

# STATE OF NEW YORK

9397

## IN ASSEMBLY

February 24, 2022

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the social services law and the correction law, in relation to presumptive eligibility for medical assistance benefits of individuals leaving incarceration

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

1 Section 1. Section 364-i of the social services law is amended by  
2 adding a new subdivision 9 to read as follows:

3 9. (a) An individual who is incarcerated by the department of  
4 corrections and community supervision, or in a local correctional facil-  
5 ity as defined in section two of the correction law, shall be presumed  
6 eligible for medical assistance under this title beginning on the date  
7 of their release from the incarceration, where the department of  
8 corrections and community supervision or the local correctional facility  
9 determines, on the basis of preliminary information, that the individual  
10 is eligible for coverage under paragraphs (b) or (c) of subdivision one  
11 of section three hundred sixty-six of this title.

12 (b) The presumptive eligibility shall continue through the earlier of:  
13 the day on which eligibility is determined under this title; or, in the  
14 case of an individual for whom an application for assistance under this  
15 title is not filed or who does not file an application for such assist-  
16 ance, sixty days after release of such individual from incarceration.

17 (c) This subdivision shall be effective only if, and as long as,  
18 federal financial participation is available for expenditures incurred  
19 under this subdivision.

20 (d) The commissioner of health shall take all steps necessary and  
21 shall use best efforts to secure federal financial participation for  
22 purposes of this subdivision, including the prompt submission of appro-  
23 priate amendments to the state plan under title XIX of the federal  
24 social security act.

25 (e) The commissioner of health shall, in consultation with the depart-  
26 ment of corrections and community supervision, the office of temporary  
27 and disability assistance, the office of mental health, the office of

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

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1 addiction services and supports and any other entity or individuals that  
2 the commissioner shall deem necessary, which shall include represen-  
3 tatives from local governments, formerly incarcerated individuals, and  
4 representatives of programs providing services to currently or formerly  
5 incarcerated individuals, develop processes for enrolling all individ-  
6 uals incarcerated in state and local correctional facilities into the  
7 medical assistance program under this subdivision or any other health  
8 insurance program for which they are eligible, and ensure that all indi-  
9 viduals are able to utilize the medical assistance program or other  
10 insurance program to begin receiving medical services immediately upon  
11 their release from incarceration. The commissioner of health shall also  
12 develop processes for assisting all local correctional facilities in  
13 making determinations of presumptive eligibility for medical assistance  
14 under this subdivision, including engaging local governments as neces-  
15 sary for this purpose. The commissioner shall also develop materials and  
16 information for educating individuals hired by local governments regard-  
17 ing eligibility and processes for enrolling incarcerated individuals  
18 into the medical assistance or other insurance programs, and materials  
19 to educate individuals leaving correctional facilities about the medical  
20 assistance program, including what steps need to be taken to ensure  
21 continued enrollment in the program for those deemed presumptively  
22 eligible, and how to begin receiving medical services upon release from  
23 incarceration.

24 § 2. Section 71 of the correction law is amended by adding a new  
25 subdivision 9 to read as follows:

26 9. (a) The commissioner shall take all steps necessary to enroll into  
27 the medical assistance for needy persons program under title eleven of  
28 article five of the social services law any individual committed to the  
29 custody of the department, under subdivision nine of section three  
30 hundred sixty-four-i of the social services law, unless the department  
31 determines that such application is unnecessary because the individual  
32 was enrolled in the medical assistance program at the time of their  
33 incarceration and is expected to remain so at the time of release or  
34 because the individual is ineligible for enrollment in such program or  
35 does not wish to be enrolled. Provided, however, that no such medical  
36 assistance shall be furnished for any care, services, or supplies  
37 provided during such time as the person is incarcerated except as  
38 authorized under subdivision one-a of section three hundred sixty-six of  
39 the social services law. For individuals successfully enrolled under  
40 this subdivision, any documents relating to enrollment shall be kept in  
41 the individual's records until the individual's release from custody, at  
42 which time such documents shall be provided to the individual.

43 (b) Where an individual is found ineligible for the medical assistance  
44 program, the department shall make diligent efforts to determine whether  
45 the individual is eligible for any other medical insurance program and,  
46 if so, assist the individual in applying to the program for which they  
47 are eligible if they wish to enroll in such program.

48 § 3. The correction law is amended by adding a new section 500-q to  
49 read as follows:

50 § 500-q. Medicaid enrollment. 1. Where practicable, for any individual  
51 incarcerated in a local correctional facility, the superintendent of  
52 such facility shall take all steps necessary for enrollment into the  
53 medical assistance for needy persons program under title eleven of arti-  
54 cle five of the social services law, under subdivision nine of section  
55 three hundred sixty-four-i of the social services law, unless the super-  
56 intendent determines that such application is unnecessary because the

1 individual was enrolled in the medical assistance program at the time of  
2 their incarceration and is expected to remain so at the time of release,  
3 or because the individual is ineligible for enrollment in such program  
4 or does not wish to be enrolled. Provided, however, that no such medical  
5 assistance shall be furnished for any care, services, or supplies  
6 provided during such time as the person is incarcerated except as  
7 authorized under subdivision one-a of section three hundred sixty-six of  
8 the social services law. For individuals successfully enrolled under  
9 this subdivision, any documents relating to enrollment shall be kept in  
10 the individual's records until the individual's release from custody, at  
11 which time such documents shall be provided to the individual.

12 2. When a local correctional facility is unable to complete an appli-  
13 cation for medical assistance prior to an individual's release from its  
14 custody, the facility shall assist the individual in the completion of  
15 any requirements necessary for a presumptive eligibility determination  
16 prior to such individual's release unless the individual decides that  
17 they do not wish to enroll in the program. The superintendent shall  
18 assist individuals to submit any preliminary information that may be  
19 necessary to meet presumptive eligibility requirements under subdivision  
20 nine of section three hundred sixty-four-i of the social services law.

21 3. Where an individual is found ineligible for the medical assistance  
22 program, the superintendent shall make diligent efforts to determine  
23 whether the individual is eligible for any other medical insurance  
24 program and, if so, assist the individual in applying to the program for  
25 which they are eligible if they wish to enroll in such program.

26 § 4. Paragraph (b) of subdivision 3 of section 366-a of the social  
27 services law, as amended by chapter 41 of the laws of 1992, is amended  
28 to read as follows:

29 (b) notify the applicant in writing of the decision, and where such  
30 applicant is found eligible, provide a tamper resistant identification  
31 card containing a photo image of the applicant for use in securing  
32 medical assistance under this title provided, however, that an identifi-  
33 cation card need not contain a photo image of a person other than an  
34 adult member of an eligible household or a single-person eligible house-  
35 hold. The department is not required to provide, but shall seek practi-  
36 cal methods for providing, a card with such picture to a person when  
37 such person is homebound or is a resident of a residential health care  
38 facility, or an in-patient psychiatric facility, or is expected to  
39 remain hospitalized for an extended period. Where the applicant is  
40 incarcerated by the department of corrections and community supervision  
41 or in a local correctional facility as defined in section two of the  
42 correction law, the appropriate social services official or the depart-  
43 ment of health or its agent shall provide such identification card to  
44 the department of corrections and community supervision or local correc-  
45 tional facility for keeping with the incarcerated individual's records  
46 until such individual is released. The commissioner shall have the  
47 authority to define categories of recipients who are not required to  
48 have a photo identification card where such card would be limited,  
49 unnecessary or impracticable.

50 § 5. This act shall take effect on the one hundred eightieth day after  
51 it shall have become a law. Effective immediately, the commissioner of  
52 health, the commissioner of corrections and community supervision, and  
53 the superintendents of local correctional facilities shall make regu-  
54 lations and take other actions reasonably necessary to implement the  
55 provisions of this act on its effective date.