

5728

2011-2012 Regular Sessions

I N S E N A T E

June 14, 2011

Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the social services law, in relation to drug testing of certain public assistance applicants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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 and the treatment
9 which will be helpful to such person], WHO IS UNDER THE AGE OF
10 SIXTY-FIVE YEARS, shall include a URINE DRUG TEST screening PROCESS for
11 [alcohol and/or substance abuse] ILLEGAL USE OF CONTROLLED SUBSTANCES
12 using a standardized screening [instrument] PROCESS to be developed by
13 the office of alcoholism and substance abuse services in consultation
14 with the department OF HEALTH. Such screening shall be performed by a
15 social services district at the time of application [and periodically
16 thereafter but not more frequently than every six months, unless the
17 district has reason to believe that an applicant or recipient is abusing
18 or dependent on alcohol or drugs, in accordance with regulations promul-
19 gated by the department] AT THE EXPENSE OF SUCH HEAD OF HOUSEHOLD OR
20 ADULT APPLICANT.
21 (b) When the screening process indicates that there is reason to
22 believe that an applicant or recipient is [abusing or dependent on alco-
23 hol or drugs] ENGAGED IN THE ILLEGAL USE OF A CONTROLLED SUBSTANCE, the
24 social services district shall [require a formal alcohol or substance
25 abuse assessment, which may include drug testing, to be performed by an

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

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1 alcohol and/or substance abuse professional credentialed by the office
2 of alcoholism and substance abuse services. The assessment may be
3 performed directly by the district or pursuant to contract with the
4 district] IMMEDIATELY DENY SUCH HEAD OF HOUSEHOLD OR APPLICANT, WHO IS
5 UNDER THE AGE OF SIXTY-FIVE YEARS, FROM RECEIVING ANY PUBLIC ASSISTANCE
6 BENEFITS.

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

19 (d) A person, WHO IS UNDER THE AGE OF SIXTY-FIVE YEARS, who fails to
20 participate in the URINE DRUG TEST screening or in the assessment shall
21 be ineligible for public assistance. Other members of a household [which
22 includes a person who has failed to participate in the screening or
23 assessment] UNDER THE AGE OF EIGHTEEN YEARS shall, if otherwise eligi-
24 ble, receive public assistance only through [safety net assistance] A
25 CUSTODIAN OF SUCH ASSISTANCE APPOINTED BY THE SOCIAL SERVICES DISTRICT,
26 if [they] SUCH MEMBERS are otherwise eligible for public assistance.

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

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

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

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

51 (iii) for the third and subsequent failures, until the failure ceases
52 or for one hundred eighty days, whichever period is longer.

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

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

1 (g) Persons disqualified from receiving public assistance pursuant to
2 paragraph (f) of this subdivision who would otherwise be eligible for
3 public assistance and who return to required treatment prior to the end
4 of the disqualification period and are receiving residential care as
5 defined in paragraph (d) of subdivision three of section two hundred
6 nine of this chapter shall be eligible for safety net assistance.

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

16 (i) Compliance with the provisions of this subdivision shall not be
17 required as a condition of applying for or receiving medical assistance]
18 ANY PERSON WHO SUBMITS TO A DRUG TEST PURSUANT TO THIS SUBDIVISION AND
19 HIS OR HER TEST IS NEGATIVE FOR THE ILLEGAL USE OF CONTROLLED
20 SUBSTANCES, SHALL BE REIMBURSED BY THE SOCIAL SERVICES DISTRICT FOR THE
21 EXPENSE OF SUCH TEST.

22 (F) ANY PERSON DENIED BENEFITS PURSUANT TO THIS SUBDIVISION MAY REAP-
23 PLY FOR SUCH BENEFITS UPON SUBMISSION TO ANOTHER DRUG TEST AND THE
24 RETURN RESULT OF SUCH TEST WHICH IS NEGATIVE FOR THE ILLEGAL USE OF
25 CONTROLLED SUBSTANCES.

26 S 2. This act shall take effect January 1, 2012.