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

S. 5402 A. 7816

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

May 18, 2011

IN SENATE -- Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

IN ASSEMBLY -- Introduced by M. of A. MALLIOTAKIS -- read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to income eligibility; to amend chapter 436 of the laws of 1997, constituting the welfare reform act of 1997, in relation to persons who are subject to the photograph identification requirements established by the commissioner of health for the medical assistance program; and to repeal certain provisions of the social services law, relating to income eligibility of certain persons

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

Section 1. Clauses (ii) and (iii) of subparagraph 1 and subparagraphs 3 and 4 of paragraph (a) of subdivision 1 of section 366 of the social services law, as amended by section 58 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

(ii) such person [shall not be subject to a resource test] MAY HAVE RESOURCES UP TO THE AMOUNT SPECIFIED IN SUBPARAGRAPH FOUR OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION;

(iii) a person whose income [is] AND RESOURCES ARE within the [limit] LIMITS set forth in [clause] CLAUSES (i) AND (II) of this subparagraph shall be deemed to have unmet needs for purposes of the eligibility requirements of the safety net program as it existed on the first day of November, nineteen hundred ninety-seven;

(3) is a child under the age of twenty-one years receiving care (A) away from his own home in accordance with title two of article six of this chapter; (B) during the initial thirty days of placement with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to section 353.3 of the family court act; (C) in an authorized agency when

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

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placed pursuant to section seven hundred fifty-six or 353.3 of the family court act; or (D) in residence at a division foster family home or a division contract home, and has not, according to the criteria promulgated by the department, sufficient income AND RESOURCES, including available support from his parents, to meet all costs of required medical care and services available under this title; or

(4) is receiving care, in the case of and in connection with the birth of an out of wedlock child, in accordance with title two of article six of this chapter, and has not, according to the criteria promulgated by the department, sufficient income AND RESOURCES, including available support from responsible relatives, to meet all costs of required medical care and services available under this title; or

S 2. Subparagraphs 5, 6 and 8 of paragraph (a) of subdivision 1 of section 366 of the social services law, subparagraphs 5 and 6 as amended by section 59 of part C of chapter 58 of the laws of 2009, subparagraph 8 as separately amended by sections 59 and 63 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

(5) although not receiving public assistance or care for his or her maintenance under other provisions of this chapter, has NOT, ACCORDING TO THE CRITERIA AND STANDARDS ESTABLISHED BY THIS ARTICLE OR BY ACTION OF THE DEPARTMENT, SUFFICIENT income and resources, including available support from responsible relatives, [that does not exceed the amounts set forth in paragraph (a) of subdivision two of this section,] TO MEET ALL THE COSTS OF MEDICAL CARE AND SERVICES AVAILABLE UNDER THIS TITLE, and is (i) UNDER THE AGE OF TWENTY-ONE YEARS, OR sixty-five years of age or older, or certified blind or certified disabled or (ii) A SPOUSE OF A CASH PUBLIC ASSISTANCE RECIPIENT LIVING WITH HIM OR HER AND ESSENTIAL OR NECESSARY TO HIS OR HER WELFARE AND WHOSE NEEDS ARE TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OF HIS OR HER CASH PAYMENT OR (III) for reasons other than income or resources[,]: (A) is eligible for federal supplemental security income benefits and/or additional state payments; OR (B) WOULD MEET THE ELIGIBILITY REQUIREMENTS OF THE AID TO DEPENDENT CHILDREN PROGRAM AS IT EXISTED ON THE SIXTEENTH DAY OF JULY, NINETEEN HUNDRED NINETY-SIX; or

(6) is a resident of a home for adults operated by a social services district or a residential care center for adults or community residence operated or certified by the office of mental health, and has not, according to criteria promulgated by the department consistent with this title, sufficient income[, or in the case of a person sixty-five years of age or older, certified blind, or certified disabled, sufficient income] and resources, including available support from responsible relatives, to meet all the costs of required medical care and services available under this title; or

(8) is a member of a family which contains a dependent child living with a caretaker relative, which has[: (i) subject to the approval of the federal Centers for Medicare and Medicaid services, gross income not in excess of one hundred percent of the federal income official poverty line (as defined and annually revised by the federal office of management and budget) for a family of the same size as the families that include the children or (ii) in the absence of such approval,] net available income not in excess of one hundred thirty percent of the highest amount that ordinarily would have been paid to a person without any income or resources under the family assistance program as it existed on the first day of November, nineteen hundred ninety-seven, to be increased annually by the same percentage as the percentage increase in the federal consumer price index, AND WHICH HAS NET AVAILABLE

RESOURCES NOT IN EXCESS OF THE AMOUNT SPECIFIED IN SUBPARAGRAPH FOUR OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION; for purposes of this subparagraph, the net available income AND RESOURCES of a family shall be determined using the methodology of the family assistance program as it exists on the first day of November, nineteen hundred ninety-seven, except that no part of the methodology of the family assistance program will be used which is more restrictive than the methodology of the aid to dependent children program as it existed on the sixteenth day of July, nineteen hundred ninety-six; for purposes of this subparagraph, the term dependent child means a person under twenty-one years of age who is deprived of parental support or care by reason of the death, continued absence, or physical or mental incapacity of a parent, or by reason of the unemployment of the parent, as defined by the department of health; or

S 3. Subparagraph 5-a of paragraph (a) of subdivision 1 of section 366 of the social services law is REPEALED.

S 4. Subparagraph 10 of paragraph (a) of subdivision 1 of section 366 of the social services law, as amended by section 59-a of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(10) is a child who is under twenty-one years of age, who is not living with a caretaker relative, who has net available income not in excess of the income standards of the family assistance program as it existed on the first day of November, nineteen hundred ninety-seven, AND WHO HAS NET AVAILABLE RESOURCES NOT IN EXCESS OF ONE THOUSAND DOLLARS; for purposes of this subparagraph, the child's net available income AND RESOURCES shall be determined using the methodology of the family assistance program as it existed on the first day of November, nineteen hundred ninety-seven, except that: (I) THERE SHALL BE DISREGARDED AN ADDITIONAL AMOUNT OF RESOURCES EQUAL TO THE DIFFERENCE BETWEEN THE APPLICABLE RESOURCE STANDARD OF THE FAMILY ASSISTANCE PROGRAM AS IT EXISTS ON THE FIRST DAY OF NOVEMBER, NINETEEN HUNDRED NINETY-SEVEN AND ONE THOUSAND DOLLARS AND (II) no part of the methodology of the family assistance program will be used which is more restrictive than the methodology of the aid to dependent children program as it existed on the sixteenth day of July, nineteen hundred ninety-six; or

S 5. Subdivision 1 of section 369-ee of the social services law is amended by adding a new paragraph (i) to read as follows:

(I) "RESOURCES" FOR PURPOSES OF THIS TITLE SHALL HAVE THE SAME MEANING AS DETERMINED IN ACCORDANCE WITH PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-SIX OF THIS ARTICLE.

S 6. Subdivision 2 of section 369-ee of the social services law is amended by adding a new paragraph (c) to read as follows:

(C) FOR THE PURPOSES OF THIS TITLE, THE DETERMINATION OF RESOURCES SHALL BE IN ACCORDANCE WITH PARAGRAPHS (B) AND (C) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-SIX-A OF THIS ARTICLE.

S 7. The opening paragraph of paragraph (b) of subdivision 2 of section 369-ee of the social services law, as amended by section 59-c of part C of chapter 58 of the laws of 2009, is amended to read as follows:

Subject to the provisions of paragraph (d) of this subdivision, in order to establish INCOME eligibility under this subdivision, [which shall be determined without regard to resources,] an individual shall provide such documentation as is necessary and sufficient to initially, and annually thereafter, determine an applicant's eligibility for coverage under this title. Such documentation shall include, but not be limited to the following, if needed to verify eligibility:

S 8. Subdivision 1 and paragraph (a) of subdivision 2 of section 366-a of the social services law, as amended by section 60 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

1. Any person requesting medical assistance may make application therefor in person, through another in his OR HER behalf or by mail to the social services official of the county, city or town, or to the service officer of the city or town in which the applicant resides or is found. In addition, in the case of a person who is sixty-five years of age or older and is a patient in a state hospital for tuberculosis or for the mentally disabled, applications may be made to the department or to a social services official designated as the agent of the department. Notwithstanding any provision of law to the contrary, IN ACCORDANCE WITH DEPARTMENT REGULATIONS, WHEN AND APPLICATION IS MADE BY MAIL, a personal interview SHALL BE CONDUCTED with the applicant or with the person who made application on his or her behalf [shall not be required as part of a determination of initial or continuing eligibility pursuant to this title] WHEN THE APPLICANT CANNOT BE INTERVIEWED DUE TO HIS OR HER PHYSICAL OR MENTAL CONDITION.

(a) Upon receipt of such application, the appropriate social services official, or the department of health or its agent when the applicant is a patient in a state hospital for the mentally disabled, shall verify the eligibility of such applicant. In accordance with the regulations of the department of health, it shall be the responsibility of the applicant to provide information and documentation necessary for the determination of initial and ongoing eligibility for medical assistance. If an applicant or recipient is unable to provide necessary documentation, the public welfare official shall promptly cause an investigation to be made. Where an investigation is necessary, sources of information other than public records will be consulted only with permission of the applicant or recipient. In the event that such permission is not granted by the applicant or recipient, or necessary documentation cannot be obtained, the social services official or the department of health or its agent may suspend or deny medical assistance until such time as it may be satisfied as to the applicant's or recipient's eligibility therefor. TO THE EXTENT PRACTICABLE, ANY INTERVIEW CONDUCTED AS A RESULT OF AN APPLICATION FOR MEDICAL ASSISTANCE SHALL BE CONDUCTED IN THE HOME OF THE PERSON INTERVIEWED OR IN THE INSTITUTION IN WHICH SUCH PERSON IS RECEIVING MEDICAL ASSISTANCE.

S 9. Paragraph (a) of subdivision 5 of section 369-ee of the social services law, as amended by section 61 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(a) [A personal interview with the applicant or with the person who made application on his or her behalf shall not be required as part of a determination of initial or continuing eligibility pursuant to this title.] PERSONAL INTERVIEWS, PURSUANT TO SECTION THREE HUNDRED SIXTY-SIX-A OF THIS CHAPTER, MAY BE REQUIRED UPON INITIAL APPLICATION ONLY AND MAY BE CONDUCTED IN COMMUNITY SETTINGS. Recertification of eligibility shall take place on no more than an annual basis AND SHALL NOT REQUIRE A PERSONAL INTERVIEW. Nothing herein shall abridge the participant's obligation to report changes in residency, financial circumstances or household composition.

S 10. Section 23-a of part B of chapter 436 of the laws of 1997, constituting the welfare reform act of 1997, as amended by section 62 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

S 23-a. Notwithstanding any contrary provision thereof, section 266 of chapter 83 of the laws of 1995 shall apply to applicants for or recipi-

ents of public assistance and care, INCLUDING MEDICAL ASSISTANCE; provided, however, that [such section shall not apply to] WITH RESPECT TO MEDICAL ASSISTANCE, SUCH SECTION SHALL APPLY ONLY TO PERSONS WHO ARE SUBJECT TO THE PHOTOGRAPH IDENTIFICATION REQUIREMENTS ESTABLISHED BY THE COMMISSIONER OF HEALTH FOR the medical assistance program.

S 11. This act shall take effect immediately.