

## **Welfare Running Out. Also, news of the poor, the old, the disabled**

by Lynda Crawford

Thursday, March 01, 2001 12:00 AM

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### **(Mar '01) Welfare Running Out / Shelters Full**

About 71,400 New York families receiving welfare benefits will reach the five-year limit by the end of the year, reports the New York Times ("State's Poorest Facing Loss of US Aid"). Twenty-eight percent of them are working poor who put in an average of 30 hours a week at a job but still do not earn enough to lift their families out of poverty. Fifteen percent are disabled. The majority, about 59,000, live in New York City.

At the same time, homeless shelters have been filled to their highest capacity since the 1980's this winter, with the largest increases coming from women and children. Since the fall, 500 families eligible for domestic violence refuge were unable to be placed and were sent instead to the general Emergency Assistance Unit in the Bronx ("Hurting for Space, City's Domestic Violence Shelters Fall Short," New York Daily News).

The city responded to the shortage, and a court deadline about to expire, by promising to create 517 new units before next winter, including 100 new units available immediately ("City Agrees to Add Rooms for Homeless," New York Times).

### **No Lawyers in Family Court**

Lawyers representing the poor in family and criminal court have been complaining for years about the low rates they receive from the state for their work. They have not had a fee raise in fifteen years, and New York State's rates for assigned counsel are lower than those in all states but one. In protest, many lawyers have stopped accepting new cases and, for the last month, there have been no lawyers to appoint in Family Court. The extent of the disaster can be seen in this report from Manhattan Family Court Judge, Judy Adams, in an op-ed in the Times ("A Daily Disaster for Children"): "A wheelchair-bound 13-year old girl with cerebral palsy sat at Laight Street (the processing office where children await foster home placements) for seven days and nights. Her indigent grandmother from whose home she has been removed, had no assigned attorney, so a hearing that might have sped the case up was delayed. (Because she was disabled, she needed a specialized placement.) The grandmother was unable to reach a caseworker to arrange a visit, so these two, who had never been separated since the girl's birth, had no contact with each other." After ignoring the issue for too long, Pataki and state legislators have promised increases for the the lawyers, but the money may not come through

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until next year.

### **New Prescription Fees**

A new policy by the City's Health and Hospital's Corporation to exact a fee on prescription drugs sold at hospital pharmacies has been recently introduced and advocates for the poor are concerned that this will discourage poor patients from getting needed prescription drugs. According to a story in the New York Times ("City Hospitals Imposing Fees At Pharmacies"), the Health and Hospital's Corporation created the fee policy out of desperation for some income, and the policy does state that "no patient is to leave empty handed because of inability to pay." It also would not apply to emergency room or hospital stays or for those in prenatal or AIDS programs. Several patients have already reported being turned away, however, when they didn't have the \$40 or \$50 for their medications (the fee is \$10 for each prescription). "It is too much money for me," one woman told the Times, when she was unable to pick up prescriptions for asthma and diabetes.

### **IRS After the Poor**

Tax returns of the working poor make up almost half of all IRS audits, forty-four percent, while the audit rate for those earning \$100,000 or more has dropped from about nine percent to one percent ("Auditing the Poor," New York Times.)

### **State Employees With Disabilities Can't Sue**

States that discriminate against disabled employees of the state cannot be sued for damages under the federal Americans with Disabilities Act (ADA), the Supreme Court ruled in a 5-4 decision ("Justices Give the States Immunity From Suits by Disabled Workers," New York Times).

After months of deliberations, the court found that private lawsuits against the state under the 1990 federal disabilities law violates state immunity from prosecution without consent, as promised in the 11th Amendment of the constitution. The fact that equal protection against

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discrimination is also promised by the 14th Amendment was overruled in that disability discrimination, much like aging discrimination, seems to be low status in the high court's opinion, the kind of discrimination that some some even consider rational. In his ruling, Chief Justice William Rehnquist said, "It is entirely rational and therefore constitutional for a state employer to conserve scarce financial resources by hiring employees who are able to use existing facilities" that do not require accommodation as stipulated under the ADA.

The ruling does not affect suits filed by employees in most businesses, only state employees, although the justification that conserving financial resources has a higher value than protecting against discrimination could conceivably be used again to further erode the law.

On the horizon, the court will be deciding whether to hear another claim of state immunity, this time challenging ADA provisions that require government agencies to make services accessible to people with disabilities, such as curb cuts at crosswalks and accessible buses. According to Linda Greenhouse in the Times, "under the analysis the court applied [in this recent ruling], there is every reason to suppose that the justices will find the states immune from suit under this section as well as the employment section."

A recent Times editorial on the ruling ("The Court Usurps Congressional Power") chided the court for "expand[ing] its own power at the expense of Congress's rightful constitutional authority to decide which new laws society requires."

One of the original drafters of the Americans with Disabilities Act, Chai R. Feldbaum, a Professor at Georgetown Law School, told the Times that "people with disabilities will be second-class citizens if the trend in the courts continues. I don't think this means the ADA as a law is in danger with regard to most employers and businesses," she said. "What it does portend poorly for is the rights of disabled people with regard to the states - in education, voting rights, mental health and other areas." ("Ruling on Disability Rights Called a Blow by Advocates").

Meanwhile, a lengthy review ("Getting States' Rights Right") of a new book on the doctrine of states' rights is in the [March Atlantic Monthly](#), making a case that both conservatives and progressives have sought refuge in states' rights depending on the issues, which have ranged from using it to defend slavery and segregation to seeking protection from corporate exploitation.

## **Aging in Place-Without Proper Care?**

Assisted Living, the housing alternative for elderly adults who no longer wish to live completely on their own, is a fast-growing industry. In New York State, 100 assisted living centers have appeared in the last ten years. Based on a widely appealing philosophy, "aging in place," the centers also apparently benefit from a relaxation of state regulations that govern adult homes, according to an article in The New York Times("Experiment in Assisted Living Exposes Confusion on Rules").

Alzheimer's patients that are normally moved into nursing homes when they required 24-hour care are being allowed to stay on in assisted living centers and one state regulator who objected has been barred from any further investigations of centers or adult homes run by Alterra, the company whose practices the regulator highlighted.

Cynthia Rudder, Director of the Nursing Home Community Coalition of New York State, told the Times she was not aware of the relaxed regulation "experiment" being sanctioned by the state. "We are in favor of aging in place," she said, but she found this situation to be "a betrayal of the public trust, as far as I'm concerned."

In 1999, Governor Pataki introduced a proposal to regulate the assisted living industry but it was not well received and soon died. Families are often against regulations that would force aging parents out of assisted living and into nursing homes. And politicians, too, appreciate keeping the elderly in facilities they themselves pay for as opposed to relying on nursing homes that the taxpayer pays for.

Charges of neglect in assisted living centers, however, have been surfacing, with reports of festering bedsores, burns from hot water bottles, delays in calling an ambulance when a resident broke her leg, and letting one Alzheimer patient just wander off. Also of interest is just how the industry manages to remain above the law.

## **Local Scouts Want to Reform Anti-Gay Policy**

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The city council will give local New York City chapters of the Boy Scouts of America four months to appeal to the national office to change their policy of banning gays in the scouts. If they are not successful, as local chapters in Rhode Island and California have not been in earlier attempts, the council will go ahead with a ban on allowing government agencies to sponsor scout activities, such as the Explorer's program, operated by the police and correction departments in the city.

"We denounce the national policy; we do not think it is right," said Deryck A. Palmer, a lawyer and member of the New York City board of the Boy Scouts told the council committee, according to a story in the New York Times ("Local Scouting Board, Calling Gay Ban 'Stupid,' Urges End to National Policy").

"We would like to be an agent of change," Palmer said.

Contrary to the national policy, scouts and scout leaders are not ousted in New York City because of sexual orientation. However, council members argued that programs should not be sponsored by the city as long as the national organization discriminates.

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