

Domestic Violence and Public Assistance

What special protections do I have as a victim of domestic violence applying for or receiving public assistance?

If you are a victim of domestic violence, you may be eligible for a **waiver** of certain public assistance program requirements that **would place you or your children at further risk or make it more difficult for you to escape from violence**. All applicants and recipients of public assistance must be asked if they are a victim of domestic violence because of a law called the New York Family Violence Option (FVO). If you are in a domestic violence shelter, you might also be able to work fewer hours due to a program called ADVENT, which is described on the next page.

You may also be referred to counseling and supportive services. Your participation in these programs is not mandatory. You cannot be sanctioned (i.e. lose your public assistance benefits) for not accepting counseling or supportive services.

What is a waiver? A waiver temporarily excuses you from complying with certain program rules, such as work activity, cooperation with child support enforcement and paternity, learnfare, minor parent eligibility, residency, or drug and alcohol treatment. A waiver **lasts for at least four months** but it can be extended, modified or terminated at any time if welfare considers it appropriate.

Why would I need a waiver? There are several situations where the existence of domestic violence may interfere with your ability to comply with the requirements. For example, you may not be able to comply with the child support enforcement requirement because:

- your batterer threatened to kill you if he had to pay child support;

- you relocated out of state and you don't want your batterer to know;
- you are afraid that if your batterer pays child support, he may file for visitation; or
- you are afraid to see your batterer in court.

You may not be able to comply with the work requirement because:

- your batterer resides or works near your WEP site;
- you moved to a shelter and you're spending most of your time looking for housing, going to court, and participating in counseling; or
- you're recuperating from injuries suffered as a result of the domestic violence.

How can I apply for a waiver? All applicants for public assistance and recipients at the time of recertification should receive a screening form which asks questions regarding domestic violence. The screening is voluntary and confidential except that information about child abuse and neglect may be reported to child protective services (ACS).

If you check yes to the domestic violence questions on the screening form, you should be referred to a domestic violence liaison, who is a welfare caseworker trained on domestic violence. There are about twenty domestic violence liaisons at various income support and job centers in the city. They are specially trained to assess 1) whether you are a victim of domestic violence and 2) whether you are eligible for a waiver. Once you are referred to a domestic violence liaison, you cannot be assigned to work or made to cooperate with child support rules until the domestic violence liaison decides whether to

give you a waiver.

If you are not screened for domestic violence or referred to see a domestic violence liaison, tell your case worker you are a domestic violence victim and want to see the domestic violence liaison. If your caseworker will not refer you, ask to speak to a supervisor. You can also have your domestic violence advocate call or fax the welfare center. If you have problems, contact a legal services provider for help.

How does the domestic violence liaison decide whether I need a waiver?

The domestic violence liaison will ask you to submit documents to prove that you are a victim of domestic violence and need a waiver. Proof may include orders of protection, evidence that you are residing at a shelter, police reports, hospital records, pictures of injuries, or letters from your attorney, social worker, domestic violence counselor, or the district attorney. If you don't have proof because you never sought help, the domestic violence liaison can accept a statement from you, your family, and friends.

After reviewing your case, the domestic violence liaison will issue you a written decision either granting or denying your request for a waiver. You may be granted a **partial waiver** which means that you've been excused from only a part of a requirement. For example, if you are granted a partial child support waiver, a child support case may still be brought against your batterer, but you may not have to appear in court. If you are granted a partial work waiver, you still have to work 35 hours a week but you do not have to work in boroughs that are unsafe.

What if I am denied a waiver? You can try to appeal that decision by requesting a fair hearing. You can request a fair hearing by faxing in the form which is located at <http://www.otda.state.ny.us/oah/forms.asp> to 518-473-6735, requesting one in person at 14

Boerum Place in downtown Brooklyn, by writing to the Office of Administrative Hearings, New York State Office of Temporary and Disability Assistance, P.O. BOX 1930, Albany, New York 12201, or by calling 1-800-342-3334.

For more information regarding fair hearings, see **SBLS Fact Sheets #3 and #4** at www.sbls.org or **"How to Win Your Fair Hearing"** under publications at www.legal-aid.org.

Because the fair hearing process may take a while, you should also ask your domestic violence counselor or lawyer, if you have one, to write a letter to the domestic violence liaison for you and to include any additional information.

What is ADVENT? ADVENT is a welfare program for victims of domestic violence who are living in a domestic violence shelter. Participation in ADVENT is voluntary. While most NYC welfare recipients are required to work 35 hours a week, participants in ADVENT work only 21 hours (3 days, 7 hours a day) a week. The other two days (14 hours) of the work week, you may participate in domestic violence related activities such as housing search, counseling, or legal appointments. If you miss a work assignment while on ADVENT, you can be sanctioned. But if you miss domestic violence activities, you cannot be sanctioned. Instead, your work hours will increase to 35 hours per week. Even if you are in ADVENT, you can still get the welfare work rules waived fully if working or complying with child support would put you at risk. If you want to get into ADVENT, ask your shelter caseworker or the domestic violence liaison.

If you need more information you can call Legal Aid at 212-577-3300; or call South Brooklyn Legal Services on Tuesdays and Thursdays from 12:00 – 1:00, (718) 237-5563. You can also go to <http://www.lawhelp.org/ny/>.