# STATE OF NEW YORK

5317

2023-2024 Regular Sessions

# IN ASSEMBLY

March 7, 2023

Introduced by M. of A. SIMON -- Multi-Sponsored by -- M. of A. AUBRY, CONRAD, CUNNINGHAM, DARLING, DINOWITZ, KELLES, REYES -- read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to allowing for certain disability benefits to continue in the event an individual who is receiving such benefits gets married

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

Section 1. Clause (iv) of subparagraph 5 of paragraph (a) of subdivision 1 of section 366 of the social services law, as added by section 1 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(iv) Married couples. In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return under section six thousand thirteen of the internal revenue code or whether one spouse expects to be claimed as a tax dependent by the other spouse. **Provided, however, that for purposes of eligibility determination under subparagraphs five and six of paragraph (c) of this subdivision, a spouse shall not be included in the household of the other spouse if one spouse is receiving benefits as an unmarried individual and as a result of getting married would no longer be eligible to receive such benefits.**

§ 2. Subdivision 12 of section 367-a of the social services law, as amended by section 42 of part B of chapter 57 of the laws of 2015, is amended to read as follows:

12. **(a)** Prior to receiving medical assistance under subparagraphs five and six of paragraph (c) of subdivision one of section three hundred sixty-six of this title, a person whose net available income is at least one hundred fifty percent of the applicable federal income official poverty line, as defined and updated by the United States department of health and human services, must pay a monthly premium, in accordance

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

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with a procedure to be established by the commissioner. The amount of such premium shall be twenty-five dollars for an individual who is otherwise eligible for medical assistance under such subparagraphs, and fifty dollars for a couple, both of whom are otherwise eligible for medical assistance under such subparagraphs. No premium shall be required from a person whose net available income is less than one hundred fifty percent of the applicable federal income official poverty line, as defined and updated by the United States department of health and human services.

**(b) Any unmarried individual who is receiving medical assistance under subparagraphs five and six of paragraph (c) of subdivision one of section three hundred sixty-six of this title at the time he or she becomes a married individual shall continue to pay the monthly premium individual rate, if he or she marries an individual who is otherwise not eligible for medical assistance under such subparagraphs, so long as such individual continues to satisfy the necessary criteria described in such subparagraphs as if he or she were an unmarried individual.**

§ 3. The social services law is amended by adding a new section 366-j to read as follows:

**§ 366-j. Retention of disability benefits for certain married individuals. Notwithstanding any law, rule or regulation to the contrary, any unmarried individual who is entitled to and currently receiving medical assistance benefits under this title based on a disability, who would become ineligible to continue receiving such medical assistance benefits if he or she were married, shall remain eligible for such benefits if he or she chooses to marry so long as such individual continues to satisfy the criteria to be eligible for such benefits as if he or she were an unmarried individual.**

§ 4. This act shall take effect immediately.