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### Public Relief and Care

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## PUBLIC RELIEF AND CARE

*N.Y. CONST. art. XVII, § 1:*

*The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.*

### SUPREME COURT, APPELLATE DIVISION

#### FIRST DEPARTMENT

Minino v. Perales<sup>848</sup>  
(decided December 11, 1990)

Legal aliens brought an action against New York City and New York State challenging the “denial of Home Relief benefits by application of the provisions of Social Services Law section 131-k(3).”<sup>849</sup> This law deems the “income of a sponsor available to a sponsored alien for a period of three years after such alien’s entry into the United States, for purposes of determining the eligibility of such alien for Home Relief benefits, whether or not such income is actually available.”<sup>850</sup> In a memorandum decision, the court noted that the New York State Constitution, article XVII, section 1 “imposes a duty on the State to aid the needy and the Legislature may not avoid that constitutional mandate by denying aid to such persons solely on the basis of criteria having nothing to do with need, such as the ‘deeming’ provision of Social Services Law § 131-k(3).”<sup>851</sup> However, the court held that “[t]he sole responsibility of the city is to administer the State’s public assistance program in accordance with State

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848. 168 A.D.2d 289, 562 N.Y.S.2d 626 (1st Dep’t 1990), *appeal denied*, 78 N.Y.2d 942, 578 N.E.2d 439, 573 N.Y.S.2d 641 (1991).

849. *Id.* at 289, 562 N.Y.S.2d at 627; *see* N.Y. SOC. SERV. LAW § 131-k(3) (McKinney 1983).

850. *Minino*, 168 A.D.2d at 289, 562 N.Y.S.2d at 627.

851. *Id.* at 289-90, 562 N.Y.S.2d at 627.

regulations . . .”<sup>852</sup> and dismissed the complaint against the city.

In discussing the claim against the state, the court acknowledged that the “deeming” provision was modeled on federal policy. The state argued that it was required to follow federal policy because of federal pre-emption in the field of immigration. Rejecting this argument the court noted that the United States Supreme Court has held that the states may regulate the safety and welfare of all state residents, including aliens, under its police power.<sup>853</sup>

While the Federal Constitution does not impose a duty to aid the needy, New York’s State’s Constitution imposes such a duty upon the state. Thus, the rights of the needy are specifically protected by the New York State Constitution, which has no federal counterpart.

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852. *Id.* at 290, 562 N.Y.S.2d at 627.

853. *Id.* at 289, 562 N.Y.S.2d at 627 (citing *De Canas v. Bica*, 424 U.S. 351 (1976)).