S T A T E O F N E W Y O R K

457

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the social services law, in relation to establishing a medical assistance sponsor buy-in program

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

Section 1. Section 366 of the social services law is amended by adding a new subdivision 13 to read as follows:

13. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE DEPARTMENT OF HEALTH SHALL ESTABLISH A MEDICAL ASSISTANCE SPONSOR BUY-IN PROGRAM. SUCH PROGRAM SHALL PROVIDE THAT QUALIFIED ALIENS AS DEFINED IN SECTION 431 OF THE FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (8 U.S. CODE 1641) WHOSE SPONSORS HAVE SIGNED AN AFFIDAVIT OF SUPPORT PURSUANT TO SECTION 213A OF THE IMMIGRATION AND NATURALIZATION ACT SHALL, IF OTHERWISE ELIGIBLE, BE ELIGIBLE FOR MEDICAL ASSISTANCE FOR SUCH PERIODS OF TIME FOR WHICH THE SPONSOR HAS MADE MEDICAL ASSISTANCE BUY-IN PAYMENTS TO THE SOCIAL SERVICES DISTRICT IN WHICH SUCH ALIEN RESIDES. THE DEPARTMENT OF HEALTH IS AUTHORIZED TO PROMULGATE REGULATIONS ESTABLISHING MEDICAL ASSISTANCE BUY-IN PAYMENT RATES. SUCH RATES SHALL REFLECT THE PROJECTED AVERAGE COST OF NON-EMERGENCY MEDICAL ASSISTANCE COSTS AND SHALL BE SET ON A SLIDING SCALE BASED ON THE SPONSOR'S INCOME.

S 2. Paragraph (c) of subdivision 1 of section 122 of the social services law, as amended by chapter 214 of the laws of 1998, is amended to read as follows:

(c) The following persons, not described in paragraph (a) or (b) of this subdivision, shall, if otherwise eligible, be eligible for safety net assistance and medical assistance, except that medical assistance shall be limited to care and services (not including care and services related to an organ transplant procedure) necessary for the treatment of

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

LBD02197-01-9

an emergency medical condition as that term is defined in section 1903 of the federal social security act unless and until federal financial participation is available for the costs of providing medical assistance provided, however, that any such person who, on the fourth day of August, nineteen hundred ninety-seven was residing in a residential health care facility licensed by the department of health or in a residential facility licensed, operated or funded by the office of mental health or the office of mental retardation and developmental disabilities, and was in receipt of a medical assistance authorization based on a finding that he or she was a person permanently residing in the United States under color of law shall, if otherwise eligible, be eligible for medical assistance and provided, further, that any such person who, on the fourth day of August, nineteen hundred ninety-seven, was diagnosed as having AIDS, as defined in subdivision one of section two thousand seven hundred eighty of the public health law, and was in receipt of medical assistance authorization pursuant to title eleven of article five of this chapter based on a finding that he or she was a person permanently residing in the United States under color of law shall, if otherwise eligible, be eligible for medical assistance PROVIDED FURTHER, HOWEVER, THAT ANY QUALIFIED ALIEN WHOSE SPONSOR HAS SIGNED AN AFFIDAVIT OF SUPPORT PURSUANT TO SECTION 213A OF THE IMMIGRATION AND NATURALIZATION ACT AND WHOSE SPONSOR IS ENROLLED IN THE MEDICAL ASSISTANCE SPONSOR BUY-IN PROGRAM PURSUANT TO SUBDIVISION THIRTEEN OF SECTION THREE HUNDRED SIXTY-SIX OF THIS CHAPTER, SHALL, IF OTHERWISE ELIGIBLE, BE ELIGIBLE FOR MEDICAL ASSISTANCE:

(i) a qualified alien who entered the United States less than five years earlier or for less than five years has had a status within the meaning of the term "qualified alien" as defined in section 431 of the federal personal responsibility and work opportunity reconciliation act of 1996 (8 U.S. Code 1641), as amended, if such entry occurred on or after the twenty-second day of August, nineteen hundred ninety-six; and

(ii) an alien whose status is not within the meaning of the term "qualified alien" as defined in section 431 of the federal personal responsibility and work opportunity reconciliation act of 1996 (8 U.S. Code 1641), as amended, but who is otherwise permanently residing in the United States under color of law.

S 3. Subdivision 4 of section 122 of the social services law, as amended by chapter 214 of the laws of 1998, is amended to read as follows:

4. To the extent permitted by federal law and regulation, the income and resources of a sponsor of an alien, who has signed an affidavit of support pursuant to section 213A of the immigration and naturalization act, and the income and resources of such sponsor's spouse, shall be deemed available to such alien for purposes of determining the eligibility of such alien for assistance funded under the temporary assistance to needy families block grant and medical assistance PROVIDED, HOWEVER, THAT THIS SUBDIVISION SHALL NOT APPLY TO ALIENS WHOSE SPONSOR IS PARTICIPATING IN THE MEDICAL ASSISTANCE SPONSOR BUY-IN PROGRAM AUTHORIZED PURSUANT TO SUBDIVISION THIRTEEN OF SECTION THREE HUNDRED SIXTY-SIX OF THIS CHAPTER.

S 4. Subdivision 5 of section 122 of the social services law, as added by section 7 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

5. If and to the extent that the family assistance, safety net assistance, state additional payments in the supplemental security income program, emergency assistance to aged, blind or disabled adults or

medical assistance is paid to or on behalf of an alien for whom an affidavit of support pursuant to section 213A of the immigration and naturalization act has been signed, the social services district shall request reimbursement by the sponsor in the amount of such assistance, EXCEPT FOR THE MEDICAL ASSISTANCE RECEIVED BY AN ALIEN DURING THE PERIOD OF TIME IN WHICH THE ALIEN'S SPONSOR IS ENROLLED IN THE MEDICAL ASSISTANCE SPONSOR BUY-IN PROGRAM PURSUANT TO SUBDIVISION THIRTEEN OF SECTION THREE HUNDRED SIXTY-SIX OF THIS CHAPTER, and, if the sponsor does not within forty-five days of such request indicate a willingness to commence payments, such social services district may commence an action against the sponsor pursuant to the affidavit. Remedies available to enforce an affidavit of support include all of the remedies described in sections 3201, 3202, 3204 and 3205 of title 28 of the United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under state law; provided, however, that no action shall be brought more than ten years after assistance was last given.

S 5. This act shall take effect immediately.