



**How DPSS Fails the Most Vulnerable:
Barriers to Those with Mental Disabilities
to Obtain General Relief**

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INTRODUCTION

The numbers have been described as “unambiguously depressing” and “a devastating indictment of city and county politicians.”¹ While homelessness has decreased nationwide,² the number of homeless in Los Angeles County increased by 12% since 2013 to 44,359.³ The number of homeless veterans in the County rose 6% to 4,343, the highest number of any county in the nation.⁴ Homeless camps are no longer limited to downtown; they stretch from South Los Angeles to Simi Valley.⁵

The County is required to provide for these homeless and destitute residents through General Relief (GR), the County’s program for the poorest of the poor. GR provides a minimal cash allowance for the most basic needs, such as food and shelter. The \$221 per month allowance is \$5 less than it was in 1980, though the cost of living has increased by 294% since that year.

Those most in need of help, the homeless with mental disabilities, already face substantial barriers to obtaining GR. Each year thousands of these vulnerable persons cannot obtain the subsistence benefits they desperately need because of the bureaucratic barriers erected by the Department of Public Social Services (DPSS).

By all accounts, between 30% and 40% of the County’s homeless suffer from serious mental illness (such as major depression and bipolar disorder) or developmental disabilities. In fact, one estimate shows a 23% increase since 2013 in the number of County homeless with mental illness. Yet County records show that DPSS designates only 8% of all applicants as needing special assistance. The others do not make it through the bureaucracy or, if they do, are unable to keep up with the bureaucratic requirements to stay in the system and receive benefits.

Despite the increase in homelessness throughout the County, however, the County’s recommended budget for 2015-16 includes a \$21.4 million (i.e., 8%) *decrease* in funding for GR.⁶ This decrease is apparently predicated on projections by the DPSS of an 8.7% decline in the GR caseload.⁷ In other words, DPSS predicts fewer will need GR as the homeless population (and the number GR-eligible persons with mental disabilities) increases.

A large percentage of the County’s homeless suffer from mental disabilities, yet the County has erected bureaucratic barriers to obtaining GR that these vulnerable persons cannot penetrate.

¹ L.A.’s grim homeless data: What can be done?, L.A. Times (May 13, 2015).

² U.S. Department of Housing and Urban Development, *The 2014 Annual Homeless Assessment Report (AHAR) to Congress* (October 2014).

³ Los Angeles Homeless Services Authority, *2015 Greater Los Angeles Homeless Count* (May 11, 2015).

⁴ *Homeless veteran count rises 6% in L.A., posing hurdle for Garcetti*, L.A. Times (May 13, 2015).

⁵ *See Homelessness in L.A. “is everywhere,”* L.A. Times (May 12, 2015); *Homeless camps stretch beyond downtown L.A.*, L.A. Times (Jan. 25, 2015); *Homeless youth bring bold, confrontational approach to Santa Clarita*, L.A. Times (Jan. 27, 2015). The number of tents, makeshift encampments, and vehicles occupied by homeless people soared 85% to 9,535.

⁶ County of Los Angeles, *2015-16 Recommended Budget*, p. 50.12 (April 2015); Letter from Sachi A. Hamai, Interim Chief Executive Officer, to Board of Supervisors, at p. 4 (April 15, 2015).

⁷ County of Los Angeles, *2015-16 Recommended Budget*, p. 50.8 (April 2015).

HOMELESSNESS



Total **12% Increase**

Veterans **6% Increase**



BUDGET FOR GENERAL RELIEF



8% Decrease

(\$21.4 million)



GENERAL RELIEF APPLICATIONS

30 to 40% of homeless have mental disabilities, but DPSS designates less than **8%** of GR applicants as needing special assistance

240K



Processed

115K



Approved

18K



NSA

The huge disparity between the number of GR applicants with mental disabilities and those classified as needing special assistance is caused in substantial part by DPSS's reliance on its overworked staff to spot individuals with serious mental health problems (a task they are not qualified to perform in any event). Moreover, DPSS inexplicably refuses to use a simple, validated questionnaire to screen all GR applicants for mental disabilities at intake. Such a screen would allow DPSS to identify many more of those in need of help.

Implementing such a screen would not be burdensome. Numerous other county and state programs use mental health questionnaires to screen at intake. In fact, DPSS already uses a questionnaire to screen every GR applicant for substance abuse issues. DPSS also screens for mental disabilities all CalWORKs (welfare) participants who are classified as employable.

Even for those identified as having mental disabilities under the current system, DPSS puts up further barriers. For almost 90% of those identified as having a mental disability, DPSS designates the need for special assistance as "temporary." These

persons, known by DPSS to have a mental disability, are thus forced to jump through further bureaucratic hoops to keep their GR benefits when the temporary status expires, hoops that they often fail to get through.

The County has a duty under both federal and state law to ensure that those with disabilities can access the benefits to which they are entitled. Specifically, the County has a duty to modify its GR program and provide accommodations to avoid discriminating against those with mental disabilities. The County has not lived up to this obligation. A large percentage of the County's homeless suffer from mental disabilities, yet the County has erected bureaucratic barriers to obtaining GR that these vulnerable persons cannot penetrate.

Advocates have brought these issues to the attention of County personnel in charge of the GR program. They, however, either cannot or will not bring out the needed change. You can.

BACKGROUND

The California Legislature has mandated that each county in California “shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.”⁸ To fulfill this mandate, the counties in California provide indigent adults with financial assistance known as either “general relief” or “general assistance.” In Los Angeles County, the program is called General Relief and is administered by DPSS.

GR is the program of last resort for Los Angeles County residents.⁹ Eligibility for the County’s GR program is limited to those destitute residents who have \$50 or less and whose income is less than \$221 per month. A GR recipient living alone receives a maximum monthly grant of \$221.¹⁰ The grant is supposed to cover a GR recipient’s basic necessities of life, such as housing, utilities, food, clothing, and transportation.

A significant percentage of those eligible for GR suffer from mental disabilities. The Los Angeles Homeless Services Authority estimates that 39.5% of the homeless identified in the Los Angeles County Continuum of Care area (L.A. County except Glendale, Pasadena, and Long Beach) in 2015 suffer from mental illness, developmental disability, or brain injury.¹¹ Based on their regular visits to the DPSS offices, attorneys at Public Counsel have estimated that as many as 40% of persons applying for General Relief appear to suffer from mental illness. Other estimates vary, but at

the very least 30% of GR applicants suffer from a mental illness.¹² These indigent persons are in desperate need of assistance. But the County has consistently identified only 7 to 8% of GR applicants as having a mental disability that would warrant some form of special assistance.¹³ DPSS’s chronic under-identification of those with disabilities is well documented.¹⁴

DPSS FAILS THOSE WITH MENTAL DISABILITIES

DPSS has created a number of barriers for those with mental disabilities. Many of these persons do not even try to obtain GR because they know that they will not be able to get through the application process. Those who do try, even some who are accompanied by navigators, often cannot successfully complete the process. Others are misclassified as able to work because DPSS fails to properly screen for mental disabilities, resulting in their later falling out of the program as they are unable to meet the requirements to maintain benefits. Those with mental disabilities who are properly classified by DPSS are often unable to comply with the requirements to renew their benefits, leaving them without benefits and forcing them to attempt the application process all over.

¹² This is consistent with studies of welfare recipients in other parts of the country. See, e.g., J. Cook, et al., *Prevalence of Psychiatric and Substance Use Disorders Among Single Mothers Nearing Lifetime Welfare Eligibility Limits*, 66 Arch Gen Psychiatry 249-58 (2009) (finding 44% of TANF recipients to have a mental disorder).

¹³ In 2014, DPSS processed 240,507 applications for GR but designated as “needs special assistance” (NSA) only 18,267 of those applicants. Of those applicants who made it through the entire process and were approved (114,970) only 16% received NSA status. As described below, however, persons with mental disabilities often cannot make it through the DPSS application process without accommodation.

¹⁴ See, e.g., Economic Roundtable, *All Alone: Antecedents of Chronic Homelessness*, pp. 44-51 (2015) (documenting under identification by at least 50%).

⁸ Cal. Welfare and Inst. Code § 17000.

⁹ About 60% of GR recipients are unsheltered homeless. See The DPSS, General Relief Survey 2006, Report No. 1: Homelessness and Help Seeking.

¹⁰ The County’s general relief benefits are among the three lowest of any California county.

¹¹ Los Angeles Homeless Services Authority, 2015 Greater Los Angeles Homeless Count, Demographics. The number of mentally ill homeless increased by 23% from 2013.

The Labyrinth that is the DPSS GR Application System

For those without mental disabilities, the GR application process is long, confusing, and tedious. For those with mental disabilities, it is a labyrinth they are often unable to navigate.

The Difficult Path to the Eligibility Screening

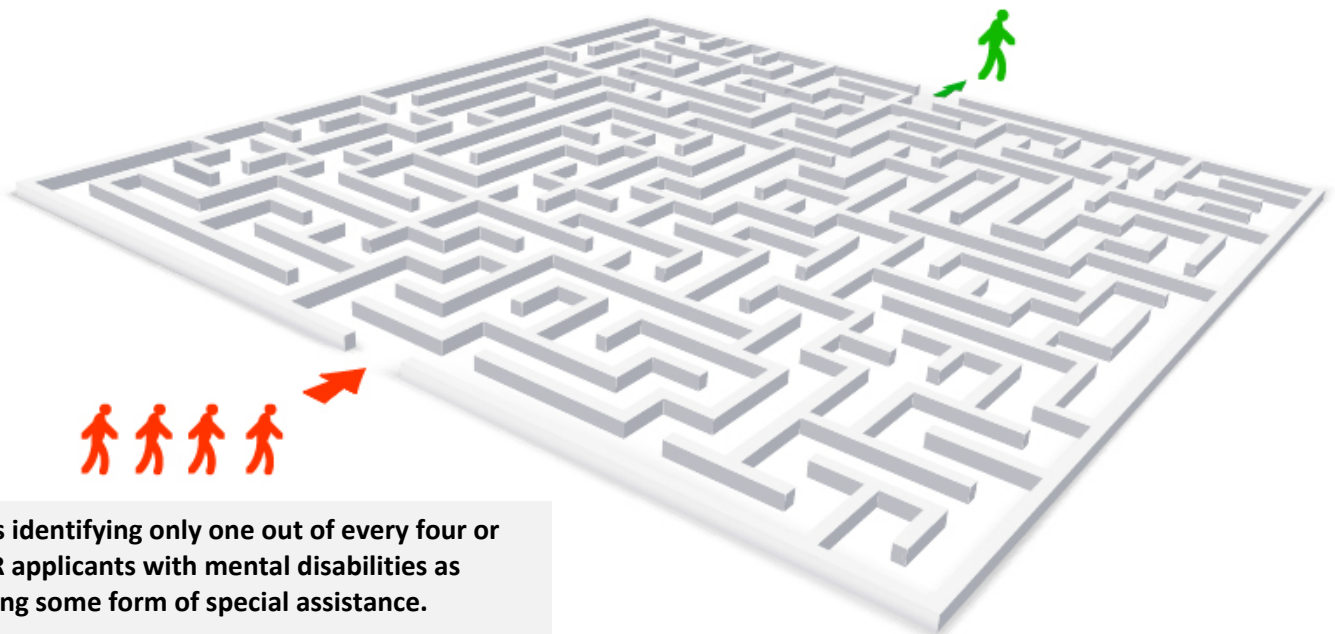
The Mandatory In-Person Application Process

With other programs, such as CalFresh (Food Stamps) and CalWORKS, DPSS allows needy individuals to submit their applications online and thereby avoid a trip to overcrowded welfare offices. Beginning this year, DPSS finally made the GR applications available online but still requires residents to submit the application in person.¹⁵

Going to the welfare office can itself be a traumatic experience for many individuals with mental disabilities.¹⁶ For instance, one GR applicant with severe anxiety made it through the line outside the DPSS office, only to have his anxiety quickly become so intense that he started panicking and having seizures. He was rushed by ambulance to St. Mary's Hospital. About one week later, he returned to the DPSS office. Although his mental health provider convinced the guards to allow the individual to go to the front of the line due to his severe anxiety and a DPSS employee wrote "rush" on his application form, he still spent four hours at the office waiting to get bus tokens and approval to receive emergency Food Stamps in a couple of days.

Long Lines

Many with mental disabilities cannot bear the long wait times and noisy and crowded conditions that mark the GR application process. Applicants have been told by those who have been through the process that to complete the application process in



DPSS is identifying only one out of every four or five GR applicants with mental disabilities as requiring some form of special assistance.

¹⁵ If DPSS's computer systems are not currently designed to process GR applications online, DPSS could easily allow residents to submit their completed applications by email or fax.

¹⁶ We have interviewed numerous case workers, personal services coordinators, and others who accompany mentally disabled GR applicants to DPSS offices. Combined, these persons have visited DPSS offices hundreds of times. We have also interviewed numerous mentally disabled persons who tried but failed to obtain GR benefits on their own. The accounts in this paper are drawn from those interviews as well as others' personal observations during DPSS office visits.

one day, they should get to the DPSS office early. For many, this means a long, early morning bus ride. They then wait for the office to open. The line to get into the offices begins to form as early as 6:30 a.m.¹⁷ This means that applicants often wait up to an hour and a half just to get into the DPSS office.¹⁸ When doing so, they must first pass through a security checkpoint where they are required to take off their belts, empty their pockets, put their possessions in a plastic bowl and sometimes take off their shoes.



The Line Outside the MacArthur Park DPSS office on September 21, 2015 at 8:00 am.

Mental health workers accompanying applicants have witnessed those with such disabilities suffer anxiety

¹⁷ DPSS has sought to publicize the availability of appointments to apply for GR benefits. The vast majority of applicants still show up without an appointment. Moreover, the overall wait time for those with appointments is not significantly reduced.

¹⁸ Those who come later, e.g., at 8 a.m., still must wait 30 to 40 minutes to get into the office.

attacks or other symptoms due to the lines and the security checkpoint.

Those with mental disabilities such as anxiety disorders and manic-depressive illness often are unable to wait in these lines. Persons with such mental disorders as schizophrenia and post-traumatic stress disorder are often intimidated by the security guards. Mental health workers accompanying applicants have witnessed those with such disabilities suffer anxiety attacks or other symptoms due to the lines and the security checkpoint. These workers report clients walking away from the application process due to their disability even at this early stage.

Those who make it into the building are confronted with further challenges. Once inside, applicants must find the right line in which to wait to get to the application window. After waiting in line for another 25 or 30 minutes, the applicant speaks briefly with a DPSS employee who is behind bulletproof glass, is given an application, and told to fill out the application and wait to be called.

Long Waits in Noisy and Crowded Conditions

The waiting area in DPSS offices is often noisy and crowded. Applicants wait for two to four hours, trying to hear their name called above the din. The noise can make this impossible. DPSS employees are aware of this problem. At one office, the DPSS employees had to yell over the PA system for people to quiet down or they would “miss your name being called.”

These conditions can be intolerable for many with mental disabilities. First, many are unable to read or to understand the stack of application papers they are supposed to fill out. Second, waiting for hours in a crowded, noisy environment, while intently listening for one’s name to be called, is exhausting for anyone. For those with mental disabilities, it is excruciating. Adding to the confusion, some DPSS offices have video boards

intended to let applicants know where they stand in the process, but none of these boards are functional. Some applicants' names appear; others do not. None show actual progress through the process.



The Waiting Area at the Southwest Special DPSS office on April 27, 2015 at 11 am.

These conditions can be intolerable for many with mental disabilities.

Those accompanying applicants with mental disabilities confirm that these conditions are a barrier for those with mental disabilities. Even some with assistance give up and leave because they are unable to cope with the wait, the noise, and the anxiety-producing uncertainty of not knowing when one's name will be called and whether one will hear it.

Even some with assistance give up and leave because they are unable to cope with the wait, the noise, and the anxiety-producing uncertainty . . .

DPSS Fails to Identify and Help Those in Need

DPSS employees offer no help. For example, one person applying for GR was wearing a laminated paper crown, tight golf shorts, a t-shirt that was so small his belly button was exposed, and a different shoe on each foot, yet no County worker even asked whether he needed help during the visit. Although DPSS regulations require DPSS employees to conduct "lobby sweeps" to look for persons in need of assistance, this often does not happen. Those who accompany persons with mental disabilities repeatedly state that they have never seen a DPSS worker ask a mentally disabled person if he or she needs assistance.

This failure to identify those in need of help is despite the fact that many exhibit clear signs of such disabilities, such as talking to one's self, screaming incoherently, etc. One mental health worker reported an applicant with a mental illness crawling under a desk and rocking back and forth for hours while waiting in a DPSS office. No DPSS employee even bothered to find out what was going on. Similarly, another advocate has spoken to at least 20 individuals in the DPSS offices who did not receive any assistance even though they showed signs of serious mental illness, such as making paranoid statements (e.g., accusing welfare department of working with the Mafia), talking under their breath, rocking back and forth, or wearing unusual attire (e.g., multiple layers of clothing on a hot summer day).

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The barriers are real. Though they may seem like mundane annoyances to us, the barriers deter many with mental disabilities from even trying to obtain GR benefits. Many who do try fail.¹⁹ As one mental health provider reports, the “hardest part for [our] members, most of whom have severe and persistent symptoms such as being paranoid and hearing voices, is going to the Department of Public Social Services (DPSS) office. For almost all these members, the waiting time to enter the office and then to be seen is excruciating. I go there to help them to cope with their emotions and get through the day if possible. I often accompany a member 5 to 6 times to the DPSS office in connection with his or her GR application.”

The Eligibility Screening Process

Those applicants who overcome the upfront barriers only face more. An applicant whose name is finally called meets with a DPSS eligibility worker. Under DPSS regulations, GR recipients are classified as either “employable” or “unemployable.” Employable recipients are those who have not affirmatively indicated that they are unable to work. These participants must participate in a number of work-related programs to remain eligible for GR benefits. Unemployable recipients are those who DPSS determines cannot work due to a health-related issue, including a mental disability. These participants are excused from the programs required of employable recipients. Eligibility workers are thus instructed by DPSS to screen for those with mental disabilities,²⁰ who will then be sent for an evaluation by a Department of Mental Health (DMH) clinician.

¹⁹ Applicants often cannot complete their applications in one visit; they must return on another day. Those with mental disabilities often do not return to complete their applications.

²⁰ Persons with mental disabilities are often reticent to discuss their disabilities—particularly when they are speaking with a stranger who is not a mental health professional. Accordingly, such persons often assert that they are employable, even if they cannot realistically maintain a job.

DPSS Fails to Adequately Screen for Those with Mental Disabilities

The means DPSS uses to screen for those who should be evaluated for mental disabilities are grossly inadequate. Unlike a number of other county and state programs, DPSS does not use a mental health screening tool with all applicants.²¹ Instead, DPSS relies on those with mental disabilities to self-identify and on the observations of non-mental health workers for those who do not.²²

This is a flawed system. First, many persons with mental disabilities will not self-identify. They do not believe that they have a disability, do not understand that they need help, or are unwilling to self-identify due to the stigma associated with such disabilities.²³

Second, relying on employees’ observations to identify those with mental disabilities is completely unreasonable.²⁴ DPSS employees lack the education and experience necessary to identify persons with mental disabilities. Although DPSS

²¹ For instance, the State of California mandates that counties screen every person coming into the child welfare system for mental health issues. The Online CalWORKS Appraisal Tool screens the mental and emotional health of the applicant and family members. The Los Angeles County Sheriff’s Department screens every person for mental illness at intake into its correctional facilities.

²² DPSS has no basis for believing that its existing policies are working. DPSS has apparently gathered no data on the incidence of mental disability among GR applicants or participants. Nor has DPSS gathered any data on how often its employees are identifying GR applicants or participants as having a potential mental disability.

²³ See Lauren Gates & Sheila Akabas, *Inclusion of People with Mental Health Disabilities in the Workplace*, in *Work Accommodation and Retention in Mental Health*, p. 383 (2011). In fact, many who are identified with disabilities do not seek treatment for similar reasons. See, e.g., Mary Jane Alexander, et al., *Validating the Modified Mini Screen (MMS) as a Mental Health Referral Screen for Public Assistance Recipients in New York State: Final Report to NYS Office of Temporary Disability Assistance* (Feb. 2013) (citing studies).

²⁴ Although DPSS employees could identify such persons at any time they are in the DPSS office, almost all, if not all, of these observations take place when an applicant meets with an eligibility worker.

employees receive a two-hour training session on mental disabilities, this is simply insufficient. The numerous failures to assist those with manifest disabilities are clear proof that the system does not work. Notably, DPSS does not test its employees to ensure that they have learned the material,²⁵ nor does DPSS have any system whatsoever to ensure that employees actually seek to identify those with mental disabilities. Moreover, not all persons with mental disabilities can be identified by observing their outward behavior and appearance.

Third, DPSS relies on a flawed screening tool. If a DPSS employee decides that an applicant exhibits sufficient signs of mental disability, GR regulations instruct the employee to then ask questions from a form called “ABP 4029.” Yet no psychiatrist, psychologist or other mental health practitioner has ever validated the efficacy of the 11 questions on the ABP 4029. Moreover, those questions do not capture conditions prevalent in the homeless population, such as obsessive compulsive disorder.

Fourth, DPSS has no training or screen for developmental disabilities. The County’s training focuses solely on mental illness, and the ABP 4029 captures only mental illness issues. Yet other County organizations, such as the Los Angeles County Probation Department, currently screen for developmental disabilities.

The County’s own statistical data shows that DPSS refers too few individuals for mental health evaluations. In particular, the prevalence of mental disabilities among the GR population is far greater than the percentage of applicants that DPSS designates as NSA. In 2014, for instance, DPSS processed 240,507 GR applications. Only 18,267 of those applicants were classified as NSA. DPSS thus designated only 7.6 % of GR applicants as NSA,²⁶ far lower than the prevalence of mental disability among the County’s indigent (30%-40%).²⁷ Out of

every four or five GR applicants with mental disabilities, DPSS is thus identifying only one as requiring some form of special assistance.

Out of every four or five GR applicants with mental disabilities, DPSS is thus identifying only one as requiring some form of special assistance.

Whether properly screened or not, however, persons with mental disabilities face further obstacles that prevent many from obtaining GR benefits.

Those Who Are Properly Screened Face More Hurdles

Even those persons who are properly screened for mental disability face additional obstacles to obtain GR benefits. They are referred to DMH for a mental health evaluation. Although DMH evaluators are co-located with DPSS, applicants must often wait hours in the DPSS office for an evaluation, creating another point at which those with mental disabilities give up and leave. If a DMH evaluator is unavailable, applicants are scheduled for an appointment, requiring them to return to the DPSS office, go again through the security lines, and wait again in the DPSS office. DMH experiences a 50 to 70% no-show rate for appointments. Those who are evaluated by DMH as having a mental disability sufficient to make the person unemployable are NSA.²⁸

DPSS’s screening process under-screens for persons with mental disabilities. In 2014, the data show that approximately 95% of those sent for an evaluation by DMH were designated NSA. A mental disability screening process with a 95% rate of “true positives”—i.e., individuals who pass the screen and in fact have mental disabilities—likely has an unacceptably high rate of “false negatives”—i.e., individuals who do not pass the screen but have mental disabilities.

²⁸ Department of Public Social Services, General Relief Policy (“GR Policy”), 41-101.1, 41-301.1.

²⁵ Advocates have observed DPSS employees sleep through the training.

²⁶ Even using the number of GR applications approved in 2014, DPSS designated only 16% of applicants as NSA.

²⁷ The high rate at which individuals referred for mental health evaluations are found to have mental disabilities shows that

DPSS workers (and DMH evaluators) may also, under certain circumstances, designate a person screened for a potential mental disability as Temporary NSA.²⁹ From October 2010 to February 2015, 89% of GR participants determined to need assistance were designated Temporary NSA.

Those designated Temporary NSA receive GR benefits for six to nine months, at which time they must go through a reassessment process that requires them to come into a DPSS office and meet again with a DMH clinician.³⁰ In other words, those designated Temporary NSA have to go again through much of the labyrinth. Many of those with mental disabilities do not make it through. Those individuals are then deemed employable and required to participate in certain activities or be terminated.

The result is that persons known to DPSS as having a mental impairment are forced to jump through bureaucratic hoops over and over again to remain on GR because their condition has been classified as “Temporary.”

The apparent theory behind the Temporary NSA designation (at least those who are so designated after a DMH evaluation) is that these individuals may be employable if they receive mental health services during the period of the temporary designation. But DPSS does not guarantee that these individuals will be able to secure mental health services and only assists with a referral to the Department of Mental Health. Nor does DPSS keep any data on how many of those individuals were able to secure mental health services, how many successfully transitioned into becoming employable, or how many were terminated for failing to comply either with reassessment or other

²⁹ GR Policy, 41-301.7.

³⁰ GR Policy, 41-110.3.

requirements. The result is that persons known to DPSS as having a mental impairment are forced to jump through bureaucratic hoops over and over again to remain on GR because their condition has been classified as “Temporary.” These persons are unable to meet DPSS expectations that they get mental health treatment, find employment, and get permanently off of GR. If they are unable to jump through the hoops, they are terminated from the program.

Those Who Are Improperly Screened Face Impractical Requirements to Maintain Benefits

Those who are not properly screened for a mental disability are deemed employable and must comply with a number of requirements they cannot meet. Prior to the approval of their GR benefits, an employable recipient is required to register with the Employment Development Department (EDD), is required to participate in Job Search and submit proof of their job search efforts, and must attend a half-day classroom orientation as part of the General Relief Opportunities to Work (“GROW”) program.³¹ Only upon completion of these requirements does an employable beneficiary receive aid.³² And to remain eligible for GR, employable recipients must continue with GROW requirements, including participating in a series of workshops and job skills training classes, completing a minimum of 80 hours per month of GROW activities.³³ Finally, every three months, an employable recipient must complete and return a detailed Quarterly Eligibility Report (“QR 7”) describing any intervening changes in the recipient’s status, such as changes in income, living arrangements, or property.³⁴ Employable beneficiaries must comply with all these activity and reporting obligations, or they will lose their GR benefits.

³¹ GR Policy 41-401.2.

³² GR Policy 40-109.8.

³³ GR Policy 41-414.1.

³⁴ GR Policy 40-104.2.

During the past three years, one advocate has “represented more than 50 clients who were not originally identified as having mental disabilities and so were improperly classified as employable. Due to this serious mistake, the GR benefits for these clients were later terminated or threatened with termination when they failed to comply with the requirements for employable recipients of the [GROW] program, such as a number of job searches per month.”

One advocate has represented more than 50 clients who were not originally identified as having mental disabilities and so were improperly classified as employable.

To make matters worse, “employable” GR recipients are automatically terminated from the GR program after nine months of receiving benefits.³⁵ For a three-month period, they are prohibited from receiving GR benefits.³⁶

Persons with mental disabilities are unable to comply with these requirements. They typically lose their GR benefits early in the process.

The County’s Failure to Meet Its Legal Obligations to Help Those with Mental Disabilities

The County’s Legal Obligations

Title II of the Americans with Disabilities Act (ADA) provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”³⁷ The County has similar

³⁵ GR Policy 40-121.1, 40-121.15.

³⁶ GR Policy 40-121.1.

³⁷ 42 U.S.C. § 12132.

obligations under section 504 of the Rehabilitation Act³⁸ and California state law.³⁹

Congress empowered the Department of Justice to promulgate regulations interpreting the ADA. Those regulations provide that public entities must “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.”⁴⁰

The Department of Justice has specifically used a county general relief program to illustrate the requirements of the ADA with regard to persons with mental disabilities:

A county general relief program provides emergency food, shelter, and cash grants to individuals who can demonstrate their eligibility. The application process, however, is extremely lengthy and complex. When many individuals with mental disabilities apply for benefits, they are unable to complete the application process successfully. As a result, they are effectively denied benefits to which they are otherwise entitled. In this case, the county has an obligation to make reasonable modifications to its application process to ensure that otherwise eligible individuals are not denied needed benefits. Modifications to the relief program might include simplifying the application process or providing applicants who have mental disabilities with individualized assistance to complete the process.⁴¹

The only exception to the requirement to implement modifications is where the county “can

³⁸ *Zukle v. Regents of Univ. of California*, 166 F.3d 1041, 1045 n.11 (9th Cir. 1999).

³⁹ Cal. Gov. Code § 11135.

⁴⁰ 28 C.F.R. § 35.130(b)(7).

⁴¹ Department of Justice, Title II Technical Assistance Manual, § II-3.6100, Illustration 2.

demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.”⁴²

The County’s Failure to Meet Its Obligations

The DOJ’s illustration fits Los Angeles County’s GR program to a T. The County has failed to meet its obligations. It has effectively denied GR benefits to qualified persons with mental disabilities through denial by bureaucracy. These vulnerable persons in desperate need cannot navigate the DPSS system. They need help.

DPSS’s attempt to accommodate those with disabilities—the NSA designation—is too little and too late. First, the NSA designation only helps those who manage to get through a large portion of the challenges of the GR application process. Until an applicant is flagged by a DPSS worker as potentially disabled, based on their observations and the ABP 4029 form, DPSS offers no way for mentally disabled applicants to get help. These applicants must therefore get through all of the upfront barriers that so frequently deter those with mental disabilities.

Second, as discussed above, ABP 4029 is an inadequate screening tool. DPSS is therefore failing to identify many with mental disabilities, who are then unable to comply with the program requirements and are denied benefits.

Third, many with mental disabilities are designated Temporary NSA and lose all the accommodations afforded by the NSA designation after a time period specified by DPSS, typically six months. Once this time period expires, DPSS no longer provides accommodations to these persons, even though DPSS had previously determined the person to have sufficient indication of a mental disability.

⁴² 28 C.F.R. § 35.130(b)(7); *see also* *Pierce v. Cnty. of Orange*, 526 F.3d 1190, 1217 (9th Cir. 2008) (holding that where a plaintiff shows discrimination and the existence of a reasonable modification, the burden falls to defendant to show that the modifications would fundamentally alter the nature of the service, program, or activity).

These people then are unable to renew their benefits due to their disabilities.

In short, the County has violated, and is continuing to violate, both federal and state disability law.

THE WAY FORWARD

The County can meet its legal obligations by implementing three basic changes: (1) identify those with mental disabilities in need of accommodation as early in the GR process as possible by using a validated screening tool at intake,⁴³ (2) retain the personnel necessary to provide those identified persons with appropriate accommodations, and (3) desist from failing to accommodate those who are known to have mental disabilities simply because their “Temporary” status has expired.

DPSS’s Recent Changes Are Insufficient

In response to advocates’ concerns, DPSS has recently made (or is in process of making) several minor modifications to its procedures. For instance, DPSS has made the GR application available online (though applicants must still bring the form to DPSS office), it is assigning ADA compliance roles to certain employees, developing ADA training, and it is implementing several tweaks to its procedures to increase efficiency.

These modifications will not resolve the crisis of effective denials for those with mental disabilities. First, DPSS continues to rely on its faulty system to identify those with mental disabilities. Although advocates have identified a scientifically validated screening tool, DPSS will continue to use its flawed ABP 4029 form. DPSS has also issued a modified “lobby sweep” protocol, which is intended to identify those in need of assistance earlier in the process. But DPSS refuses to include in these “sweeps” those waiting for hours in line outside of

⁴³ Given the nature of the questions, applicants should be informed of the purpose of the screen and allowed to opt out if they wish.

DPSS offices. Moreover, during multiple visits to DPSS offices since the changes, advocates have not observed any DPSS personnel actively seeking to identify those with mental disabilities.

Second, although more accurate identification of those with mental disabilities will result in a sharp increase in the demand for reasonable accommodations, DPSS refuses to increase staffing. DPSS represents that without any increase in personnel, improvements in its “business flow” will result in “efficiencies” great enough to allow existing workers not only to identify those with mental disabilities early in the process, but also to provide the assistance required by law to these individuals.

Whether driven by budget caps or otherwise, DPSS’s “efficiencies” approach is woefully inadequate. As demonstrated above, DPSS is severely under-identifying those with mental disabilities. While 30%-40% of the homeless and destitute population suffers from mental disabilities, DPSS only provides some accommodation to 8% of applicants. Even if only 20% of those who seek GR had mental disabilities, DPSS fails to accommodate about **30,000 applicants** per year. Only with additional staffing could DPSS possibly manage the additional persons in need of accommodations.

The Need for Board Action

The County Board of Supervisors must step in. DPSS continues to systematically deny the County’s most vulnerable population basic survival benefits to which they are entitled. This is a clear violation of state and federal disability law. Despite advocates’ efforts, DPSS refuses to make anything other than superficial changes. The Board needs to direct DPSS to make the changes necessary to comply with the law.

Western Center on Law & Poverty

Disability Rights Legal Center

Legal Aid Foundation of Los Angeles

Morrison & Foerster LLP