

STATE OF NEW YORK

8368

IN SENATE

February 17, 2022

Introduced by Sens. RIVERA, SALAZAR -- read twice and ordered printed,
and when printed to be committed to the Committee on Health

AN ACT to amend the social services law and the correction law, in
relation to presumptive eligibility for medical assistance benefits of
individuals leaving incarceration

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Section 364-i of the social services law is amended by
2 adding a new subdivision 9 to read as follows:

3 9. (a) An individual who is incarcerated by the department of
4 corrections and community supervision, or in a local correctional facil-
5 ity as defined in section two of the correction law, shall be presumed
6 eligible for medical assistance under this title beginning on the date
7 of their release from the incarceration, where the department of
8 corrections and community supervision or the local correctional facility
9 determines, on the basis of preliminary information, that the individual
10 is eligible for coverage under paragraphs (b) or (c) of subdivision one
11 of section three hundred sixty-six of this title.

12 (b) The presumptive eligibility shall continue through the earlier of:
13 the day on which eligibility is determined under this title; or, in the
14 case of an individual for whom an application for assistance under this
15 title is not filed or who does not file an application for such assist-
16 ance, sixty days after release of such individual from incarceration.

17 (c) This subdivision shall be effective only if, and as long as,
18 federal financial participation is available for expenditures incurred
19 under this subdivision.

20 (d) The commissioner of health shall take all steps necessary and
21 shall use best efforts to secure federal financial participation for
22 purposes of this subdivision, including the prompt submission of appro-
23 priate amendments to the state plan under title XIX of the federal
24 social security act.

25 (e) The commissioner of health shall, in consultation with the depart-
26 ment of corrections and community supervision, the office of temporary
27 and disability assistance, the office of mental health, the office of

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

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addiction services and supports and any other entity or individuals that the commissioner shall deem necessary, which shall include representatives from local governments, formerly incarcerated individuals, and representatives of programs providing services to currently or formerly incarcerated individuals, develop processes for enrolling all individuals incarcerated in state and local correctional facilities into the medical assistance program under this subdivision or any other health insurance program for which they are eligible, and ensure that all individuals are able to utilize the medical assistance program or other insurance program to begin receiving medical services immediately upon their release from incarceration. The commissioner of health shall also develop processes for assisting all local correctional facilities in making determinations of presumptive eligibility for medical assistance under this subdivision, including engaging local governments as necessary for this purpose. The commissioner shall also develop materials and information for educating individuals hired by local governments regarding eligibility and processes for enrolling incarcerated individuals into the medical assistance or other insurance programs, and materials to educate individuals leaving correctional facilities about the medical assistance program, including what steps need to be taken to ensure continued enrollment in the program for those deemed presumptively eligible, and how to begin receiving medical services upon release from incarceration.

§ 2. Section 71 of the correction law is amended by adding a new subdivision 9 to read as follows:

9. (a) The commissioner shall take all steps necessary to enroll into the medical assistance for needy persons program under title eleven of article five of the social services law any individual committed to the custody of the department, under subdivision nine of section three hundred sixty-four-i of the social services law, unless the department determines that such application is unnecessary because the individual was enrolled in the medical assistance program at the time of their incarceration and is expected to remain so at the time of release or because the individual is ineligible for enrollment in such program or does not wish to be enrolled. Provided, however, that no such medical assistance shall be furnished for any care, services, or supplies provided during such time as the person is incarcerated except as authorized under subdivision one-a of section three hundred sixty-six of the social services law. For individuals successfully enrolled under this subdivision, any documents relating to enrollment shall be kept in the individual's records until the individual's release from custody, at which time such documents shall be provided to the individual.

(b) Where an individual is found ineligible for the medical assistance program, the department shall make diligent efforts to determine whether the individual is eligible for any other medical insurance program and, if so, assist the individual in applying to the program for which they are eligible if they wish to enroll in such program.

§ 3. The correction law is amended by adding a new section 500-q to read as follows:

§ 500-q. Medicaid enrollment. 1. Where practicable, for any individual incarcerated in a local correctional facility, the superintendent of such facility shall take all steps necessary for enrollment into the medical assistance for needy persons program under title eleven of article five of the social services law, under subdivision nine of section three hundred sixty-four-i of the social services law, unless the superintendent determines that such application is unnecessary because the

1 individual was enrolled in the medical assistance program at the time of
2 their incarceration and is expected to remain so at the time of release,
3 or because the individual is ineligible for enrollment in such program
4 or does not wish to be enrolled. Provided, however, that no such medical
5 assistance shall be furnished for any care, services, or supplies
6 provided during such time as the person is incarcerated except as
7 authorized under subdivision one-a of section three hundred sixty-six of
8 the social services law. For individuals successfully enrolled under
9 this subdivision, any documents relating to enrollment shall be kept in
10 the individual's records until the individual's release from custody, at
11 which time such documents shall be provided to the individual.

12 2. When a local correctional facility is unable to complete an appli-
13 cation for medical assistance prior to an individual's release from its
14 custody, the facility shall assist the individual in the completion of
15 any requirements necessary for a presumptive eligibility determination
16 prior to such individual's release unless the individual decides that
17 they do not wish to enroll in the program. The superintendent shall
18 assist individuals to submit any preliminary information that may be
19 necessary to meet presumptive eligibility requirements under subdivision
20 nine of section three hundred sixty-four-i of the social services law.

21 3. Where an individual is found ineligible for the medical assistance
22 program, the superintendent shall make diligent efforts to determine
23 whether the individual is eligible for any other medical insurance
24 program and, if so, assist the individual in applying to the program for
25 which they are eligible if they wish to enroll in such program.

26 § 4. Paragraph (b) of subdivision 3 of section 366-a of the social
27 services law, as amended by chapter 41 of the laws of 1992, is amended
28 to read as follows:

29 (b) notify the applicant in writing of the decision, and where such
30 applicant is found eligible, provide a tamper resistant identification
31 card containing a photo image of the applicant for use in securing
32 medical assistance under this title provided, however, that an identifi-
33 cation card need not contain a photo image of a person other than an
34 adult member of an eligible household or a single-person eligible house-
35 hold. The department is not required to provide, but shall seek practi-
36 cal methods for providing, a card with such picture to a person when
37 such person is homebound or is a resident of a residential health care
38 facility, or an in-patient psychiatric facility, or is expected to
39 remain hospitalized for an extended period. Where the applicant is
40 incarcerated by the department of corrections and community supervision
41 or in a local correctional facility as defined in section two of the
42 correction law, the appropriate social services official or the depart-
43 ment of health or its agent shall provide such identification card to
44 the department of corrections and community supervision or local correc-
45 tional facility for keeping with the incarcerated individual's records
46 until such individual is released. The commissioner shall have the
47 authority to define categories of recipients who are not required to
48 have a photo identification card where such card would be limited,
49 unnecessary or impracticable.

50 § 5. This act shall take effect on the one hundred eightieth day after
51 it shall have become a law. Effective immediately, the commissioner of
52 health, the commissioner of corrections and community supervision, and
53 the superintendents of local correctional facilities shall make regu-
54 lations and take other actions reasonably necessary to implement the
55 provisions of this act on its effective date.