STATE OF NEW YORK

4779

2017-2018 Regular Sessions

IN SENATE

February 28, 2017

Introduced by Sens. HANNON, ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law, in relation to the eligibility of disabled persons who are applicants for or recipients of medical assistance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Clause (iii) of subparagraph 2 of paragraph (b) of subdivision 2 of section 366 of the social services law, as added by chapter 170 of the laws of 1994, subclause (B) as amended by chapter 656 of the laws of 1997, is amended to read as follows:

(iii) Notwithstanding the provisions of clauses (i) and (ii) of this subparagraph, in the case of an applicant or recipient who is disabled, as such term is defined in section 1614(a)(3) of the federal social security act, the department must not consider as available income or resources the corpus or income of the following trusts which comply with the provisions of the regulations authorized by clause (iv) of this subparagraph: (A) a trust containing the assets of such a disabled individual which was established for the benefit of the disabled individual while such individual was under sixty-five years of age by **the individual,** a parent, grandparent, legal guardian, or court of competent jurisdiction, if upon the death of such individual the state will receive all amounts remaining in the trust up to the total value of all medical assistance paid on behalf of such individual; (B) and a trust containing the assets of such a disabled individual established and managed by a non-profit association which maintains separate accounts for the benefit of disabled individuals, but, for purposes of investment and management of trust funds, pools the accounts, provided that accounts in the trust fund are established solely for the benefit of individuals who are disabled as such term is defined in section 1614(a)(3) of the federal social security act by such disabled individual, a parent, grandparent, legal

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

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guardian, or court of competent jurisdiction, and to the extent that amounts remaining in the individual's account are not retained by the trust upon the death of the individual, the state will receive all such remaining amounts up to the total value of all medical assistance paid on behalf of such individual. Notwithstanding any law to the contrary, a not-for-profit corporation may, in furtherance of and as an adjunct to its corporate purposes, act as trustee of a trust for persons with disabilities established pursuant to this subclause, provided that a trust company, as defined in subdivision seven of section one hundred-c of the banking law, acts as co-trustee.

§ 2. This act shall take effect immediately and shall apply to all trusts established on or after such effective date.