

STATE OF NEW YORK

4906

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

Introduced by Sens. RIVERA, CLEARE, MYRIE, 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 Assembly, 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 incarceration, where the department of corrections
8 and community supervision or the local correctional facility determines,
9 on the basis of preliminary information, that the individual is eligible
10 for coverage under paragraphs (b) or (c) of subdivision one of section
11 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-

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

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1 priate amendments to the state plan under title XIX of the federal
2 social security act.

3 (e) The commissioner of health shall, in consultation with the depart-
4 ment of corrections and community supervision, the office of temporary
5 and disability assistance, the office of mental health, the office of
6 addiction services and supports and any other entity or individuals that
7 the commissioner shall deem necessary, which shall include represen-
8 tatives from local governments, formerly incarcerated individuals, and
9 representatives of programs providing services to currently or formerly
10 incarcerated individuals, develop processes for enrolling all individ-
11 uals incarcerated in state and local correctional facilities into the
12 medical assistance program under this subdivision or any other health
13 insurance program for which they are eligible, and ensure that all indi-
14 viduals are able to utilize the medical assistance program or other
15 insurance program to begin receiving medical services immediately upon
16 their release from incarceration. The commissioner of health shall also
17 develop processes for assisting all local correctional facilities in
18 making determinations of presumptive eligibility for medical assistance
19 under this subdivision, including engaging local governments as neces-
20 sary for this purpose. The commissioner shall also develop materials and
21 information for educating individuals hired by local governments regard-
22 ing eligibility and processes for enrolling incarcerated individuals
23 into the medical assistance or other insurance programs, and materials
24 to educate individuals leaving correctional facilities about the medical
25 assistance program, including what steps need to be taken to ensure
26 continued enrollment in the program for those deemed presumptively
27 eligible, and how to begin receiving medical services upon release from
28 incarceration.

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

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

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

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

55 § 500-q. Medicaid enrollment. 1. Where practicable, for any eligible
56 individual incarcerated in a local correctional facility, the super-

1 intendent of such facility shall take all steps necessary for enrollment
2 into the medical assistance for needy persons program under title eleven
3 of article five of the social services law, under subdivision nine of
4 section three hundred sixty-four-i of the social services law, unless
5 the superintendent determines that such application is unnecessary
6 because the individual was enrolled in the medical assistance program at
7 the time of their incarceration and is expected to remain so at the time
8 of release, or because the individual is ineligible for enrollment in
9 such program or does not wish to be enrolled. Provided, however, that no
10 such medical assistance shall be furnished for any care, services, or
11 supplies provided during such time as the person is incarcerated except
12 as authorized under subdivision one-a of section three hundred sixty-six
13 of the social services law. For individuals successfully enrolled under
14 this subdivision, any documents relating to enrollment shall be kept in
15 the individual's records until the individual's release from custody, at
16 which time such documents shall be provided to the individual.

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

26 3. Where an individual is found ineligible for the medical assistance
27 program, the superintendent shall make diligent efforts to determine
28 whether the individual is eligible for any other medical insurance
29 program and, if so, assist the individual in applying to the program for
30 which they are eligible if they wish to enroll in such program.

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

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

55 § 5. Section 71 of the correction law is amended by adding a new
56 subdivision 10 to read as follows:

1 10. (a) The commissioner, in consultation with the commissioner of
2 health, shall study and report annually on enrollment in the medical
3 assistance for needy persons program of applicants in the custody of the
4 department. The report shall include how many individuals in the custo-
5 dy of each facility were:

6 (i) enrolled in medical assistance or other medical insurance programs
7 at the time of their incarceration;

8 (ii) enrolled into such programs during their incarceration, including
9 whether they were enrolled through social services districts or the New
10 York State Health Benefits Exchange portal;

11 (iii) released with proof of enrollment in such programs; and

12 (iv) released without proof of enrollment in such programs.

13 (b) The first report under this subdivision shall be completed by
14 December thirty-first, two thousand twenty-four, and annually thereaft-
15 er. Reports shall be submitted to the governor, the temporary president
16 of the senate, and the speaker of the assembly.

17 § 6. Paragraphs (e) and (f) of subdivision 9 of section 500-b of the
18 correction law, as amended by chapter 574 of the laws of 1985, are
19 amended to read as follows:

20 (e) court orders which have been issued and which relate to staffing,
21 jail capacity or security requirements; [and]

22 (f) the number of any individuals in the custody of each facility (1)
23 enrolled in medical assistance or other medical insurance programs at
24 the time of their incarceration; (2) enrolled into such programs during
25 their incarceration, including whether they were enrolled through social
26 services districts or the New York State Health Benefits Exchange
27 portal; (3) released with proof of enrollment in such programs; and (4)
28 released without proof of enrollment in such programs; and

29 (g) any other information requested by the commission and available to
30 the chief administrative officer with respect to this section.

31 § 7. Section 45 of the correction law is amended by adding a new
32 subdivision 20 to read as follows:

33 20. Make an annual report, in consultation with the commissioner of
34 health, to the governor, the temporary president of the senate, and the
35 speaker of the assembly containing information obtained from local
36 correctional facilities under paragraph (f) of section five hundred-b of
37 this chapter regarding enrollment in the medical assistance for needy
38 persons program or other medical insurance program of applicants in the
39 custody of local correctional facilities. The first report under this
40 subdivision shall be completed by December thirty-first, two thousand
41 twenty-four, and annually thereafter.

42 § 8. This act shall take effect on the one hundred eightieth day after
43 it shall have become a law; provided, however, that the amendments to
44 section 500-b of the correction law made by section six of this act
45 shall not affect the repeal of such section and shall be deemed repealed
46 therewith. Effective immediately, the commissioner of health, the
47 commissioner of corrections and community supervision, and the super-
48 intendents of local correctional facilities shall make regulations and
49 take other actions reasonably necessary to implement the provisions of
50 this act on its effective date.