

11708

I N   A S S E M B L Y

October 13, 2010

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Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gabryszak)  
-- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to drug testing of certain public assistance applicants and providing for the repeal of certain provisions relating thereto

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

1     Section 1. Subdivision 4 of section 132 of the social services law, as  
2     added by section 23 of part B of chapter 436 of the laws of 1997, para-  
3     graphs (a) and (c) as amended by chapter 214 of the laws of 1998, para-  
4     graphs (d), (e), (f) and (g) as amended by section 43-a and paragraph  
5     (i) as added by section 44 of part C of chapter 58 of the laws of 2008,  
6     is amended to read as follows:

7     4. (a) Investigation into the cause of the condition of a head of  
8     household or of any adult applicant [or recipient], WHO IS OVER THE AGE  
9     OF EIGHTEEN YEARS, and the treatment which will be helpful to such  
10    person shall include a URINE DRUG TEST screening PROCESS for alcohol  
11    and/or substance abuse using a standardized screening [instrument] PROC-  
12    ESS to be developed by the office of alcoholism and substance abuse  
13    services in consultation with the department. Such screening shall be  
14    performed by a social services district at the time of application and  
15    periodically thereafter but not more frequently than every six months[,  
16    unless the district has reason to believe that an applicant or recipient  
17    is abusing or dependent on alcohol or drugs, in accordance with regu-  
18    lations promulgated by the department].

19    (b) When the screening process indicates that there is reason to  
20    believe that an applicant or recipient is abusing or dependent on alco-  
21    hol or drugs, the social services district shall [require a formal alco-  
22    hol or substance abuse assessment, which may include drug testing, to be  
23    performed by an alcohol and/or substance abuse professional credentialed  
24    by the office of alcoholism and substance abuse services. The assessment  
25    may be performed directly by the district or pursuant to contract with  
26    the district] IMMEDIATELY DENY SUCH APPLICANT OR RECIPIENT, WHO IS OVER

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

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1 THE AGE OF EIGHTEEN YEARS, FROM RECEIVING ANY FURTHER PUBLIC ASSISTANCE  
2 BENEFITS.

3 (c) The social services official shall refer applicants and recipients  
4 whom it determines are presently INELIGIBLE FOR PUBLIC ASSISTANCE BENE-  
5 FITS DUE TO A POSITIVE DRUG TEST RESULT AND THUS unable to work by  
6 reason of their need for treatment for alcohol or substance abuse [based  
7 on the formal assessment] to a treatment program licensed or certified  
8 by the office of alcoholism and substance abuse services or operated by  
9 the United States office of veterans affairs and determined by the  
10 social services official to meet the rehabilitation needs of the indi-  
11 vidual. When residential treatment is appropriate for a single custodial  
12 parent, the social services official shall make diligent efforts to  
13 refer the parent to a program that would allow the family to remain  
14 intact for the duration of the treatment.

15 (d) A person, WHO IS OVER THE AGE OF EIGHTEEN YEARS, who fails to  
16 participate in the URINE DRUG TEST screening or in the assessment shall  
17 be ineligible for public assistance. Other members of a household which  
18 includes a person who has failed to participate in the screening or  
19 assessment shall, if otherwise eligible, receive public assistance only  
20 through safety net assistance if they are otherwise eligible for public  
21 assistance.

22 (e) A person referred to a treatment program pursuant to paragraph (c)  
23 of this subdivision, and the household with which he or she resides  
24 shall receive safety net assistance while the person is participating in  
25 such treatment, if the household is otherwise eligible for public  
26 assistance. [If a person referred to treatment cannot participate in  
27 that treatment because treatment is not presently available, that person  
28 and the household with which he or she resides shall receive safety net  
29 assistance if the household is otherwise eligible for public assist-  
30 ance.]

31 (f) If an applicant or recipient is required, pursuant to paragraph  
32 (c) of this subdivision, to participate in an appropriate rehabilitation  
33 program and refuses to participate in such program without good cause or  
34 leaves such program prior to completion of the program without good  
35 cause, provided that program completion shall be solely determined by  
36 the guidelines and rules of such rehabilitation program, or if an appli-  
37 cant or recipient has been suspended from the receipt of social security  
38 disability benefits or supplemental security income benefits by reason  
39 of noncompliance with requirements of the federal social security admin-  
40 istration for treatment for substance abuse or alcohol abuse, the person  
41 will be disqualified from receiving public assistance [as follows:

42 (i) for the first failure to participate in or complete the program,  
43 until the failure ceases or for forty-five days, whichever period of  
44 time is longer;

45 (ii) for the second such failure, until the failure ceases or for one  
46 hundred twenty days, whichever period of time is longer; and

47 (iii) for the third and subsequent failures, until the failure ceases  
48 or for one hundred eighty days, whichever period is longer] UNTIL ALL  
49 REQUIREMENTS ARE MET AND A NEGATIVE URINE DRUG TEST IS OBTAINED.

50 Good cause shall be defined in regulations by the commissioner.

51 [The household with which the person resides shall continue to receive  
52 safety net assistance if otherwise eligible.]

53 (g) Persons disqualified from receiving public assistance pursuant to  
54 paragraph (f) of this subdivision who would otherwise be eligible for  
55 public assistance and who return to required treatment [prior to the end  
56 of the disqualification period] and are receiving residential care as

1 defined in paragraph (d) of subdivision three of section two hundred  
2 nine of this chapter shall be eligible for safety net assistance.

3 (h) Notwithstanding any inconsistent provision of section one hundred  
4 thirty-one-o of this article, if a recipient required to participate in  
5 an appropriate treatment program pursuant to paragraph (c) of this  
6 subdivision receives a personal needs allowance, such allowance shall be  
7 made as a restricted payment to the treatment program and shall be a  
8 conditional payment. If such recipient leaves the treatment program  
9 prior to the completion of such program, any accumulated personal needs  
10 allowance will be considered an overpayment and returned to the social  
11 services district which provided the personal needs allowance.

12 (i) Compliance with the provisions of this subdivision shall not be  
13 required as a condition of applying for or receiving medical assistance.

14 S 2. Subdivision 3 of section 117 of the social services law is  
15 REPEALED.

16 S 3. This act shall take effect immediately.