

STATE OF NEW YORK

7558

IN SENATE

January 27, 2020

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to conciliation and non-compliance with public assistance employment; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Section 341 of the social services law is REPEALED.
2 § 2. Section 341-a of the social services law, as added by chapter 562
3 of the laws of 2015, is amended to read as follows:
4 § [~~341-a~~] 341. Re-engagement; conciliation; refusal to participate.
5 1. [~~The provisions of this section shall apply to persons who are resi-~~
6 ~~dents of a city having a population of one million or more people,~~
7 ~~2-~~] (a) Consistent with federal law and regulations and this title, if
8 a participant has failed or refused to comply with the requirements of
9 this title and the district has determined that he or she is not exempt
10 from such requirements and has verified that appropriate child care,
11 transportation, and accommodations for disability were in place at the
12 time of such failure or refusal, the social services district shall
13 issue a re-engagement notice in plain language indicating that such
14 failure or refusal has taken place and of the right of such participant
15 to avoid a pro-rata reduction in public assistance benefits through the
16 re-engagement process. "Re-engagement process" shall mean the process
17 through which a participant may avoid a pro-rata reduction in public
18 assistance benefits by agreeing to comply with the requirements of this
19 title consistent with any medical condition which may limit the individ-
20 ual's ability to participate in work activities, by notifying the
21 district that he or she has become exempt from the requirements of this
22 title, or by resolving the reasons for such failure or refusal at a
23 conciliation conference. The notice shall indicate that the participant
24 has ten days to request re-engagement with the district. The notice
25 shall indicate the specific instance or instances of willful refusal or
26 failure to comply without good cause with the requirements of this title
27 and the necessary actions that must be taken to avoid a pro-rata

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

LBD04867-04-0

1 reduction in public assistance benefits and the district has verified
2 that appropriate child care, transportation and accommodations for disa-
3 bility were in place at the time of such failure or refusal.

4 (1) If a participant chooses to avoid a pro-rata reduction in public
5 assistance benefits through a conciliation conference, it will be the
6 responsibility of the participant to give reasons for such failure or
7 refusal. The re-engagement notice shall also include an explanation in
8 plain language of what would constitute good cause for non-compliance
9 and examples of acceptable forms of evidence that may warrant an
10 exemption from work activities, including evidence of domestic violence,
11 and physical or mental health limitations that may be provided at the
12 conciliation conference to demonstrate such good cause for failure to
13 comply with the requirements of this title. Unless as part of the re-en-
14 gagement process the participant does not agree to comply, has not
15 become exempt or the district determines as a result of the conciliation
16 conference that such failure or refusal was willful and without good
17 cause, no further action shall be taken.

18 (2) If the participant does not contact the district within ten days
19 of the re-engagement notice, the district shall make a finding of wheth-
20 er the alleged failure or refusal to comply was willful and without good
21 cause and shall consider any evidence in the possession of the district
22 indicating that the participant has good cause and if the participant is
23 otherwise participating in work activities, there shall be no finding of
24 willfulness without good cause based on a single appointment or infrac-
25 tion.

26 (b) If the district determines that such failure or refusal was will-
27 ful and without good cause, and that the individual is not exempt from
28 the requirements of this title, the district shall notify such partic-
29 ipant in writing, in plain language and in a manner distinct from any
30 previous notice, by issuing ten days notice of its intent to discontinue
31 or reduce assistance. Such notice shall include the reasons for such
32 determination, the specific instance or instances of willful refusal or
33 failure to comply without good cause with the requirements of this
34 title, shall verify that appropriate child care, transportation and
35 accommodations for disability were in place at the time of such failure
36 or refusal, and specify the necessary actions that must be taken to
37 avoid a pro-rata reduction in public assistance benefits, including
38 agreeing to comply with the requirements of this title consistent with
39 any medical condition which may limit the individual's ability to
40 participate in work activities or notifying the district that he or she
41 has become exempt from the requirements of this title and the right to a
42 fair hearing relating to such discontinuance or reduction.

43 [~~3-~~ 2. (a) The department shall establish in regulation a concil-
44 iation procedure for the resolution of disputes related to an individ-
45 ual's participation in programs pursuant to this title.

46 (b) The district shall contract with an independent entity, approved
47 by the department, or shall use designated trained staff at the supervi-
48 sory level who have no direct responsibility for the participant's case
49 to mediate disputes in the conciliation conference.

50 (c) If a participant's dispute cannot be resolved through such concil-
51 iation procedure, an opportunity for a fair hearing shall be provided.
52 No sanction relating to the subject dispute may be imposed during the
53 re-engagement process.

54 [~~4-~~ 3. When any participant required to participate in work activ-
55 ities fails to comply with the provisions of this title, the social

1 services district shall take such actions as prescribed by appropriate
2 federal law and regulation and this title.

3 ~~[5-]~~ 4. Consistent with federal law and this title, a social services
4 district shall provide to those participants whose failure to comply has
5 continued for thirty days or longer a written reminder of the option to
6 end a sanction by terminating the failure to comply as specified in
7 subdivision ~~[two]~~ one of this section. Such notice shall advise that the
8 participant may immediately terminate the sanction by either agreeing to
9 comply with the requirements of this title consistent with any medical
10 condition which may limit the individual's ability to participate in
11 work activities or notifying the district that he or she has become
12 exempt from the requirements of this title.

13 ~~[6-]~~ 5. Consistent with federal law and regulation and this title, no
14 notice shall be issued as specified in subdivision ~~[two]~~ one of this
15 section unless it has been determined that the individual is not exempt
16 from the requirements of this title and has determined that appropriate
17 child care, transportation and accommodations for disability were in
18 place at the time of such failure or refusal to comply with the require-
19 ments of this title and no action shall be taken pursuant to this
20 section for failure to participate in the program or refusal to accept
21 employment if:

22 (a) child care for a child under age thirteen (or day care for any
23 incapacitated individual living in the same home as a dependent child)
24 is necessary for an individual to participate or continue participation
25 in activities pursuant to this title or accept employment and such care
26 is not available and the social services district fails to provide such
27 care;

28 (b) (1) the employment would result in the family of the participant
29 experiencing a net loss of cash income; provided, however, a participant
30 may not claim good cause under this paragraph if the social services
31 district assures that the family will not experience a net loss of cash
32 income by making a supplemental payment;

33 (2) net loss of cash income results if the family's gross income less
34 necessary work-related expenses is less than the cash assistance the
35 participant was receiving at the time the offer of employment is made;
36 or

37 (c) the participant meets other grounds for good cause set forth by
38 the department in its implementation plan for this title which, at a
39 minimum, must describe what circumstances beyond the household's control
40 will constitute "good cause".

41 § 3. Section 342 of the social services law is REPEALED.

42 § 4. Section 342-a of the social services law, as added by chapter 562
43 of the laws of 2015, is amended to read as follows:

44 § ~~[342-a]~~ 342. Noncompliance with the requirements of this title. 1.
45 ~~[The provisions of this section shall apply to persons who are residents~~
46 ~~of a city having a population of one million or more people.~~

47 ~~2-]~~ In accordance with the provisions of this section an individual
48 who is required to participate in work activities shall be ineligible to
49 receive public assistance if he or she fails to comply, without good
50 cause, with the requirements of this title and the district has deter-
51 mined that he or she is not exempt from such requirements and has veri-
52 fied that appropriate child care, transportation, and accommodations for
53 disability were in place at the time of such failure or refusal. Such
54 ineligibility shall be for the amount and period specified in this
55 section. Good cause for failing to comply with the requirements of this
56 title shall be defined in department regulations, provided, however,

1 that the parent or caretaker relative of a child under thirteen years of
2 age shall not be subject to the ineligibility provisions of this section
3 if the individual can demonstrate, in accordance with the regulations of
4 the office of children and family services, that lack of available child
5 care prevents such individual from complying with the work requirements
6 of this title. The parent or caretaker relative shall be responsible for
7 locating the child care needed to meet the work requirements; provided,
8 however, that the relevant social services district shall provide a
9 parent or caretaker relative who demonstrates an inability to obtain
10 needed child care with a choice of two providers, at least one of which
11 will be a regulated provider.

12 ~~[3-]~~ **2.** In the case of an applicant for or recipient of public assist-
13 ance whom the district has determined is not exempt from the require-
14 ments of this title and who is a parent or caretaker of a dependent
15 child, the public assistance benefits otherwise available to the house-
16 hold of which such individual is a member shall be reduced pro-rata
17 until the individual is willing to comply with the requirements of this
18 title consistent with any medical condition which may limit the individ-
19 ual's ability to participate in work activities.

20 ~~[4-]~~ **3.** In the case of an individual who is a member of a household
21 without dependent children whom the district has determined is not
22 exempt from the requirements of this title and who is applying for or in
23 receipt of safety net assistance, the public assistance benefits other-
24 wise available to the household of which such individual is a member
25 shall be reduced pro-rata until the failure or refusal to comply with
26 the requirements of this title consistent with any medical condition
27 which may limit the individual's ability to participate in work activ-
28 ities ceases.

29 ~~[5-]~~ **4.** A recipient of public assistance whom the district has deter-
30 mined is not exempt from the requirements of this title and who quits or
31 reduces his or her hours of employment without good cause or due to any
32 medical condition which may limit the individual's ability to partic-
33 ipate in work activities shall be considered to have failed to comply
34 with the requirements of this article and shall be subject to the
35 provisions of this section.

36 ~~[6-]~~ **5.** A person described in paragraph (b) of subdivision seven of
37 section one hundred fifty-nine of this chapter may not be sanctioned if
38 his or her failure to comply with requirements of this title is related
39 to his or her health status.

40 § 5. Subdivision 6 of section 332-b of the social services law, as
41 added by section 148 of part B of chapter 436 of the laws of 1997, is
42 amended to read as follows:

43 6. When an applicant or recipient receives notification of the examin-
44 ing medical professional's disability determination, he or she shall
45 also be notified of his or her right to request a fair hearing within
46 ten days of such notice. If such applicant timely requests a fair hear-
47 ing, no assignment to work activities pursuant to this title may be made
48 pending such hearing and determination unless the applicant or recipient
49 agrees to a limited work assignment not inconsistent with the medical
50 condition alleged by such person. Provided, however, that if a social
51 services district has reason to believe that such recipient or applicant
52 does not actually suffer from a work limiting condition, the district
53 shall provide the applicant or recipient with notice of potential sanc-
54 tions pursuant to subdivision ~~[three]~~ **two** of section three hundred
55 forty-two of this title, and provided further that recipients will be
56 subject to sanctions pursuant to subdivision ~~[three]~~ **two** of section

1 three hundred forty-two of this title if the district determines, based
2 on clear medical evidence, that there is no basis for the individual's
3 claim that he or she is unable to fully engage in work activities, and
4 that the individual intentionally misrepresented his or her medical
5 condition.

6 § 6. This act shall take effect on the first of April next succeeding
7 the date on which it shall have become a law.