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I N   S E N A T E

June 2, 2014

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Introduced by Sen. AVELLA -- (at request of the Office of Temporary and Disability Assistance) -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to the time period to request conciliation for the public assistance employment program; the time period within which an individual must produce required medical documentation; the social services districts' referrals to licensed health care practitioners; the authority to continue an assigned work activity for a work limited individual pending re-evaluation; amending references to federal work participation rates and reporting hours of participation in certain work activities to be consistent with federal requirements; and to repeal paragraph (c) of subdivision 1 of section 335-b of such law relating to the separate participation rate for safety net families with children

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (a) of subdivision 1 of section 341 of the social  
2     services law, as amended by section 1 of part D of chapter 61 of the  
3     laws of 2006, is amended to read as follows:  
4     (a) Consistent with federal law and regulations and this title, if a  
5     participant has failed or refused to comply with the requirements of  
6     this title, the social services district shall issue a notice in plain  
7     language indicating that such failure or refusal has taken place and of  
8     the right of such participant to conciliation to resolve the reasons for  
9     such failure or refusal to avoid a pro-rata reduction in public assist-  
10    ance benefits for a period of time set forth in section three hundred  
11    forty-two of this title. The notice shall indicate the specific instance  
12    or instances of willful refusal or failure to comply without good cause  
13    with the requirements of this title and the necessary actions that must  
14    be taken to avoid a pro-rata reduction in public assistance benefits.  
15    The notice shall indicate that the participant has [seven] TEN CALENDAR  
16    days to request conciliation with the district regarding such failure or  
17    refusal [in the case of a safety net participant and ten days in the  
18    case of a family assistance participant]. The notice shall also include

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 an explanation in plain language of what would constitute good cause for  
2 non-compliance and examples of acceptable forms of evidence that may  
3 warrant an exemption from work activities, including evidence of domes-  
4 tic violence, and physical or mental health limitations that may be  
5 provided at the conciliation conference to demonstrate such good cause  
6 for failure to comply with the requirements of this title. If the  
7 participant does not contact the district within the specified number of  
8 days, the district shall issue ten days notice of intent to discontinue  
9 or reduce assistance, pursuant to regulations of the department. Such  
10 notice shall also include a statement of the participant's right to a  
11 fair hearing relating to such discontinuance or reduction. If such  
12 participant contacts the district within [seven] TEN CALENDAR days [in  
13 the case of a safety net participant or within ten days in the case of a  
14 family assistance participant], it will be the responsibility of the  
15 participant to give reasons for such failure or refusal.

16 S 2. Paragraph (b) of subdivision 2 of section 332-b of the social  
17 services law, as amended by chapter 214 of the laws of 1998, is amended  
18 to read as follows:

19 (b) If, prior to submitting his or her medical documentation, the  
20 individual is referred to a health care practitioner [certified by the  
21 office of disability determinations of the office of temporary and disa-  
22 bility assistance] LICENSED TO PRACTICE IN NEW YORK STATE or, if appli-  
23 cable, to the contracted agency or institution by or with which such  
24 health care practitioner LICENSED TO PRACTICE IN NEW YORK STATE is  
25 employed or affiliated for an examination pursuant to subdivision four  
26 of this section, such individual shall make best efforts to bring such  
27 documentation to the examination, and in no case shall provide such  
28 records to the examining health care practitioner [certified by the  
29 office of disability determinations] or, if applicable, to the  
30 contracted agency or institution by or with which such health care prac-  
31 titioner is employed or affiliated later than [four business] TEN CALEN-  
32 DAR days [after such examination] FROM THE DATE OF THE NOTICE WHICH  
33 INFORMED THE INDIVIDUAL OF THE OPPORTUNITY TO PROVIDE MEDICAL DOCUMENTA-  
34 TION; provided that the individual may demonstrate good cause as defined  
35 in regulations, for failure to provide such records within the specific  
36 time periods.

37 S 3. The opening paragraph of subdivision 4 of section 332-b of the  
38 social services law, as added by section 148 of part B of chapter 436 of  
39 the laws of 1997, is amended to read as follows:

40 In instances where the district determines either that the documenta-  
41 tion is insufficient to support an exemption from or limitation on work  
42 activities or that further medical evaluation is appropriate, the indi-  
43 vidual shall be referred to a health care practitioner [certified by the  
44 Office of Disability Determinations of the Department of Social  
45 Services] LICENSED TO PRACTICE AS A PHYSICIAN OR A PSYCHOLOGIST IN NEW  
46 YORK STATE for an examination of such individual's medical condition.

47 S 4. Subdivision 5 of section 332-b of the social services law, as  
48 added by section 148 of part B of chapter 436 of the laws of 1997, is  
49 amended to read as follows:

50 5. When an applicant or recipient has requested, or a social services  
51 official has directed a determination pursuant to this section, no  
52 assignment to work activities may be made until completion of such  
53 determination, unless the applicant or recipient agrees to a limited  
54 work assignment not inconsistent with the medical condition alleged by  
55 such person EXCEPT THAT A DISTRICT MAY REQUIRE WORK LIMITED PARTICIPANTS  
56 WHO ARE NOT CLAIMING A CHANGE IN THEIR CONDITION TO CONTINUE TO PARTIC-

1 IPATE IN ASSIGNED WORK ACTIVITIES CONSISTENT WITH THE INDIVIDUAL'S DOCU-  
2 MENTED MEDICAL LIMITATIONS WHILE A RE-EVALUATION OF THE INDIVIDUAL'S  
3 EMPLOYABILITY STATUS IS COMPLETED IN ACCORDANCE WITH THIS SECTION.

4 S 5. The opening paragraph and paragraphs (a) and (b) of subdivision 1  
5 of section 335-b of the social services law, as amended by section 2 of  
6 part J of chapter 58 of the laws of 2006, are amended to read as  
7 follows:

8 Each social services district shall meet or exceed the minimum partic-  
9 ipation rate for recipients of assistance funded under the federal  
10 temporary assistance for needy families program, AND FOR FAMILIES  
11 RECEIVING ASSISTANCE IN THE SAFETY NET ASSISTANCE PROGRAM WHO ARE  
12 REQUIRED BY FEDERAL LAW AND REGULATION TO BE INCLUDED IN SUCH RATE,  
13 participating in work activities as specified below with respect to  
14 families receiving such assistance. Each such district shall also meet  
15 or exceed the minimum participation rates for households WITHOUT DEPEND-  
16 ENT CHILDREN in which there is an adult OR MINOR HEAD OF HOUSEHOLD who  
17 is receiving safety net assistance. Work activities for which such rates  
18 apply are described in section three hundred thirty-six of this title.

19 (a) [Such] CONSISTENT WITH FEDERAL REQUIREMENTS, SUCH rate for all  
20 families receiving assistance funded under the federal temporary assist-  
21 ance for needy families program, AND FOR FAMILIES RECEIVING ASSISTANCE  
22 IN THE SAFETY NET ASSISTANCE PROGRAM WHO ARE REQUIRED BY FEDERAL LAW AND  
23 REGULATION TO BE INCLUDED IN SUCH RATE, shall be [as follows: for feder-  
24 al fiscal year nineteen hundred ninety-seven, twenty-five percent; nine-  
25 teen hundred ninety-eight, thirty percent; nineteen hundred ninety-nine,  
26 thirty-five percent; two thousand, forty percent; two thousand one,  
27 forty-five percent; two thousand two and thereafter,] fifty percent.  
28 Such [rates] RATE shall apply unless the state is required to meet a  
29 different rate as imposed by the federal government, in which case such  
30 different rate shall apply in accordance with a methodology approved by  
31 the commissioner of the office of temporary and disability assistance.

32 (b) [Such] CONSISTENT WITH FEDERAL REQUIREMENTS, SUCH rate for two-  
33 parent families receiving assistance funded under the federal temporary  
34 assistance for needy families program, AS WELL AS FOR SUCH TWO-PARENT  
35 FAMILIES IN WHICH THERE IS AN ADULT OR MINOR HEAD OF HOUSEHOLD AND WHICH  
36 ARE RECEIVING ASSISTANCE FUNDED UNDER THE SAFETY NET ASSISTANCE PROGRAM  
37 WHO ARE REQUIRED BY FEDERAL LAW AND REGULATION TO BE INCLUDED IN SUCH  
38 RATE, shall be [as follows: for federal fiscal years nineteen hundred  
39 ninety-seven and nineteen hundred ninety-eight, seventy-five percent;  
40 nineteen hundred ninety-nine and thereafter,] ninety percent. Such rate  
41 shall apply unless the state is required to meet a different rate as  
42 imposed by the federal government, in which case such different rate  
43 shall apply in accordance with a methodology approved by the commission-  
44 er of the office of temporary and disability assistance.

45 S 6. Paragraph (c) of subdivision 1 of section 335-b of the social  
46 services law is REPEALED and paragraphs (e) and (f) are relettered para-  
47 graphs (d) and (e).

48 S 7. Paragraph (d) of subdivision 1 of section 335-b of the social  
49 services law, as amended by section 2 of part J of chapter 58 of the  
50 laws of 2006, is amended to read as follows:

51 [(d)] (C) Calculation of participation rates. The commissioner of the  
52 office of temporary and disability assistance shall promulgate regu-  
53 lations which define the participation rate calculation. Such calcu-  
54 lation for families receiving assistance funded under the federal tempo-  
55 rary assistance for needy families program, AND FOR FAMILIES RECEIVING  
56 ASSISTANCE IN THE SAFETY NET ASSISTANCE PROGRAM WHO ARE REQUIRED BY

FEDERAL LAW AND REGULATION TO BE INCLUDED IN SUCH RATE, pursuant to [article] TITLE IV-A of the social security act shall be consistent with that established in federal law.

S 8. Subdivision 2 of section 335-b of the social services law, as amended by chapter 380 of the laws of 2004, is amended to read as follows:

2. Engaged in work for a month shall mean participating in work activities identified in subdivision one of section three hundred thirty-six of this title for the required number of hours specified in this section provided, however, that at least twenty hours of such participation, or thirty hours for two-parent families, or fifty hours for two-parent families receiving federally funded child care as set forth in subparagraph (iii) of paragraph (d) of subdivision one of this section, shall be attributable to the activities described in paragraphs (a) through (h) and (l) of subdivision one of section three hundred thirty-six of this title, or for households without dependent children at least twenty hours of participation shall be attributable to the activities set forth in paragraphs (a) through (h) and (l) of subdivision one of section three hundred thirty-six of this title, and further provided that participation in job search and job readiness assistance as identified in paragraph (f) of subdivision one of section three hundred thirty-six of this title shall only be determined as engaged in work for [a maximum period of six weeks, only four of which may be consecutive as otherwise limited by federal law] THE MAXIMUM PERIODS ESTABLISHED BY FEDERAL LAW AND REGULATION; and that individuals in all families and in two parent families may be engaged in work for a month by reason of participation in vocational training to the extent allowed by federal law. Any non-graduate student participating or approved by CUNY, SUNY or another degree granting institution, or any other state or local district approved education, training or vocational rehabilitation agency to participate in work-study, or in internships, externships, or other work placements that are part of the curriculum of that student, shall not be unreasonably denied the ability to participate in such programs and each hour of participation shall count toward satisfaction of such student's work activity requirements of this title provided that the district may consider, among other factors, (a) whether the student has voluntarily terminated his or her employment or voluntarily reduced his or her earnings to qualify for public assistance pursuant to subdivision ten of section one hundred thirty-one of this article; (b) whether a comparable job or on the job training position can reasonably be expected to exist in the private, public or not-for-profit sector; (c) that the student has a cumulative C average or its equivalent, which may be waived by the district for undue hardship based on (1) the death of a relative of the student, (2) the personal injury or illness of the student, or (3) other extenuating circumstances; and (d) whether the institution cooperates in monitoring students attendance and performance and reports to the local social services department monthly on each student. Failure of the institution to monitor and report monthly to local social services districts on attendance and performance of the student's work study, internship, externship or other work placement shall be cause for the department to reasonably deny the student's ability to participate in such programs. Students shall be subject to sanctions equivalent to those associated with failure to adequately satisfy their other required work activities. In assigning a non-graduate student participating in work-study, internships, externships or other work placements, pursuant to this section, to other work activities the district shall make

1 reasonable effort to assign the student to hours that do not conflict  
2 with the student's academic schedule.

3 S 9. Paragraph (m) of subdivision 1 of section 336 of the social  
4 services law, as added by section 148 of part B of chapter 436 of the  
5 laws of 1997, is amended to read as follows:

6 (m) job search and job readiness assistance once the individual has  
7 exceeded the [six week limit] LIMITS ON SUCH ACTIVITIES set in federal  
8 law AND REGULATION;

9 S 10. Subdivision 8 of section 336 of the social services law, as  
10 added by chapter 534 of the laws of 2000, is amended to read as follows:

11 8. The hours of participation in federal work study programs completed  
12 pursuant to section three hundred thirty-five-b of this title shall be  
13 included as a work activity within the definition of unsubsidized  
14 employment, subsidized private sector employment or subsidized public  
15 sector employment pursuant to paragraphs (a), (b) and (c) of subdivision  
16 one of this section, and the hours of participation in internships,  
17 externships and other work placements completed pursuant to section  
18 three hundred thirty-five-b of this title shall be included as a work  
19 activity within the definition of [on-the-job training] WORK EXPERIENCE  
20 pursuant to paragraph [(e)] D of subdivision one of this section OR  
21 OTHER WORK ACTIVITY CONSISTENT WITH FEDERAL LAW AND REGULATION.

22 S 11. Severability clause. If any clause, sentence, paragraph, subdi-  
23 vision, section or part of this act shall be adjudged by any court of  
24 competent jurisdiction to be invalid, such judgment shall not affect,  
25 impair, or invalidate the remainder thereof, but shall be confined in  
26 its operation to the clause, sentence, paragraph, subdivision, section  
27 or part thereof directly involved in the controversy in which such judg-  
28 ment shall have been rendered. It is hereby declared to be the intent of  
29 the legislature that this act would have been enacted even if such  
30 invalid provisions had not been included herein.

31 S 12. This act shall take effect immediately.