

6798

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 12, 2009

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Introduced by M. of A. BALL -- read once and referred to the Committee  
on Social Services

AN ACT to amend the social services law, in relation to drug testing of  
public assistance applicants

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] and the treatment  
9     which will be helpful to such person shall include a URINE DRUG TEST  
10    screening PROCESS for alcohol and/or substance abuse using a standard-  
11    ized screening [instrument] PROCESS to be developed by the office of  
12    alcoholism and substance abuse services in consultation with the depart-  
13    ment. Such screening shall be performed by a social services district at  
14    the time of application and periodically thereafter but not more  
15    frequently than every six months[, unless the district has reason to  
16    believe that an applicant or recipient is abusing or dependent on alco-  
17    hol or drugs, in accordance with regulations promulgated by the depart-  
18    ment].  
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

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

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1 the district] IMMEDIATELY DENY SUCH APPLICANT OR RECIPIENT FROM RECEIV-  
2 ING ANY FURTHER PUBLIC ASSISTANCE 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 fails to participate in the URINE DRUG TEST screening  
16 or in the assessment shall be ineligible for public assistance. Other  
17 members of a household which includes a person who has failed to partic-  
18 ipate in the screening or assessment shall, if otherwise eligible,  
19 receive public assistance only through safety net assistance if they are  
20 otherwise eligible for public assistance.

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

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

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

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

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

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

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

52 (g) Persons disqualified from receiving public assistance pursuant to  
53 paragraph (f) of this subdivision who would otherwise be eligible for  
54 public assistance and who return to required treatment [prior to the end  
55 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. This act shall take effect immediately.