

5528

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 28, 2013

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Introduced by M. of A. GABRYSZAK -- Multi-Sponsored by -- M. of A.  
GOODELL, HAWLEY -- 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

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

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

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

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

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

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

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

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

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

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] ARTICLE shall be eligible for safety net assist-  
7 ance.

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

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

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

21 S 3. This act shall take effect immediately.