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

4474

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. GABRYSZAK -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 4 of section 132 of the social services law, as added by section 23 of part B of chapter 436 of the laws of 1997, paragraphs (a) and (c) as amended by chapter 214 of the laws of 1998, paragraphs (d), (e), (f) and (g) as amended by section 43-a and paragraph (i) as added by section 44 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

4. (a) Investigation into the cause of the condition of a head of household or of any adult applicant [or recipient], WHO IS OVER THE AGE OF EIGHTEEN YEARS, and the treatment which will be helpful to such person shall include a URINE DRUG TEST screening PROCESS for alcohol and/or substance abuse using a standardized screening [instrument] PROCESS to be developed by the office of alcoholism and substance abuse services in consultation with the department. Such screening shall be performed by a social services district at the time of application and periodically thereafter but not more frequently than every six months[, unless the district has reason to believe that an applicant or recipient is abusing or dependent on alcohol or drugs, in accordance with regulations promulgated by the department].

(b) When the screening process indicates that there is reason to believe that an applicant or recipient is abusing or dependent on alcohol or drugs, the social services district shall [require a formal alcohol or substance abuse assessment, which may include drug testing, to be performed by an alcohol and/or substance abuse professional credentialed 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.

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

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

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

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

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

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

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

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

Good cause shall be defined in regulations by the commissioner.

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

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

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

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

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

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

S 3. This act shall take effect immediately.