

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:

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.

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

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

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

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

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

16 9. (a) The commissioner shall take all steps necessary to enroll into
17 the medical assistance for needy persons program under title eleven of
18 article five of the social services law any individual committed to the
19 custody of the department, under subdivision nine of section three
20 hundred sixty-four-i of the social services law, unless the department
21 determines that such application is unnecessary because the individual
22 was enrolled in the medical assistance program at the time of their
23 incarceration and is expected to remain so at the time of release or
24 because the individual is ineligible for enrollment in such program or
25 does not wish to be enrolled. The commissioner shall ensure rein-
26 statement and active enrollment into the medical assistance program for
27 individuals who have maintained eligibility pursuant to subdivision
28 one-a of section three hundred sixty-six of the social services law.
29 Provided, however, that no such medical assistance shall be furnished
30 for any care, services, or supplies provided during such time as the
31 person is incarcerated except as authorized under subdivision one-a of
32 section three hundred sixty-six of the social services law or as author-
33 ized under any other applicable state or federal law or regulation
34 permitting the provision of such medical assistance. For individuals
35 successfully enrolled under this subdivision, any documents relating to
36 enrollment shall be kept in the individual's records until the individ-
37 ual's release from custody, at which time such documents shall be
38 provided to the individual where practicable.

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

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

46 § 500-q. Medicaid enrollment. 1. Where practicable, for any individual
47 incarcerated in a local correctional facility, the superintendent of
48 such facility shall take all steps necessary for enrollment into the
49 medical assistance for needy persons program under title eleven of arti-
50 cle five of the social services law, under subdivision nine of section
51 three hundred sixty-four-i of the social services law, unless the super-
52 intendent determines that such application is unnecessary because the
53 individual was enrolled in the medical assistance program at the time of
54 their incarceration and is expected to remain so at the time of release,
55 or because the individual is ineligible for enrollment in such program
56 or does not wish to be enrolled. The superintendent shall ensure rein-

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

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

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

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

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

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

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

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

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

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

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

22 § 7. This act shall take effect on the one hundred eightieth day after
23 it shall have become a law; provided, however, that the amendments to
24 section 500-b of the correction law made by section five of this act
25 shall not affect the repeal of such section and shall be deemed repealed
26 therewith. Effective immediately, the commissioner of health, the
27 commissioner of corrections and community supervision, and the super-
28 intendants of local correctional facilities shall make regulations and
29 take other actions reasonably necessary to implement the provisions of
30 this act on its effective date.