

2280

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. MALLIOTAKIS, PALMESANO, TENNEY -- 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:

1 Section 1. Clauses (ii) and (iii) of subparagraph 1 and subparagraphs
2 3 and 4 of paragraph (a) of subdivision 1 of section 366 of the social
3 services law, as amended by section 58 of part C of chapter 58 of the
4 laws of 2009, are amended to read as follows:
5 (ii) such person [shall not be subject to a resource test] MAY HAVE
6 RESOURCES UP TO THE AMOUNT SPECIFIED IN SUBPARAGRAPH FOUR OF PARAGRAPH
7 (A) OF SUBDIVISION TWO OF THIS SECTION;
8 (iii) a person whose income [is] AND RESOURCES ARE within the [limit]
9 LIMITS set forth in [clause] CLAUSES (i) AND (II) of this subparagraph
10 shall be deemed to have unmet needs for purposes of the eligibility
11 requirements of the safety net program as it existed on the first day of
12 November, nineteen hundred ninety-seven;
13 (3) is a child under the age of twenty-one years receiving care (A)
14 away from his own home in accordance with title two of article six of
15 this chapter; (B) during the initial thirty days of placement with the
16 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to
17 section 353.3 of the family court act; (C) in an authorized agency when
18 placed pursuant to section seven hundred fifty-six or 353.3 of the fami-
19 ly court act; or (D) in residence at a division foster family home or a

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

LBD04076-01-3

1 division contract home, and has not, according to the criteria promul-
2 gated by the department, sufficient income AND RESOURCES, including
3 available support from his parents, to meet all costs of required
4 medical care and services available under this title; or

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

11 S 2. Subparagraphs 5, 6 and 8 of paragraph (a) of subdivision 1 of
12 section 366 of the social services law, subparagraphs 5 and 6 as amended
13 by section 59 of part C of chapter 58 of the laws of 2009, subparagraph
14 8 as separately amended by sections 59 and 63 of part C of chapter 58 of
15 the laws of 2009, are amended to read as follows:

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

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

42 (8) is a member of a family which contains a dependent child living
43 with a caretaker relative, which has[: (i) subject to the approval of
44 the federal Centers for Medicare and Medicaid services, gross income not
45 in excess of one hundred percent of the federal income official poverty
46 line (as defined and annually revised by the federal office of manage-
47 ment and budget) for a family of the same size as the families that
48 include the children or (ii) in the absence of such approval,] net
49 available income not in excess of one hundred thirty percent of the
50 highest amount that ordinarily would have been paid to a person without
51 any income or resources under the family assistance program as it
52 existed on the first day of November, nineteen hundred ninety-seven, to
53 be increased annually by the same percentage as the percentage increase
54 in the federal consumer price index, AND WHICH HAS NET AVAILABLE
55 RESOURCES NOT IN EXCESS OF THE AMOUNT SPECIFIED IN SUBPARAGRAPH FOUR OF
56 PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION; for purposes of this

1 subparagraph, the net available income AND RESOURCES of a family shall
2 be determined using the methodology of the family assistance program as
3 it exists on the first day of November, nineteen hundred ninety-seven,
4 except that no part of the methodology of the family assistance program
5 will be used which is more restrictive than the methodology of the aid
6 to dependent children program as it existed on the sixteenth day of
7 July, nineteen hundred ninety-six; for purposes of this subparagraph,
8 the term dependent child means a person under twenty-one years of age
9 who is deprived of parental support or care by reason of the death,
10 continued absence, or physical or mental incapacity of a parent, or by
11 reason of the unemployment of the parent, as defined by the department
12 of health; or

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

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

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

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

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

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

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

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

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

54 S 8. Subdivision 1 and paragraph (a) of subdivision 2 of section
55 366-a of the social services law, as amended by section 60 of part C of
56 chapter 58 of the laws of 2009, is amended to read as follows:

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

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

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

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

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

52 S 23-a. Notwithstanding any contrary provision thereof, section 266 of
53 chapter 83 of the laws of 1995 shall apply to applicants for or recipi-
54 ents of public assistance and care, INCLUDING MEDICAL ASSISTANCE;
55 provided, however, that [such section shall not apply to] WITH RESPECT
56 TO MEDICAL ASSISTANCE, SUCH SECTION SHALL APPLY ONLY TO PERSONS WHO ARE

1 SUBJECT TO THE PHOTOGRAPH IDENTIFICATION REQUIREMENTS ESTABLISHED BY THE
2 COMMISSIONER OF HEALTH FOR the medical assistance program.
3 S 11. This act shall take effect immediately.