

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 366 of the social services law is amended by adding  
2 a new subdivision 13 to read as follows:  
3 13. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE DEPARTMENT OF HEALTH  
4 SHALL ESTABLISH A MEDICAL ASSISTANCE SPONSOR BUY-IN PROGRAM. SUCH  
5 PROGRAM SHALL PROVIDE THAT QUALIFIED ALIENS AS DEFINED IN SECTION 431 OF  
6 THE FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION  
7 ACT OF 1996 (8 U.S. CODE 1641) WHOSE SPONSORS HAVE SIGNED AN AFFIDAVIT  
8 OF SUPPORT PURSUANT TO SECTION 213A OF THE IMMIGRATION AND NATURALIZA-  
9 TION ACT SHALL, IF OTHERWISE ELIGIBLE, BE ELIGIBLE FOR MEDICAL ASSIST-  
10 ANCE FOR SUCH PERIODS OF TIME FOR WHICH THE SPONSOR HAS MADE MEDICAL  
11 ASSISTANCE BUY-IN PAYMENTS TO THE SOCIAL SERVICES DISTRICT IN WHICH SUCH  
12 ALIEN RESIDES. THE DEPARTMENT OF HEALTH IS AUTHORIZED TO PROMULGATE  
13 REGULATIONS ESTABLISHING MEDICAL ASSISTANCE BUY-IN PAYMENT RATES. SUCH  
14 RATES SHALL REFLECT THE PROJECTED AVERAGE COST OF NON-EMERGENCY MEDICAL  
15 ASSISTANCE COSTS AND SHALL BE SET ON A SLIDING SCALE BASED ON THE SPON-  
16 SOR'S INCOME.  
17 S 2. Paragraph (c) of subdivision 1 of section 122 of the social  
18 services law, as amended by chapter 214 of the laws of 1998, is amended  
19 to read as follows:  
20 (c) The following persons, not described in paragraph (a) or (b) of  
21 this subdivision, shall, if otherwise eligible, be eligible for safety  
22 net assistance and medical assistance, except that medical assistance  
23 shall be limited to care and services (not including care and services  
24 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.

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

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

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

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

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

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

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

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

18 S 5. This act shall take effect immediately.