STATE OF NEW YORK

3342

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to public assistance; 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:

Section 1. Subparagraph (iii) of paragraph (a) of subdivision 8 of section 131-a of the social services law, as amended by chapter 246 of the laws of 2002, is amended to read as follows:

(iii) [~~forty-two~~] no less than fifty-one percent of the earned income for such month of any recipient [~~in a household containing a dependent child~~] which remains after application of all other subparagraphs of this paragraph; provided, however, that such percentage amount shall be adjusted in June of each year, commencing in nineteen hundred ninety-eight, to reflect changes in the most recently issued poverty guidelines of the United States Bureau of the Census, such that a household of three without special needs, living in a heated apartment in New York city and without unearned income would become ineligible for assistance with gross earnings equal to the poverty level in such guidelines; provided, however, that no assistance shall be given to any household with gross earned and unearned income, exclusive of income described in subparagraphs (i) and (vi) of this paragraph, in excess of such poverty level;

§ 2. Subdivision 10 of section 131-a of the social services law is REPEALED.

§ 3. Section 131-n of the social services law, as amended by section 16 of part B of chapter 436 of the laws of 1997, subdivision 1 as separately amended by chapters 323 and 329 of the laws of 2019, and subdivision 3 as amended by chapter 207 of the laws of 2001, is amended to read as follows:

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

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§ 131-n. Exemption of income and resources. 1. The following resources shall be exempt and disregarded in calculating the amount of benefits of any household under any public assistance program: (a) cash and liquid or nonliquid resources up to two thousand dollars, or three thousand dollars in the case of households in which any member is sixty years of age or older[~~,~~]; **provided, however, at recertification or any other time an assessment of resources is conducted to calculate the amount of benefits a household is eligible for, the amount of cash and liquid or nonliquid resources may increase by no more than five thousand five hundred dollars annually from the amount available to the household at application, provided, further, at no time shall such amount exceed the federal poverty level for that particular household's size,** (b) an amount up to [~~four~~] **twelve** thousand [~~six hundred fifty~~] dollars in a separate bank account established by an individual while currently in receipt of assistance for the sole purpose of enabling the individual to purchase a first or replacement vehicle for the recipient to seek, obtain or maintain employment, so long as the funds are not used for any other purpose, (c) an amount [~~up to one thousand four~~] **equal to the greater of five thousand one** hundred dollars **or the maximum tuition assistance program award available for the current academic year** in a separate bank account established by an individual while currently in receipt of assistance **at their initial recertification** for the purpose of paying tuition at a two-year or four-year accredited post-secondary educational institution, **provided however, for every subsequent recertification or any other subsequent time an assessment of resources is conducted to calculate the amount of benefits a household is eligible for, the amount of cash may increase by no more than five thousand dollars annually, provided further, at no time shall such amount exceed the average cost to attend a state university of New York for one year,** so long as the funds are not used for any other purpose, (d) the home which is the usual residence of the household, (e) one automobile, up to ten thousand dollars fair market value, through March thirty-first, two thousand seventeen; one automobile, up to eleven thousand dollars fair market value, from April first, two thousand seventeen through March thirty-first, two thousand eighteen; and one automobile, up to twelve thousand dollars fair market value, beginning April first, two thousand eighteen and thereafter, or such other higher dollar value as the local social services district may elect to adopt, (f) one burial plot per household member as defined in department regulations, (g) bona fide funeral agreements [~~up to a total of one thousand five hundred dollars in equity value~~] per household member, (h) funds in an individual development account established in accordance with subdivision five of section three hundred fifty-eight of this chapter and section four hundred three of the social security act, (i) [~~for a period of six months,~~] **any** real property which the household is making a good faith effort to sell, in accordance with department regulations and tangible personal property necessary for business or for employment purposes in accordance with department regulations, [~~and~~] (j) funds in a qualified tuition program that satisfies the requirement of section 529 of the Internal Revenue Code of 1986, as amended, [~~and (j)~~] **(k)** funds in a New York achieving a better life experience savings account established in accordance with article eighty-four of the mental hygiene law**, and (l) retirement accounts, including but not limited to individual retirement accounts, 401(k)'s, 403(b)'s, and Keogh plans**. If federal law or regulations require the exemption or disregard of additional income and resources in determining need for family assistance, or medical assist-

ance not exempted or disregarded pursuant to any other provision of this chapter, the department may, by regulations subject to the approval of the director of the budget, require social services officials to exempt or disregard such income and resources. Refunds resulting from earned income tax credits shall be disregarded in public assistance programs. **Court ordered child support which is paid or withheld from income shall not be considered available income.**

2. If and to the extent permitted by federal law and regulations, amounts received under section 105 of Public Law 100-383 as reparation payments for internment of Japanese-Americans and payments made to individuals because of their status as victims of Nazi persecution as defined in P.L. 103-286 shall be exempt from consideration as income or resources for purposes of determining eligibility for and the amount of benefits under any program provided under the authority of this chapter and under title XX of the Social Security Act.

3. **Ownership of all other personal property not exempt in subdivision two or three of this section shall be evaluated based upon its equity value.**

4. The department is authorized to establish regulations defining income and resources **consistent with this section**. [~~The department is further authorized to promulgate regulations it deems necessary to prevent the improper establishment and use of accounts for purchase of first or replacement vehicles.~~]

§ 4. Subdivision 5 of section 330 of the social services law is renumbered subdivision 6 and a new subdivision 5 is added to read as follows:

5. "Executive function" shall mean a set of mental skills and processes utilized in an individual's daily activities including, but not limited to, impulse control, working memory and mental flexibility.

§ 5. The section heading, subdivision 1 and paragraph (a) of subdivision 2 of section 335 of the social services law, the section heading and paragraph (a) of subdivision 2 as amended by section 148 of part B of chapter 436 of the laws of 1997, and subdivision 1 as amended by chapter 214 of the laws of 1998, are amended to read as follows:

Assessments and employability plans for certain recipients [~~in households with dependent children~~] **of public assistance**. 1. Each social services official shall ensure that each recipient of public assistance who is [~~a member of a household with dependent children and is~~] eighteen years of age or older, or who is sixteen or seventeen years of age and is not attending secondary school and has not completed high school or a high school equivalency program, receives an assessment of employability based on his or her educational level, including literacy and English language proficiency, basic skills proficiency, **access to** child care**, executive function level as defined in subdivision five of section three hundred thirty of this article to the extent possible, utilizing self-reflective measures and available screening tools that the office has found to be accurate in measuring executive function,** and other supportive services needs[~~; and~~]**,** skills, prior work experience, training and vocational interests**, and the participant's work preferences**. This assessment shall include a review of family circumstances including a review of any special needs of a child. Such assessment shall be completed within [~~ninety~~] **thirty** days of the date on which such person is determined eligible for public assistance. An applicant for or recipient of public assistance may be assigned to work activities prior to completion of such assessment**, so long as such work activity is focused on assisting the individual develop or build upon skills that will prepare such individual to be employable in a field that provides a**

living wage and takes into consideration any necessary accommodations required by state or federal law.

(a) Based on the assessment required by subdivision one of this section, the social services official, in consultation with the participant, shall develop an employability plan in writing which shall set forth the services that will be provided by the social services official, including but not limited to child care and other services and the activities in which the participant will take part, including child care and other services and shall set forth an employment goal for the participant[~~. To the extent possible, the~~] and how their assigned work activities and services will help them achieve that goal. In addition, the employability plan shall focus on placing the individual in a work activity that will develop or build upon skills that will prepare the individual to be employable in a field that provides a living wage. The employability plan shall reflect the preferences of the participant in a manner that is consistent with the results of the participant's assessment and the need of the social services district to meet federal and state work activity participation requirements, and, if such preferences cannot be accommodated, the reasons shall be specified in the employability plan. The employability plan shall also take into account the participant's supportive services needs, available program resources, local employment opportunities, and where the social services official is considering an educational activity assignment for such participant, the participant's liability for student loans, grants and scholarship awards. [~~The~~] As part of the district's analysis to determine available local employment opportunities, the district shall foster working relationships with local employers to determine the need in the particular district and any emerging or expanding employment fields that may provide opportunities for recipients to obtain employment that provides a living wage. A written copy of the employability plan shall be explained and provided to the participant. Any change to the participant's employability plan required by the social services official shall be provided in writing to the participant, discussed with the participant and shall be documented in writing in their record. No less than at least once per year, the district shall be required to revisit the participant's employability plan and assess whether their assigned work activities and services are successfully assisting the individual in working toward or reaching their employment goal and a profession that would provide the individual with a living wage. If the district determines that the assigned work activities and services are not assisting the individual in working toward or meeting their employment goals and obtain a profession that would provide them with a living wage based on their assessment and input from the participant, than the district shall reassign the participant to a new work activity that is more appropriate to reaching such objectives. Provided however, if such individual is participating in an activity including but not limited to educational or job training where additional time is needed in the specific work activity for the participant to reach their employment goal, the participant shall remain in the particular work activity, and the work activity shall be reassessed at a later date.

§ 6. Section 335-a of the social services law is REPEALED.

§ 7. Paragraph (d) of subdivision 1 of section 336 of the social services law, as amended by section 148 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

(d) work experience in the public sector or non-profit sector[~~, (including work associated with refurbishing publicly assisted housing)~~

~~if sufficient private sector employment is not available~~] that provides an individual with an opportunity to acquire the general skills, knowledge, and work habits necessary to improve both the employability of the individual and their ability to obtain employment that provides a living wage. Such programs providing work experience shall focus on providing a continuum of education and occupational training, including applicable and beneficial certifications and/or licensures, which will link to subsequent employment. When possible, education and occupational training shall be focused toward employment opportunities in emerging and expanding fields within a relative geographic location. Such programs shall also focus on executive function deficits as defined in subdivision five of section three hundred thirty of this article, and provide targeted education and skills development opportunities to assist individuals in overcoming such deficiencies;

§ 8. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to section 131-n of the social services law made by section three of this act shall not affect the expiration and reversion of such section and shall be deemed to expire therewith.