

4474

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. GABRYSAK -- 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 to repeal certain provisions
of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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

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

LBD07836-01-1

1 may be performed directly by the district or pursuant to contract with
2 the district] IMMEDIATELY DENY SUCH APPLICANT OR RECIPIENT, WHO IS OVER
3 THE AGE OF EIGHTEEN YEARS, FROM RECEIVING ANY FURTHER PUBLIC ASSISTANCE
4 BENEFITS.

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

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

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

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

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

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

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

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

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

55 (g) Persons disqualified from receiving public assistance pursuant to
56 paragraph (f) of this subdivision who would otherwise be eligible for

1 public assistance and who return to required treatment [prior to the end
2 of the disqualification period] and are receiving residential care as
3 defined in paragraph (d) of subdivision three of section two hundred
4 nine of this chapter shall be eligible for safety net assistance.

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

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

16 S 2. Subdivision 3 of section 117 of the social services law is
17 REPEALED.

18 S 3. This act shall take effect immediately.