

*Under federal welfare law, New York State receives a block of money from the federal government to design and run its welfare program. New York decides who qualifies for welfare, how much assistance a family can receive, how long a family can receive assistance and the types of programs that will be available to help welfare recipients. In New York, families can receive cash benefits for up to **five years** (with the possibility of continued assistance in the form of vouchers after that time – called Safety Net Assistance). New York requires every adult welfare recipient to participate in a work or training activity as a condition of receiving welfare unless an individual is excused. In addition, welfare recipients are required to assist the state in collecting child support from non-custodial parents. The work requirement, the time limits, and the child support enforcement cooperation requirement may pose problems for survivors of domestic violence, but exemptions may be available. This guide explains welfare provisions that can help domestic violence survivors.*

DOMESTIC VIOLENCE SURVIVORS, WELFARE, AND WORK

Domestic violence survivors who participate in welfare-work activities are affected by domestic violence in the same way as other survivors who work. Physical beatings, emotional abuse, and controlling behavior can affect an individual's ability to perform her job. Such abuse can cause an individual to miss or be late for work. For example, an abuser may agree to take care of the children and then, at the last minute refuse to watch them or take them to day care. Sometimes an abuser will follow an individual to work or school or harass her on the phone while she's working. Some individuals report that abusers destroy job training or education materials or inflict physical injuries to prevent them from going to work or school. (Survivors of sexual assault and stalking by strangers and acquaintances face many of the same challenges. However, New York's provisions in its welfare law do not cover violence perpetrated by a stranger or an acquaintance.)

PROVISIONS IN WELFARE LAW TO HELP DOMESTIC VIOLENCE SURVIVORS

There are three types of welfare provisions that may be helpful to abused women receiving welfare. They are the **family violence option**, **time limit extensions**, and the **child support "good cause" exemption**.

Family Violence Option: In New York, a welfare applicant or recipient may ask the welfare agency to temporarily waive or excuse her from any welfare requirement that will make it more difficult to escape from domestic violence or will subject the individual or her children to further risk of domestic violence. For example, an individual may be eligible for a waiver from the work activity requirement, the child support enforcement cooperation requirement, learn-fare, or the requirement to establish the paternity of the child(ren).

Time Limit Exemptions: In New York, a domestic violence survivor may apply for a waiver from the sixty- month time limit on receiving cash assistance. In order to get a time limit exemption a survivor must demonstrate that she is unable to work or participate in a training activity because of a physical or mental disability caused by the domestic violence; or because she is needed in the home to take care of a child who has a disability caused by domestic violence. The disability can be a short-term disability.

Child Support “Good Cause” Exemption: A local welfare agency can grant a woman a “good cause” exemption from the child support enforcement cooperation requirement if she believes that identifying the father of the children or helping the state to collect child support from a non-custodial parent will jeopardize her safety.

COMMONLY ASKED QUESTIONS

1. What can I do if domestic violence will affect my ability to participate in a work or training activity?

Tell someone—a domestic violence victim advocate, a legal aid lawyer, or your caseworker—about the situation and ask them for help and information as to the best way to address the situation. You can also ask your caseworker to refer you to a special caseworker, known as a **domestic violence liaison**. The liaison is responsible for assessing your safety needs and informing you of your options for protection, services, and other support, such as a **family violence option waiver**.

2. What if the abuser is also the father of my children? Will I have to identify him to the welfare agency?

Welfare recipients are usually required to identify the non-custodial parent and to work with the state agency to collect child support. However, if there is “good cause” (such as fearing violence) not to reveal this information, the welfare agency can excuse you from this requirement. Therefore, if you feel that disclosing this information will jeopardize your safety, you should ask for an appointment with a domestic violence liaison or ask your caseworker how you can get a “**good cause**” exemption or **family violence option waiver**.

3. How do I apply for a waiver from a welfare requirement? What kinds of waivers are available?

Waivers are available from **any welfare requirement** that will make it more difficult for you or for your children to escape from domestic violence or will subject you or your children to further risk of domestic violence. The most common are temporary waivers from the work activity requirement or the requirement to help the state obtain child support from the noncustodial parent of your child(ren).

In order to obtain a temporary waiver from a welfare requirement, you must see a special caseworker, known as the **domestic violence liaison**. If you want to see the liaison, ask your caseworker to make an appointment for you. You can also get an appointment with a **domestic violence liaison** by filling out the **domestic violence screening form** that should have been in your application or recertification packet.

4. Where do I get a domestic violence screening form?

The welfare agency is required to include a **domestic violence screening form** in your welfare application or recertification packet. The welfare agency is also required to permit you to fill out the screening form at any time. Ask your caseworker for the form.

5. What will happen at my appointment with the domestic violence liaison?

The **domestic violence liaison** does three things: (1) assesses your credibility; (2) informs you about available services for survivors of domestic violence; and (3) assesses your need for temporary waivers from welfare requirements.

6. What documents should I take to my appointment with the domestic violence liaison?

The **domestic violence liaison** will assess your claim that you have survived domestic violence. New York's welfare law defines domestic violence as any of the following acts committed by a family or household member:

- physical acts that result in, or could result in, physical injury;
- sexual abuse;
- sexual activity involving a dependent child;
- being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
- threatened or attempted physical or sexual abuse;
- mental abuse; or
- neglect or deprivation of medical care.

You should bring any documents that will help you show you experienced domestic violence such as an order of protection, court or official records (medical, criminal, child protective services, social services, psychological, or law enforcement records), proof that you are in a domestic violence shelter, or a signed statement by a domestic violence counselor. If you do not have any documents, the domestic violence liaison can accept your own sworn statement as evidence that you are a victim of domestic violence.

7. How do I apply for a time limit exemption after I have received cash assistance for five years?

In New York, individuals usually may receive cash assistance for up to five years. Domestic violence survivors who are unable to work or participate in a training program because of a mental or physical disability caused by domestic violence or who are needed in the home to care for a child who has a disability caused by domestic violence may receive cash assistance for more than five years. If you are unable to work because of domestic violence and have received benefits for nearly five years, you should ask to see a domestic violence liaison to determine whether you are eligible for a time limit exemption.

8. What if I feel that I qualify for an exemption or waiver, but the welfare agency tells me that I do not?

You should request a “fair hearing” at any point in the welfare process when you do not get the benefits or rights to which you are entitled. You have a right to a “fair hearing” if a family violence option waiver is denied, if benefits are cut, or if benefits are denied entirely. There is usually a specific time period for requesting a fair hearing. Also, in order to continue receiving benefits while you wait for a fair hearing you must ask for “aid continuing” when you apply for the fair hearing. When the agency has decided to cut or stop your benefits, you must ask for “aid continuing” within ten days of the agency’s decision. A domestic violence advocate or legal aid lawyer can help with a request for a fair hearing and “aid continuing.” They may even provide representation at the hearing itself.

9. What if I am disabled?

Under New York welfare law, you may be excused from the work activity requirements if you are physically or mentally unable to work. In this case, you may be entitled to Supplemental Security Income (SSI) or Social Security Disability benefits instead of welfare. (A disabled person may receive welfare benefits while applying for SSI or Social Security Disability benefits.) A domestic violence or disability rights advocate will have more information about this option. In addition, if your disability is the result of domestic violence, you may be eligible to receive a waiver from the five-year time limit on cash assistance. When you are about to reach your 60th month of assistance, ask to see a domestic violence liaison for an assessment or talk to a legal aid lawyer or domestic violence victim advocate to determine if you are eligible for a time limit exemption.

10. Could my children be taken away if I say that I am a victim of domestic violence?

Many people with whom a domestic violence survivor comes in contact, such as caseworkers, hot line workers, police officers, medical professionals, and others may have a duty to tell child protective services if they believe that children are being abused or neglected. This presents a problem where an abuser is abusing both a woman and her children or when a woman is neglecting or abusing her children in response to the domestic abuse that she is facing. If you feel that this is your situation, you may want to consult with a lawyer or legal advocate before you apply for a family violence option waiver. However, remember that you need not disclose anything about domestic violence in order to apply for welfare benefits. A person only has to disclose that she is a victim of domestic violence if she wants to access a provision under the New York welfare law to help domestic violence survivors.

11. What employment laws can help me if I chose to participate in a work or training activity?

Some domestic violence survivors (as well as survivors of sexual assault or stalking) may choose to participate in a work activity or training program. Many federal employment laws apply to welfare-to-work workers in the same way that they apply to workers in any other job. Welfare-to-work program participants are covered by federal laws concerning minimum wage, workplace safety, unemployment insurance, and family and medical leave, as well as federal laws that prohibit race, sex, age, national origin, and disability discrimination. These protections were clarified in the

regulations implementing the new welfare law. In New York City, the Human Rights Law makes it unlawful for employers to discriminate against someone because she is an actual or perceived victim of domestic violence, sexual assault, or stalking. Additionally, the New York City law requires employers to provide “reasonable accommodations” to survivors to permit them to perform their jobs (this could include modification of regular hours, changing a work location, changing a telephone number, etc.). For more on employment rights for survivors in New York City, see the **Employment and Housing Rights for Survivors of Abuse** guide “*New York City: Employment Rights and Benefits for Survivors of Domestic and Sexual Violence*.”

Employment and Housing Rights for Survivors of Abuse has a number of guides that provide additional information on how some federal laws apply to abused women:

- *Disabled Victims of Domestic and Sexual Violence*
- *Employment Discrimination Against Abused Women*
- *Medical Leave For Survivors and Family Members*
- *New York City: Employment Rights and Benefits for Survivors of Domestic and Sexual Violence*
- *Safety Planning in the Workplace: Protecting Yourself and Your Job*

CONSULT THE APPROPRIATE AGENCY OR AN ATTORNEY ABOUT YOUR RIGHTS

This guide is intended to provide accurate, general information regarding legal rights relating to employment. Yet, because laws and legal procedures are subject to frequent change and differing interpretations, Legal Momentum cannot ensure the information in this guide is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights in your particular situation. If you need assistance in finding a lawyer, contact Legal Momentum, the bar association in your state, or your local legal services office, domestic violence coalition, sexual assault coalition, or service provider.

For more information or assistance, please contact 212-925-6635 or ehrsa@legalmomentum.org.

This guide is available for downloading at www.legalmomentum.org.

Employment and Housing Rights for Survivors of Abuse is a project of Legal Momentum. This project was supported by Grant No. 98-WL-VX-0007 awarded by the Violence Against Women Grants Office, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

This guide was originally developed in conjunction with Legal Aid Society of San Francisco/Employment Law Center.

©2001 Legal Momentum; reformatted 2005.