STATE OF NEW YORK

4906--B

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

Introduced by Sens. RIVERA, CLEARE, JACKSON, MYRIE, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

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

LBD02422-07-4

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

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

(e) The commissioner shall also develop materials to educate individuals leaving correctional facilities about the medical assistance program, including what steps need to be taken to ensure continued enrollment in the program for those deemed presumptively eligible, and how to begin receiving medical services upon release from incarceration.

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

9. (a) The commissioner shall take all steps necessary to enroll into the medical assistance for needy persons program under title eleven of article five of the social services law any individual committed to the custody of the department, under subdivision nine of section three hundred sixty-four-i of the social services law, unless the department determines that such application is unnecessary because the individual was enrolled in the medical assistance program at the time of their incarceration and is expected to remain so at the time of release or because the individual is ineligible for enrollment in such program or does not wish to be enrolled. The commissioner shall ensure reinstatement and active enrollment into the medical assistance program for individuals who have maintained eligibility pursuant to subdivision one-a of section three hundred sixty-six of the social services law. Provided, however, that no such medical assistance shall be furnished for any care, services, or supplies provided during such time as the person is incarcerated except as authorized under subdivision one-a of section three hundred sixty-six of the social services law or as authorized under any other applicable state or federal law or regulation permitting the provision of such medical assistance. For individuals successfully enrolled under this subdivision, any documents relating to enrollment shall be kept in the individual's records until the individual's release from custody, at which time such documents shall be provided to the individual where practicable.

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

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

§ 500-q. Medicaid enrollment. 1. Where practicable, for any individual incarcerated in a local correctional facility, the superintendent of such facility shall take all steps necessary for enrollment into the medical assistance for needy persons program under title eleven of article five of the social services law, under subdivision nine of section three hundred sixty-four-i of the social services law, unless the superintendent determines that such application is unnecessary because the individual was enrolled in the medical assistance program at the time of their incarceration and is expected to remain so at the time of release, or because the individual is ineligible for enrollment in such program or does not wish to be enrolled. The superintendent shall ensure rein-

statement and active enrollment into the medical assistance program for individuals who have maintained eligibility pursuant to subdivision one-a of section three hundred sixty-six of the social services law. Provided, however, that no such medical assistance shall be furnished for any care, services, or supplies provided during such time as the person is incarcerated except as authorized under subdivision one-a of section three hundred sixty-six of the social services law or as authorized under any other applicable state or federal law or regulation permitting the provision of such medical assistance. For individuals successfully enrolled under this subdivision, any documents relating to enrollment shall be kept in the individual's records until the individual's release from custody, at which time such documents shall be provided to the individual where practicable.

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

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

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

(b) notify the applicant in writing of the decision, and where such applicant is found eligible, provide a tamper resistant identification card containing a photo image of the applicant for use in securing medical assistance under this title provided, however, that an identification card need not contain a photo image of a person other than an adult member of an eligible household or a single-person eligible household. The department is not required to provide, but shall seek practical methods for providing, a card with such picture to a person when such person is homebound or is a resident of a residential health care facility, or an in-patient psychiatric facility, or is expected to remain hospitalized for an extended period. Where the applicant is incarcerated by the department of corrections and community supervision or in a local correctional facility as defined in section two of the correction law, the appropriate social services official or the department of health or its agent shall provide such identification card to the department of corrections and community supervision or local correctional facility for keeping with the incarcerated individual's records until such individual is released. The commissioner shall have the authority to define categories of recipients who are not required to have a photo identification card where such card would be limited, unnecessary or impracticable.

§ 5. Paragraphs (e) and (f) of subdivision 9 of section 500-b of the correction law, as amended by chapter 574 of the laws of 1985, are amended to read as follows:

(e) court orders which have been issued and which relate to staffing, jail capacity or security requirements; [~~and~~]

(f) **the number of any individuals in the custody of each facility (1) enrolled in medical assistance or other medical insurance programs at the time of their incarceration; (2) enrolled into such programs during their incarceration, including whether they were enrolled through social services districts or the New York State of Health benefits exchange portal; and**

(g) any other information requested by the commission and available to the chief administrative officer with respect to this section.

§ 6. Section 45 of the correction law is amended by adding a new subdivision 20 to read as follows:

20. Make an annual report, in consultation with the commissioner of health, to the governor, the temporary president of the senate and the speaker of the assembly containing information obtained from local correctional facilities under paragraph (f) of subdivision nine of section five hundred-b of this chapter regarding enrollment in the medical assistance for needy persons program or other medical insurance program of applicants in the custody of local correctional facilities. The first report under this subdivision will be completed by December thirty-first, two thousand twenty-six, and annually thereafter.

§ 7. 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 500-b of the correction law made by section five of this act shall not affect the repeal of such section and shall be deemed repealed therewith. Effective immediately, the commissioner of health, the commissioner of corrections and community supervision, and the superintendents of local correctional facilities shall make regulations and take other actions reasonably necessary to implement the provisions of this act on its effective date.