

U.S. Court Orders City to Ensure Aid for Battered Immigrants

By [NINA BERNSTEIN](#)

A federal judge yesterday ordered the city to stop illegally denying food stamps and other aid to battered immigrant women and children and to overhaul the error-plagued computer programs and training manuals that continue to lead welfare workers to turn them away.

The judge determined that high-level city policymakers had long been aware of the systemic problems, but did little or nothing to fix them until a group of battered women filed a lawsuit late last year. As a result, if the city and state continue to fight the lawsuit, the judge said, he will be highly likely to find them liable for "deliberate indifference" to violations of the plaintiffs' federal and state rights.

"It is not the policy of the United States, nor of the State of New York, to leave destitute the battered immigrant wives and children of lawful U.S. residents just because their abusive husbands are no longer supporting them or providing them with a basis for obtaining aid," the judge, Jed S. Rakoff of United States District Court in Manhattan, wrote in his 83-page decision. He certified the lawsuit as a class action and issued a preliminary injunction against the city and state.

The judge commended the city for fixing some of the problems since February, when he issued a partial injunction and held nine days of hearings in the case. But he added that problems persisted because of inadequate training, poor computer design and faulty directives.

"The simple truth, moreover, is that the ameliorative actions now taken by the city and state defendants would not likely have been taken if this lawsuit had not been brought and had the court not issued its initial injunction," he wrote.

The decision is awkward for Mayor Michael R. Bloomberg, who is preparing to unveil a plan for attacking poverty in the city, a central goal of his second term. The plan is expected to focus on children, young adults and the working poor.

Jane Tobey Momo, senior counsel for the city, said officials were reviewing the opinion to determine the city's next steps. "While we are disappointed in the court's findings," she wrote in a statement, "we are pleased that the court recognized and commended the city for the extensive recent steps taken to ameliorate the difficulties in delivering benefits to non-citizen immigrants.

"The difficult and changing federal and state statutes, regulations and policies present continuing challenges to the process," she added.

When the lawsuit was filed in December by the New York Legal Assistance Group and the Legal Aid Society, the lawyers called it a last resort, saying that officials had failed to fix problems that forced hundreds of women to choose between staying safe and feeding their families, despite government policies aimed at supporting them until they can get on their feet.

The suit seeks back benefits that range from a few hundred dollars to one or two thousand dollars per family in the class. "That represents months of being able to get by," said Ronald Abramson, a partner at Hughes Hubbard & Reed, which worked on the case for months without charge, but is now likely to be able to collect more than a million dollars in legal fees from the city.

About a dozen plaintiffs, mostly identified only by initials, include a woman from Senegal helping to prosecute the man accused of torturing her and murdering her sister; a Mexican mother of two whose husband chased her with a gun; and a Bangladeshi woman whose husband, since hospitalized for mental illness, kicked her in the abdomen while she was pregnant, cut up her clothes and threatened to kill her when she tried to go to work.

Several fled to domestic violence shelters, only to find themselves unable to buy food or medicine for their children. In an affidavit, one breast-feeding mother wrote of going hungry and of feeling powerless as she and her young children lost weight.

The abuse, documented in orders of protection, police reports and letters from domestic violence shelters, was not in question. Nor was eligibility for aid, often affirmed through administrative "fair hearings," only to be denied again or automatically cut off.

One of the basic problems lay in the pull-down computer menu that caseworkers used when entering information about a noncitizen applying for aid. The list of eligible immigration categories mistakenly omitted "battered qualified alien," the category in which these women and children fit.

That problem was fixed recently, after Judge Rakoff's February order, but other deficiencies remain. The judge called the violations "the direct results of the flawed design of the city's computer system, the pervasive errors in the city's training materials and policy directives, and the widespread worker ignorance resulting from inadequate training of the city's employees."

"The Court readily concludes that, given the pervasive and systemic nature of the various problems resulting in the unlawful denial of benefits to plaintiffs, plaintiffs have established a very high likelihood that the city will be found liable on all the plaintiffs claims," he wrote.

In 45 pages devoted to legal findings, he determined that the plaintiffs had established "an overwhelming likelihood of success on their contention that the city, in its failure to adequately train its employees, was 'deliberately indifferent' to the violation of plaintiffs' federal rights." He added that the state was "vicariously liable" because it supervises the city's provision of public aid and had failed to change its own programming problems and faulty directives.

Jason Brown, a spokesman for Gov. George E. Pataki, said state officials would not comment until they review the decision.

Mr. Abramson said even last winter, when the judge ordered the city to provide aid to the named plaintiffs, the city's lawyers returned to court saying their efforts had been stymied because the computer system "errored-out" many of the cases.

But eventually all the families involved in the lawsuit received aid, said Caroline Jane Hickey, a lawyer with New York Legal Assistance Group. "We are thrilled with Judge Rakoff's decision to protect the rights of a population with almost no voice," she said.

She cited the case of the Mexican mother identified as J.Z. in the lawsuit, who has since been able to move into public housing in the Bronx with her two children. She has passed a high school equivalency test and found a job at her children's school.

"She has managed to completely turn her life around," Ms. Hickey said. "She plans to be a nurse."