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

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I N A S S E M B L Y

March 4, 2009

Introduced by M. of A. AUBRY, BENJAMIN, ORTIZ, GREENE, GOTTFRIED, JEFFRIES, CARROZZA, SCHROEDER, MILLMAN, CLARK, LANCMAN, PERALTA, TITONE, WRIGHT, ESPAILLAT, COLTON -- Multi-Sponsored by -- M. of A. BRENNAN, COOK, DIAZ, GLICK, JACOBS, JOHN, KELLNER, MAISEL, McENENY, PHEFFER, REILLY, ROBINSON, SCARBOROUGH, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to creating a pilot project for filing medical assistance applications for inmates prior to their release and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Legislative findings. The legislature hereby finds that inmates face significant health issues and suffer from relatively high rates of infectious diseases, mental illness, chronic drug and alcohol addictions, and other conditions such as diabetes, asthma and hypertension. Research has shown that individuals who are enrolled in Medicaid upon release from incarceration, and therefore have access to medical and mental health care and drug treatment, are less likely to be rearrested and to engage in unhealthy behaviors. Additionally, multiple studies have shown that providing adequate medical assistance to persons returning from incarceration produces considerable fiscal savings by reducing costs associated with drug use and related crime and fighting the spread of communicable diseases like HIV and hepatitis.

Therefore, the legislature finds that ensuring access to Medicaid benefits for persons immediately upon their release from incarceration is essential to ensure adequate medical care, drug treatment and mental health services.

In 2007, New York law was changed to allow for the suspension rather than termination of Medicaid eligibility upon incarceration. As a result, inmates who are enrolled in Medicaid immediately before admis-

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

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sion to the correctional system have their Medicaid benefits suspended rather than terminated and therefore have access to Medicaid coverage upon release. It is estimated that twenty to thirty percent of inmates have Medicaid coverage immediately before their admission to prison. Nonetheless, many inmates who are not enrolled in Medicaid when they enter prison will require Medicaid coverage upon release.

The legislature finds that the most efficient way to facilitate Medicaid coverage for eligible inmates upon release from prison is to require trained correctional staff to file medical assistance applications on behalf of inmates before their release to ensure that Medicaid benefits are available on the day of release. The department of correctional services is in the process of establishing specialized "re-entry units" to assist inmates with their transition to the community. The department has indicated that inmates will be sent to such units at least ninety days before their anticipated release and receive various re-entry related services including mentoring training, substance abuse treatment, job training and job placement counseling, family support, and educational programming.

Therefore, the legislature finds that these "re-entry units" are the ideal setting to institute a pilot project to ensure that inmates released from such units have access to Medicaid coverage at the moment of release from prison. The legislature further finds that such applications for medical assistance filed on behalf of inmates should be submitted directly to and processed by the New York state department of health in order to expedite the process and ensure coverage upon release.

S 2. The correction law is amended by adding a new section 144 to read as follows:

S 144. PILOT PROJECT FOR FILING MEDICAL ASSISTANCE APPLICATIONS FOR INMATES PRIOR TO THEIR RELEASE. 1. THE COMMISSIONER SHALL DESIGNATE STAFF AT EACH STATE CORRECTIONAL FACILITY, OR PART OF A STATE CORRECTIONAL FACILITY, OPERATING AS A RE-ENTRY UNIT, TO PREPARE AND SUBMIT APPLICATIONS FOR MEDICAL ASSISTANCE ESTABLISHED UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, ON BEHALF OF EACH INMATE WHO WAS NOT RECEIVING SUCH MEDICAL ASSISTANCE IMMEDIATELY BEFORE BEING ADMITTED TO THE CUSTODY OF THE DEPARTMENT. SUCH APPLICATIONS SHALL BE SUBMITTED TO THE COMMISSIONER OF HEALTH PURSUANT TO SUBDIVISION TWENTY-FOUR OF SECTION TWO HUNDRED SIX OF THE PUBLIC HEALTH LAW AT LEAST FORTY-FIVE DAYS BEFORE THE ANTICIPATED RELEASE, CONDITIONAL RELEASE OR DISCHARGE OF SUCH INMATES.

2. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, UPON RECEIPT OF AN APPLICATION FOR MEDICAL ASSISTANCE FOR AN INMATE PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER OF HEALTH SHALL DETERMINE THE ELIGIBILITY OF SUCH INMATE FOR ENROLLMENT IN THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW OR THE FAMILY HEALTH PLUS PROGRAM ESTABLISHED UNDER TITLE ELEVEN-D OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW. SUCH DETERMINATION SHALL BE BASED ON WHETHER THE INMATE, EXCEPT FOR HIS OR HER STATUS AS AN INMATE, WOULD BE ELIGIBLE TO RECEIVE MEDICAL ASSISTANCE. ENROLLMENT IN THE MEDICAL ASSISTANCE PROGRAM SHALL BE EFFECTIVE ON THE DATE AN ELIGIBLE INMATE IS RELEASED, CONDITIONALLY RELEASED OR DISCHARGED FROM THE DEPARTMENT AND THE MEDICAL ASSISTANCE IDENTIFICATION CARD SHALL BE PROVIDED TO THE INMATE UPON HIS OR HER RELEASE, CONDITIONAL RELEASE OR DISCHARGE FROM THE DEPARTMENT.

3. THE DIVISION OF PAROLE SHALL ASSIST THE DEPARTMENT IN ANY MANNER NECESSARY TO ASSURE THAT THE PURPOSES AND OBJECTIVES OF THIS SECTION ARE EFFECTIVELY ACCOMPLISHED.

4. FOR THE PURPOSES OF THIS SECTION, "RE-ENTRY UNIT" MEANS A PROGRAM ESTABLISHED IN A CORRECTIONAL FACILITY, OR PART OF A CORRECTIONAL FACILITY, OPERATED AS A JOINT EFFORT BY THE DEPARTMENT AND THE DIVISION OF PAROLE FOR THE PURPOSE OF TRANSFERRING INMATES TO SUCH UNIT SHORTLY BEFORE THEIR ANTICIPATED RELEASE FROM THE DEPARTMENT TO PROVIDE SUCH INMATES WITH PROGRAMS, TREATMENT AND SERVICES TO ASSIST WITH THEIR TRANSITION TO THE COMMUNITY UPON RELEASE, PROVIDED THAT THIS SECTION SHALL NOT APPLY TO A RE-ENTRY UNIT ESTABLISHED AT THE ORLEANS CORRECTIONAL FACILITY.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall expire and be deemed repealed April 1, 2012.