was desperate and applied for public benefits at the Linden Job Center. Her son began to receive public benefits.

288. In early or mid June 2005, after she received the deferred action notice and employment authorization, she went to her caseworker Ms. Kirkendall and asked to be added to her son's public assistance case. (L.A.M. already had Medicaid through a Medicaid-only center.) She told Ms. Kirkendall that she was a victim of domestic violence and showed her the employment authorization, which has a code C14 on it that indicates that she have been granted deferred action.

289. Ms. Kirkendall told her that she needed a green card and that the employment authorization was not enough. When L.A.M. insisted that her attorney told her that she was eligible, Ms. Kirkendall went to speak with a supervisor. When she came back she said that her boss said L.A.M. was not eligible because the domestic violence occurred in this country (not in her home country), because she did not have a "prima facie," and because she was not a citizen or green card holder. She continued to receive benefits only for her son.

290. When her abuser's parole officer warned her that he would be getting out of jail in September 2005, L.A.M. and her son fled to a domestic violence shelter. They have lived in that shelter since August 5, 2005.

291. On October 4, 2005, L.A.M. again applied to be added to her son's public assistance case once more. When she got to the Linden Job Center, she went to the customer

service counter and asked to apply for public assistance. She presented her work authorization, Social Security card, and a letter from her immigration advocate that explained that she was an eligible immigrant. Attached to the letter was HRA's Alien Eligibility Desk Aid, which states that those with deferred action are eligible for public assistance. She was told that she was not eligible because she did not have a green card.

292. L.A.M. never received a notice in response to any of her requests to be added to her son's case.

293. October 11, 2005, L.A.M.'s attorney faxed a letter to the Administrative Assistant (AA) to the Director of the Linden Job Center, Ms. Bedford, asking her to add L.A.M. to her son's case retroactive to July 2005. Along with the cover note, L.A.M.'s attorney sent a copy of L.A.M.'s deferred action notice, employment authorization card, Social Security card, the letter from her immigration advocate that she had taken into the center, and the page from HRA's Desk Aid that says that she is eligible. Her attorney then followed up with multiple phone calls.

294. Due to this advocacy, L.A.M. was added to her son's case on October 14, 2005. L.A.M., however, has not received any benefits, not even for her son, since October 13, 2005. She went into the center on multiple occasions to ask why she and her son were not receiving benefits. On November 15, her attorney called the center Linden Job Center's Director's office. She spoke to Ms. Jefferson who said that the case is open for L.A.M. and her son and that \$54.50 in public assistance and approximately \$150 in food stamps were issued on the card the day before. When asked why L.A.M. was receiving only \$54.50 semi-monthly, when families of two usually get twice that amount, Ms. Jefferson said that it must be because L.A.M.'s case has two suffixes – one suffix so that her son can receive state benefits and one so that she can receive federal benefits. Ms. Jefferson said L.A.M. should go to the center to get a new card because

sometimes the cards stop working when a new suffix is created. Ms. Jefferson also promised to leave a message for the AA, Ms. Bedford, so that the other \$54.50 could be issued.

295. L.A.M. went to the center and received a new benefits card. But the new card, as well as the old cards, has no benefits on it. L.A.M. has called the number on the back of the card repeatedly, but the people who answer the line say there are no benefits on the cards and that they cannot help her. Her attorney also left repeated messages for the AA, as well as Ms. McCall, the Deputy Director. But no one returned her calls.

296. L.A.M. and her son and have not received any public assistance or food stamps since October 13, 2005 due to computer problems related to L.A.M.'s immigration status.

297. L.A.M. has suffered extreme hardship because she has been denied public benefits for almost six months. She often does not have enough food and has to rely on food pantries and other charities. Even so, she sometimes has to skip meals and does not always have enough milk for her son. She rarely is able to buy the fresh fruit and vegetables her doctor told her to eat to prevent her acid reflux from reoccurring. As a result, she often got stomach pains and headaches.

298. She also frequently runs out of diapers, as well as toilet paper, laundry detergent, shampoo, and other basic necessities. When she is low on diapers, she is forced to stay home with her son so that she does not have to put a diaper on him. She lets him run around without a diaper and tries to get him to go in the toilet. But often he has accidents. At night, instead of putting a diaper on him, she puts a plastic bag on the bed so that only the bag – not the bed – gets soiled if he had an accident. Recently her son's daycare had to take diapers from other children in order to put diapers on her son.

299. She also does not have sufficient winter clothes for her son. She cannot afford to pay for a cellphone. It is very hard for her doctors, lawyers, counselors, potential landlords, and potential employers to get in touch with her.

300. Because the Linden Job Center did not open her case until mid-October 2005, she was certified for a housing voucher for only \$765 per month. She looked but could not find an apartment for that amount. Now that she is on the public benefits case (though not receiving benefits), she has been certified for \$850. But she has lost a month of time and is having trouble finding apartments because her phone is dead and she does not have money for the subway.

301. If L.A.M. and her son do not receive benefits soon, they will run completely out of food and other basic necessities. Charities and food pantries can only give her a limited amount.

Plaintiff L.M.

302. L.M. is a 42-year-old lawful permanent resident from Haiti who lives with her two children, ages 2 and 16, in a domestic violence shelter in New York City. Because she is a Qualified Alien who entered the country prior to August 22, 1996, L.M. is eligible for federal Medicaid and Family Assistance. Because she has worked 40 qualifying quarters (10 years) in the United States as defined under the Social Security Act, she is eligible for federal food stamps. L.M.'s older son entered the country after 1996 and has been a lawful permanent resident since 2003. As a Qualified Alien child who entered after 1996, he is eligible for State Medicaid, Safety Net Assistance, and federal food stamps. L.M.'s younger son is a citizen and therefore eligible for all federal public benefits.

303. L.M. has been denied the food stamps she is entitled to since at least June 2004 because the workers at the Melrose Job Center never inquired into whether she had 40 qualifying

work quarters. Her two children receive food stamps and all three of them receive public assistance and Medicaid.

304. L.M. moved to the United States in 1989 and became a lawful permanent resident in 2001. As a result of abuse, L.M. suffers from depression as well as memory loss. She is no longer able to work because of severe carpal tunnel syndrome and must rely on public benefits to support her family.

305. Because she never received a notice stating she was denied food stamps, L.M. did not realize that she was not on her children's food stamp case until her attorney told her that HRA's computer records show that she was denied food stamps due to her immigration status. L.M. had never been asked if she worked 40 quarters, and the application that she completed did not ask if she had worked 10 years or 40 quarters.

306. On May 9, 2005, L.M. attended a fair hearing to appeal the denial of her food stamps application. At the hearing, L.M.'s attorneys submitted copies of her green card and Social Security Statement, which shows that she has over 40 quarters of work history. L.M.'s attorneys also submitted City and State policy directives showing that lawful permanent residents with 40 work quarters are eligible for food stamps. While the hearing had been requested to contest the denial of food stamps since June 2004, the ALJ would only let L.M. discuss the period from August 25, 2005 forward.

307. On July 14, 2005, L.M. attended a fair hearing to challenge the denial of food stamps from June 2004 forward. L.M. and her attorney again presented the same documents: her green card, Social Security Statement, and the relevant City and State policy directives explaining that she is eligible.

308. A decision on the first hearing issued on August 5, 2005. That decision found that HRA's denial of L.M.'s food stamp application was incorrect. The decision directed HRA to continue processing her application for benefits and to provide her with benefits retroactive to August 25, 2005 if she is found eligible for food stamps. The decision does not mention L.M.'s immigration status, nor does it explain the immigrant eligibility rules.

309. A decision on the second fair hearing issued on November 2, 2005. That decision stated that the City's denial of L.M.'s June 2004 application for food stamps was incorrect and that her food stamp benefits must be recomputed to include her needs retroactive to that date. The decision explained that lawful permanent residents with 40 qualifying quarters, like L.M., are eligible for food stamps and that HRA had "failed to present any evidence that it properly investigated and determined that issue."

310. Despite these two fair hearing decisions, L.M. is still not on her children's food stamps case. This wrongful denial of food stamps for almost a year and a half has caused great hardship for L.M. and her family.

311. L.M. struggles to pay for food and usually runs out of food half way through the month. She is forced to rely on food pantries to feed her children. Sometimes she also is able to borrow money from friends. But despite this help from charity and friends, she has to skip meals. When she does, she gets headaches and feels dizzy. In April 2005, she had to go to the emergency room twice for dizziness and dehydration because she was not eating enough and was stressed over her living situation and the problems with her benefits.

Plaintiff Denise Thomas

312. Denise Thomas is a 26-year-old battered qualified immigrant from Saint Lucia. She lives in her mother's Brooklyn apartment with her sister, 3-year-old-daughter and her 9-month-

old son. Ms. Thomas has been a Qualified Alien since July 2004, when she received a prima facie notice on her VAWA self-petition. Because she is a Qualified Alien who entered the United States prior to 1996, she is eligible for Family Assistance and federal Medicaid. Until the program was discontinued in September 2005, she was also eligible for state food stamps. Both her children are U.S. citizens and are receiving all the public benefits for which they are eligible.

313. Ms. Thomas was denied public benefits for eleven months because workers at the Greenwood Job Center do not know that VAWA self-petitioners are eligible. Due to efforts of her advocates, she now receives ongoing benefits. But she is still owed almost a year of retroactive public assistance benefits.

314. Ms. Thomas came to the United States from Saint Lucia in 1995 when she was 15 years old. She has not left the country since then, and she is willing to apply for citizenship once she is eligible to do so.

315. Ms. Thomas met her husband at church and they married in January 2002. During the course of their relationship, Ms. Thomas's husband regularly abused her. He even assaulted her while she was pregnant with their first child. After one incident where her husband hit her sister's face, Ms. Thomas filed a police report against him. When he pushed her down the stairs, Ms. Thomas again called the police and obtained a full order of protection against him. In August of 2003, Ms. Thomas took her husband's keys and forced him to move out.

316. Soon thereafter, in August 2003, prior to filing a VAWA self-petition, Ms. Thomas applied for public assistance benefits for herself and her daughter. Her daughter's application was approved.

317. In September 2004, after she had received a prima facie notice on her VAWA self-petition, Ms. Thomas asked to be added to her daughter's public benefits case. Ms. Calendar, a

caseworker at the Greenwood Job Center worker, told Ms. Thomas that she needed either a Social Security number or a green card to obtain benefits and that the prima facie notice was insufficient.

318. In January 2005, Ms. Thomas again asked to be added to her children's public assistance case. Ms. S. Thomas, a Greenwood caseworker, told her that she had to be a citizen for five years to receive benefits.

319. In February 2005, Ms. Thomas's VAWA self-petition was approved.

320. In March 2005, Ms. Thomas's son was born. In June 2005, Ms. Thomas applied for benefits for her newborn and again requested to be added to his case. Her son began receiving benefits, but Ms. Thomas did not. Ms. Thomas requested a fair hearing on the denial of her request to be added to her children's case.

321. Ms. Thomas's advocate sent numerous letters to and persistently called the Greenwood Job Center and the Deputy Regional Manager Regional Manager explaining Ms. Thomas's eligibility. As a result of his advocacy, Ms. Thomas began receiving public assistance and Medicaid in July 2005. She still has not, however, received any of the benefits to which she was entitled for the year she was wrongfully denied benefits. She attended a fair hearing on December 1, 2005 to seek these retroactive benefits. No decision has been issued on the fair hearing.

322. Because Ms. Thomas was wrongfully denied benefits, she had to borrow money from her mother to support her children. She relied on leftover food from charitable organizations and friends to feed her children. She often could not afford soap or detergent. Her children suffered from eczema and Ms. Thomas was sometimes unable to buy the lotion to treat them.

323. She desperately needs the retroactive benefits that she is owed because her mother's landlord has told them that they must move. She could use the retroactive benefits to pay moving expenses, such as the security deposit and first month's rent.

Plaintiff J.Z.

324. J.Z. is a 28-year-old battered qualified immigrant from Mexico who lives in an apartment in the Bronx, New York with her 8-year-old son and her 3-year-old daughter. J.Z. has been a Qualified Alien since July 2004 when she first applied for public benefits. She was a Qualified Alien initially because she had proof of abuse and her husband had filed an I-130 family-based petition on her behalf. She now is a Qualified Alien because she has an approved VAWA self-petition. Because she arrived in the United States before August 22, 1996, J.Z. is eligible for federal Medicaid and Family Assistance. Until the program was discontinued in September 2005, J.Z. was also eligible for state food stamps. Her children are U.S. citizens and therefore eligible for all federal public benefits.

325. J.Z. was denied all public benefits by the Colgate, Crotona, and Greenwood Job Centers for eight months because the workers at these centers wrongly thought she was an *ineligible immigrant*. Then in June 2005, just three months after she was finally added to her children's case, her case was again closed because workers at the Hamilton Job Center, where the case had been transferred, thought she was no longer eligible because her VAWA prima facie notice had expired. These workers did not realize that a VAWA approval notice supersedes the prima facie notice and is sufficient to make her eligible for benefits. J.Z.'s benefits were restored five weeks later due to advocacy of her attorney, but she still has unpaid medical bills and is owed retroactive public assistance and food stamps.

326. J.Z. arrived in the United States in 1984 or 1985, when she was 7 or 8 years old. J.Z. has not left the United States since she arrived, and she is willing to apply for citizenship once she is eligible.

327. J.Z. met her husband in high school, and they got married in the Bronx in 1996. They have two children.

328. In April 2001, J.Z.'s husband, a lawful permanent resident, filed an I-130 family-based petition for her. USCIS approved the I-130 petition on September 30, 2004.

329. In March of 2004, J.Z. called the police when her husband threatened to kill her and tried to throw her out of their apartment. A few months later, in July 2004, J.Z. called the police three more times when her husband punched her in the head, pushed her into the bed, and choked her. J.Z. had to go to the hospital to treat her injuries, bruises, and the pain she suffered as a result of his attacks. J.Z. was very scared and did not want him around her or the children.

330. After the incidents in July 2004, her husband left their home.

331. In July 2004, J.Z. was unemployed. At that time, her husband was receiving food stamps, public assistance, and Medicaid for himself and their children and they supported themselves with those benefits. J.Z. was not on the family's public benefits budget and at that time had never received public benefits herself.

332. In July 2004, after her husband left their apartment, J.Z. went to Colgate Job Center to recertify her children's public benefits case. J.Z. asked Mr. Gonzalez, the caseworker she met with, to add her to the case and showed him police reports concerning her husband's abuse, her marriage certificate, the children's birth certificates, and the receipt notice on her I-130 petition. Mr. Gonzalez re-certified the children, but told J.Z. that she was ineligible for benefits based on her immigration status.

333. On or about September 13, 2004, J.Z. moved into a domestic violence shelter with the children because her husband had been calling her and threatening to hurt her and take away the children. She also obtained an order of protection against her husband.

334. On or about September 17, 2004, J.Z. returned to the Colgate Job Center and spoke with Ms. White, Mr. Gonzalez's supervisor. J.Z. again asked to be added to the children's case and J.Z. showed Ms. White a letter from the domestic violence shelter where J.Z. was staying and the I-130 approval notice J.Z. had recently received. Ms. White told her she was ineligible due to her immigration status.

335. On December 20, 2004, J.Z. received a VAWA prima facie notice from USCIS.

336. Meanwhile, her children's public benefits case was transferred to the Crotona Job Center. On or about January 24, 2005, J.Z. went to the Crotona Job Center and asked Ms. Martinez, an HRA caseworker, to add her to the case and showed him her VAWA prima facie notice, her I-130 approval notice, a letter from her shelter, and the evidence of domestic violence J.Z. had turned in at the Colgate Center.

337. J.Z. did not receive any notice in response to her requests to be added to her children's case until early March 2005. On March 8, 2005, she received a notice stating that she would be added to her children's public assistance and Medicaid case. Even though she was eligible for state food stamps, the notice incorrectly stated that J.Z. would not receive food stamps because J.Z. was an ineligible non-citizen.

338. In or about March 2005, J.Z. and her children had to move into a homeless shelter because they had stayed for the maximum period of time allowed in an emergency domestic violence shelter.

339. On May 20, 2005, J.Z. attended a fair hearing to challenge the fact that she was denied food stamps. The decision, issued June 8, 2005, stated that HRA was incorrect in denying her food stamps and ordered HRA to continue to provide her with ongoing and retroactive food stamps. J.Z. has never received ongoing or retroactive food stamps.

340. Meanwhile, their case was transferred to the Hamilton Job Center. On or about June 14, 2005, J.Z. showed the fair hearing decision to Ms. Scantlebury, her caseworker, and her supervisor, Mr. Sosa. The HRA workers stated that the fair hearing decision did not require them to add her to the food stamp budget and that J.Z. was ineligible for food stamps because of her immigrant status.

341. Further, Ms. Scantlebury and Mr. Sosa stated that even if J.Z. had been eligible for public benefits in the past J.Z. would no longer be eligible for any public benefits because her prima facie notice was expiring on June 18, 2005. J.Z. showed them the approval notice for her self-petition, but they told her that the approval notice did not establish eligibility and that J.Z. would need another prima facie notice. Even though J.Z. explained that the approval notice meant her immigration case was approved and that it was better evidence of lawful immigration status than her prima facie notice, the workers told her that they were going to take her off of the case. That is exactly what happened.

342. J.Z. never received a written notice that she would be removed from the case, but on June 29, 2005, she was taken off the public assistance and Medicaid case. As a result, her housing voucher was reduced from \$925 to \$820 and J.Z. was unable to find an apartment that she could rent for \$820 a month.

343. On or about August 4, 2005, J.Z. attended a fair hearing on HRA's decision to drop her from the case in June 2005 and its failure to grant her public assistance and Medicaid

benefits retroactive to July 2004. At the fair hearing, the center representative agreed to review her case retroactive to July 2004 and to determine whether to include her in the current budget. State OTDA issued a decision dated September 20, 2005 reflecting the stipulation.

344. Although J.Z. is currently on the budget because her attorney advocated for her to receive benefits pending a fair hearing decision, she still has not received the retroactive public assistance she is entitled to and HRA has not paid her old medical bills.

345. In October 2005, J.Z. moved into an apartment with her children.

346. When she was not on the case, J.Z. was unable to pay for food for herself and her children. Even though friends gave her food and she borrowed money, she sometimes had to go without food so that her children could eat.

347. J.Z. developed an ulcer as a result of the stress caused by the uncertainty of her public benefits, the instability of her housing situation, and her poor nutrition. Because J.Z. was denied Medicaid for so long, she was unable to get medical treatment for her ulcer and the other medical conditions she was suffering. In June and July 2005, J.Z. was unable to afford to get her prescription for Nexium filled. Further, J.Z. has over \$1,000 in unpaid bills for medical treatment from her husband's abuse in July 2004.

348. J.Z.'s daughter's health also suffered greatly after they moved into the homeless shelter. Her poor nutrition has caused great fluctuations in her weight.

STATEMENT OF CLAIMS

FEDERAL LAW CLAIMS

FIRST CLAIM FOR RELIEF

(Against the City Defendant)

**Unlawful Policy and Custom of Denying
Federal Food Stamp Benefits to Eligible Class Members**

349. HRA's policy, custom, and usage of denying federal food stamp benefits to eligible class members on account of immigration status, and of discontinuing and/or reducing federal food stamp benefits to these class members on account of immigration status, violates 7 U.S.C. § 2020(e)(3) and 7 C.F.R. § 273.2(a), (g)(1).

SECOND CLAIM FOR RELIEF

(Against the City Defendant)

**Unlawful Policy and Custom of Denying
Federal Medicaid Benefits to Certain Eligible Class Members**

350. HRA's policy, custom, and usage of denying federal Medicaid benefits to eligible class members who are not lawful permanent residents on account of immigration status, and of discontinuing and/or reducing federal Medicaid benefits to these class members on account of immigration status, violate 42 U.S.C. § 1396a(a)(8).

THIRD CLAIM FOR RELIEF

(Against the City Defendant)

**Unlawful Policy and Custom of Deterring and Discouraging
Class Members from Applying for Federal Food Stamps**

351. HRA's policy, custom, and usage of deterring and discouraging class members from applying for federal food stamps; refusing to permit class members to apply for federal food stamps; and/or discouraging or refusing to permit class members seeking to apply for

federal food stamps to be added to the existing public benefits case of a household member, violate 7 U.S.C. § 2020(e)(2)(B)(iii).

FOURTH CLAIM FOR RELIEF

(Against the City Defendant)

**Unlawful Policy and Custom of Deterring and Discouraging
Certain Class Members from Applying for Federal Medicaid**

352. HRA's policy, custom, and usage of deterring and discouraging class members who are not lawful permanent residents from applying for federal Medicaid benefits; refusing to permit these class members to apply for those federal Medicaid; and/or discouraging or refusing to permit these class members seeking to apply for federal Medicaid to be added to the existing public benefits case of a household member, violate 42 U.S.C. § 1396a(a)(8) and 42 C.F.R. § 435.906 (Medicaid).

FIFTH CLAIM FOR RELIEF

(Against the City Defendant)

**Unlawful Policy and Custom of Failing to Provide Adequate and
Timely Notice of the Denial, Discontinuance, or Reduction of Benefits**

353. HRA's policy, custom, and usage of failing to provide notice of the denial of federal food stamps and federal Medicaid to class members: (1) when assistance is granted to some household members but denied to others based on immigration status; (2) when immigrants apply to be added to an existing public benefits case and are denied; and (3) when immigrants are discouraged or prohibited from applying for assistance, violate 7 C.F.R. § 273.10(g)(1) (food stamps), and 42 C.F.R. §§ 435.911 & 435.912 (Medicaid).

354. HRA's policy, custom, and usage of failing to provide notice of the denial of public benefits to class members: (1) when assistance is granted to some household members but

denied to others based on immigration status; (2) when immigrants apply to be added to an existing public benefits case and are denied; and (3) when immigrants are discouraged or prohibited from applying for public benefits, violate the due process clause of the U.S. Constitution.

355. HRA's policy, custom, and usage of issuing misleading notices that make it difficult if not impossible to determine whether public benefits were correctly denied or provided in the proper amount and/or whether to appeal, violate 7 C.F.R. § 273.10(g)(1) (food stamps), and 42 C.F.R. §§ 435.911 & 435.912 (Medicaid).

356. HRA's policy, custom, and usage of issuing misleading notices to class members that make it impossible for them to make informed decisions about whether, and to appeal effectively from the denial, when public benefits are denied in whole or in part, discontinued, or reduced because of immigration status, violate the due process clause of the U.S. Constitution.

SIXTH CLAIM FOR RELIEF

(Against the City Defendant)

Unlawful Failure to Administer, Supervise, and Train

357. HRA has been deliberately indifferent to the need to provide proper training and supervision to HRA employees at job centers. HRA's deliberate indifference to the federal rights of class members has caused and/or contributed to the policies, customs, and usages described above; and has resulted in the widespread and systematic denial of the rights under federal law of eligible class members to receive federal food stamps and federal Medicaid.

358. HRA's policy, custom, and usage of referring applicants for federal food stamps and federal Medicaid to SSA with documentation that fails to comply with SSA's requirements,

thereby making it likely or certain that SSA will not issue them a Social Security number, violates 7 C.F.R. ¶ 273.6(b) (food stamps) and 42 C.F.R. § 435.910(e)(Medicaid).

SEVENTH CLAIM FOR RELIEF

(Against the State Defendants)

Unlawful Failure to Administer, Supervise and Train

359. Actions and omissions by State OTDA and State DOH have caused and/or contributed to the policies, customs, and usages of HRA described above. Because HRA functions as a matter of law as the agent of State OTDA (with regard to federal food stamps) and State DOH (with regard to federal Medicaid), State OTDA and State DOH are jointly and severally liable for HRA's violations of federal law.

360. Through their actions and omissions that have caused and/or contributed to the policies, customs, and usages of HRA described above, State OTDA, and State DOH have violated their responsibilities under federal law as the single state agencies responsible for administering and supervising the federal food stamp and federal Medicaid programs, respectively, in New York State, in violation of 7 U.S.C. § 2012(n) (food stamps); 42 U.S.C. § 1396a(a)(5) (Medicaid), and 42 C.F.R. § 431.10 (Medicaid).

361. State OTDA and State DOH have been deliberately indifferent to the need to provide proper training and supervision to HRA employees who administer federal food stamps and federal Medicaid at job centers. Their deliberate indifference to the federal rights of class members has caused and/or contributed to the policies, customs, and usages of HRA described above; and has resulted in the widespread and systematic denial of the rights under federal law of eligible class members to receive federal food stamps and federal Medicaid.

STATE LAW CLAIMS

EIGHTH CLAIM FOR RELIEF

(Against the City Defendant)

**Unlawful Policy and Custom of Denying
Public Assistance And State Medicaid to Certain Eligible Class Members**

362. HRA's policy, custom, and usage of denying public assistance and State Medicaid to eligible class members who are not lawful permanent residents on account of immigration status, and of discontinuing and/or reducing public assistance and State Medicaid benefits to these class members on account of immigration status, violates N.Y. Soc. Serv. Law §§ 122, 131(1) & (3) (public assistance), 366(1)(a) (State Medicaid), and 18 N.Y.C.R.R. §§ 349, *et seq.* (public assistance).

NINTH CLAIM FOR RELIEF

(Against the City Defendant)

**Unlawful Policy and Custom of Denying
State Food Stamps to Eligible Class Members**

363. HRA's policy, custom, and usage of denying State food stamp benefits to eligible class members on account of immigration status, and of discontinuing and/or reducing class members' State food stamps on account of immigration status, violated N.Y. Soc. Serv. Law § 95(10)(b) (State Food Assistance Program).

TENTH CLAIM FOR RELIEF

(Against the City Defendant)

**Unlawful Policy and Custom of Deterring and Discouraging Certain Class Members
From Applying for Public Assistance and State Medicaid**

364. HRA's policy, custom, and usage of deterring and discouraging class members who are not lawful permanent residents from applying for public assistance and State Medicaid;

refusing to permit these class members to submit applications for those benefits; and/or discouraging or refusing to permit class members seeking to apply for those benefits to be added to the existing public benefits case of a household member, violates N.Y. Soc. Serv. Law § 366-a(1) (State Medicaid) 18 N.Y.C.R.R. § 350.3(a) and (b) (public assistance).

ELEVENTH CLAIM FOR RELIEF

(Against the City Defendant)

Unlawful Policy and Custom of Deterring and Discouraging Class Members From Applying for State Food Stamps

365. HRA's policy, custom, and usage of deterring and discouraging class members from applying for State food stamps; refusing to permit class members to submit applications for those benefits; and/or discouraging or refusing to permit class members seeking to apply for those benefits to be added to the existing public benefits case of a household member, violated N.Y. Soc. Serv. Law § 95(10)(b) (State Food Assistance Program).

TWELTH CLAIM FOR RELIEF

(Against the City Defendant)

Unlawful Policy and Custom of Failing to Provide Adequate and Timely Notice of the Denial, Discontinuance, or Reduction of State Benefits

366. HRA's policy, custom, and usage of failing to provide notice of the denial of public benefits to immigrants: (1) when assistance is granted to some household members but denied to others based on immigration status; (2) when immigrants apply to be added to an existing public benefits case and are denied; and (3) when immigrants are discouraged or prohibited from applying for assistance, violates 18 N.Y.C.R.R. §§ 351.8(b) and 358-2.2 (public assistance) and N.Y. Soc. Serv. Law § 366-a(3)(b) (Medicaid).

367. HRA's policy, custom, and usage of issuing misleading notices that make it difficult if not impossible to determine whether public assistance and State Medicaid were correctly denied or provided in the proper amount and/or whether to appeal when such benefits are denied in whole or in part, discontinued, or reduced because of immigration status, violates 18 N.Y.C.R.R. §§ 351.8(b) and 358.2-2.2 (public assistance) and N.Y. Soc. Serv. Law § 366-a(3)(b) (Medicaid).

THIRTEENTH CLAIM FOR RELIEF

(Against the City Defendant)

Unlawful Policy and Custom of Requiring Applicants for Public Assistance and State Medicaid Who Cannot Obtain Social Security Numbers to Furnish Social Security Numbers

368. No provision of the New York State Social Services Law requires applicants for public assistance or State Medicaid to furnish a Social Security number as a condition of eligibility.

369. To the extent that HRA acts to enforce State regulations, State directives, and City directives and instructions that purport to require applicants for public assistance and State Medicaid to furnish a Social Security number as a condition of eligibility when a Social Security number is impossible to obtain, those actions violate N.Y. Soc. Serv. Law §§ 122, 134-a(2) and 366-a(2)(a).

REQUEST FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court enter a judgment in their favor as follows:

1. Certify this action as a class action pursuant to Fed. R. Civ. P. 23(a) and 23(b)(2) and (b)(3) with a plaintiff class defined as:

All Affected Immigrants who are, have been, or will be eligible for State or federally funded public assistance, Medicaid, and/or food stamps, and who either (a) have been or will be denied public benefits in whole or in part; (b) had or will have public benefits discontinued or reduced; (c) have been or will be discouraged or prevented from applying for public benefits; and/or (d) have been or will be encouraged to withdraw an application for public benefits, by a New York City job center because of a misapplication of immigrant eligibility rules.

For purposes of the foregoing paragraph, the term "Affected Immigrants" means (1) battered spouses and battered children of U.S. citizens or lawful permanent residents who are Qualified Aliens as defined in 8 U.S.C. § 1641(c); (2) their immigrant children or, in the case of battered children, their immigrant parents, provided that they too are Qualified Aliens as defined in 8 U.S.C. § 1641(c); (3) lawful permanent residents who have been in that status for less than five years; and (4) persons who are Permanently Residing Under Color of Law (PRUCOL).

2. Issue a declaratory judgment declaring:

- (a) HRA's policy, custom, and usage of denying federal food stamps to eligible class members on account of immigration status, and of discontinuing and/or reducing federal food stamps on account of immigration status, violates 7 U.S.C. § 2020(e)(3) and 7 C.F.R. § 273.2(a), (g)(1) (food stamps);
- (b) HRA's policy, custom, and usage of denying federal Medicaid benefits to eligible class members who are not lawful permanent residents on account of immigration status, and of discontinuing and/or reducing federal Medicaid benefits to these class members on account of immigration status, violates 42 U.S.C. § 1396a(a)(8) (Medicaid);
- (c) HRA's policy, custom, and usage of deterring and discouraging class members from applying for federal food stamps; refusing to permit class members to apply for federal food stamps; and/or discouraging or refusing to permit class members seeking to apply for federal food stamps to be added to the existing public benefits case of a household member, violates 7 U.S.C. § 2020(e)(2)(B)(iii);

- (d) HRA's policy, custom, and usage of deterring and discouraging class members from applying for federal Medicaid; refusing to permit class members who are not lawful permanent residents to apply for federal Medicaid; and/or discouraging or refusing to permit class members seeking to apply for federal Medicaid to be added to the existing public benefits case of a household member, violates 42 C.F.R. § 435.906 (Medicaid);
- (e) HRA's policy, custom, and usage of failing to provide timely and adequate notice of the denial of federal food stamps and federal Medicaid to class members: (1) when assistance is granted to some household members but denied to others based on immigration status; (2) when class members apply to be added to an existing public benefits case and are denied; and (3) when class members are discouraged or prohibited from applying for assistance, violates 7 C.F.R. § 273.10(g)(1) (food stamps), and 42 C.F.R. §§ 435.911 & 435.912 (Medicaid);
- (f) HRA's policy, custom, and usage of failing to provide timely and adequate notice of the denial of public benefits to immigrants: (1) when assistance is granted to some household members but denied to others based on immigration status; (2) when class members apply to be added to an existing public benefits case and are denied; and (3) when class members are discouraged or prohibited from applying for assistance, violates the due process clause of the U.S. Constitution;
- (g) HRA's policy, custom, and usage of issuing misleading notices that make it difficult if not impossible to determine whether federal food stamps or federal Medicaid were correctly denied or provided in the proper amount and/or whether to appeal when federal food stamps and federal Medicaid are denied in whole or in part, discontinued, or reduced

because of immigration status, violates 7 C.F.R. § 273.10(g)(1) (food stamps), and 42 C.F.R. §§ 435.911 & 435.912 (Medicaid);

- (h) HRA's policy, custom, and usage of issuing misleading notices that make it difficult if not impossible to determine whether public benefits were correctly denied or provided in the proper amount and/or whether to appeal when such benefits are denied in whole or in part, discontinued, or reduced because of immigration status, violates the due process clause of the U.S Constitution;
- (i) HRA has been deliberately indifferent to the need to provide proper training and supervision to HRA employees at job centers;
- (j) HRA's policy, custom, and usage of referring applicants for federal food stamps and federal Medicaid to SSA with documentation that fails to comply with SSA's requirements, thereby making it likely or certain that SSA will not issue them a Social Security number, violates 7 C.F.R. ¶ 273.6(b)(food stamps) and 42 C.F.R. § 435.910(e) (Medicaid);
- (k) actions and omissions by State OTDA and State DOH have caused and/or contributed to the violations of federal law by HRA challenged in this action, for which State OTDA and State DOH are jointly and severally liable;
- (l) through their actions and omissions that have caused and/or contributed to the federal violations by HRA challenged in this action, State OTDA and State DOH have violated their responsibilities under federal law as the single state agencies responsible for administering and supervising the federal food stamp and federal Medicaid programs, respectively, in New York State, in violation of 7 U.S.C. § 2012(n) (food stamps); 42 U.S.C. § 1396a(a)(5) (Medicaid), and 42 C.F.R. § 431.10 (Medicaid);

- (m) State OTDA and State DOH have been deliberately indifferent to the need to provide proper training and supervision to HRA employees who administer federal food stamps and federal Medicaid at job centers;
- (n) HRA's policy, custom, and usage of denying public assistance and State Medicaid benefits to eligible class members who are not lawful permanent residents on account of immigration status, and of discontinuing and/or reducing public assistance and State Medicaid benefits to these class members on account of immigration status, violates N.Y. Soc. Serv. Law §§ 122, 131(1) & (3) (public assistance), 366(1)(a) (State Medicaid), and 18 N.Y.C.R.R. § 349, *et seq.* (public assistance);
- (o) HRA's policy, custom, and usage of deterring and discouraging class members who are not lawful permanent residents from applying for public assistance and State Medicaid; refusing to permit these class members to submit applications for those benefits; and/or discouraging or refusing to permit these class members seeking to apply for those benefits to be added to the existing public benefits case of a household member, violates N.Y. Soc. Serv. Law § 366-a(1) (State Medicaid) and 18 N.Y.C.R.R. § 350.3(a) and (b) (public assistance);
- (p) HRA's policy, custom, and usage of failing to provide timely an adequate notice of the denial of public assistance and State Medicaid to immigrants: (1) when assistance is granted to some household members but denied to others based on immigration status; (2) when immigrants apply to be added to an existing public benefits case and are denied; and (3) when immigrants are discouraged or prohibited from applying for assistance, violates 18 N.Y.C.R.R. §§ 351.8(b) and 358-2.2 (public assistance) and N.Y. Soc. Serv. Law § 366-a(3)(b) (Medicaid);

- (q) HRA's policy, custom, and usage of issuing misleading notices that make it difficult if not impossible to determine whether public assistance and State Medicaid were correctly denied or provided in the proper amount and/or whether to appeal when public assistance and State Medicaid are denied in whole or in part, discontinued, or reduced because of immigration status, violates 18 N.Y.C.R.R. §§ 351.8(b) and 358-2.2 (public assistance) and N.Y. Soc. Serv. Law § 366-a(3)(b) (Medicaid); and
 - (r) to the extent that HRA acts to enforce State regulations, State directives, and City directives and instructions that purport to require applicants for public assistance and State Medicaid to furnish a Social Security number as a condition of eligibility when a Social Security number is impossible to obtain, those actions violate N.Y. Soc. Serv. Law §§ 122, 134-a(2) and 366-a(2)(a);
3. Issue a temporary restraining order and preliminary injunction as requested in plaintiffs' Order to Show Cause submitted in conjunction with this complaint.
4. Issue a permanent injunction enjoining the City defendant:
- (a) to refrain from unlawfully denying, discontinuing, and/or reducing federal food stamps at job centers on account of immigration status to class members who are eligible for those benefits;
 - (b) to refrain from denying, discontinuing, and/or reducing Medicaid, and/or public assistance benefits at job centers on account of immigration status to class members who are not lawful permanent residents and who are eligible for those benefits;
 - (c) to refrain from turning away, deterring, or discouraging class members from applying for federal food stamps, at job centers, or encouraging them to withdraw applications for these benefits, on account of immigration status;

- (d) to refrain from turning away, deterring, or discouraging class members who are not lawful permanent residents from applying for Medicaid and public assistance benefits at job centers, or encouraging them to withdraw applications for these benefits, on account of immigration status;
- (e) to permit all plaintiff class members to submit an application to HRA for federal food stamps at job centers regardless of their immigration status;
- (f) to permit all plaintiff class members who are not lawful permanent residents to submit an application to HRA for Medicaid, and/or public assistance benefits at job centers regardless of their immigration status;
- (g) to provide timely and adequate notice of the denial of food stamps, Medicaid, and/or public assistance benefits at job centers to class members (1) when assistance is granted to some household members but denied to others based on immigration status; and (2) when class members apply to be added to an existing public benefits case and are denied;
- (h) to refrain from issuing misleading notices that make it difficult or impossible to determine whether public benefits were correctly denied or provided in the proper amount and/or whether to appeal when such benefits are denied in whole or in part, discontinued, or reduced because of immigration status;
- (i) to ensure that all disabled Qualified Alien class members are referred for Medicaid disability determinations if there is an indication that they may qualify for disability-related Medicaid, and that those determined to be disabled receive the food stamps to which they are legally entitled;
- (j) to refrain from enforcing State regulations, State directives, and City directives and instructions that purport to require applicants for public assistance and State Medicaid to

apply for and furnish a Social Security number as a condition of eligibility when a Social Security number is impossible to obtain;

(k) to provide class members who do not have Social Security numbers and who apply for federal food stamps and federal Medicaid with the necessary documentation so that they can obtain a Social Security number from SSA;

(l) to provide retroactive State food stamps to those eligible class members who were wrongly denied them due to their immigration status; and

(m) to develop and implement a plan of correction that will:

(i) correct all policy memoranda and other instructional material that misstate immigrant eligibility rules for food stamps, Medicaid, and public assistance, or the requirement that applicants and recipients furnish or apply for a Social Security number;

(ii) reconfigure their computer systems so that class members' food stamps, Medicaid, and public assistance cases can be properly entered into those computer systems and opened;

(iii) retrain their employees on the correct immigrant eligibility rules for food stamps, Medicaid, and public assistance benefits and Social Security number requirements; and

(iv) implement a plan for regular monitoring and reporting on applications for food stamps, Medicaid, and public assistance by class members so that corrective action may be taken if noncompliance with immigrant eligibility rules for public benefits is found.

5. Issue a permanent injunction enjoining the State defendants:

- (a) to supervise and oversee the conduct and actions of the City defendant to ensure that the City defendant complies with all federal mandates regarding immigrant eligibility for federal food stamps and federal Medicaid, and to ensure that timely and adequate notice is provided when food stamps, Medicaid, and public assistance benefits are denied in whole or in part, discontinued, or reduced because of immigration status; and
 - (b) to develop and implement a plan of correction that will:
 - (i) correct all policy memoranda and other instructional material that misstate immigrant eligibility rules for federal food stamps and federal Medicaid benefits;
 - (ii) reconfigure the computer systems for which State defendants are responsible to the extent necessary so that class members' federal food stamps and federal Medicaid cases can be properly entered into those computer systems and opened;
 - (iii) retrain their employees on the correct immigrant eligibility rules for federal food stamps and federal Medicaid benefits;
 - (iv) implement a plan for regular monitoring and reporting on applications for federal food stamps and federal Medicaid benefits by class members so that corrective action may be taken if noncompliance with immigrant eligibility rules for public benefits is found.
6. award reasonable attorneys' fees, costs, and disbursements, pursuant to 42 U.S.C. § 1988;

7. order such other and further relief as the Court may deem just and proper.

Dated: New York, New York
December 13, 2005

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