STATE OF NEW YORK

8036

2025-2026 Regular Sessions

IN ASSEMBLY

April 22, 2025

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 requiring commissioners of local social services districts to screen, apply for, and use and conserve retirement, survivors and disability insurance, supplemental security income, veterans' and other federal social security benefits on behalf of children placed in foster care

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

Section 1. Subdivision 6 of section 398 of the social services law is amended by adding three new paragraphs (q), (r) and (s) to read as follows:

(q) For all children in foster care, a commissioner shall: (i) Screen for potential eligibility for retirement, survivors and disability insurance, supplemental security income, veterans', or any other federal social security benefits and apply for such benefits on behalf of any child determined to be potentially eligible within sixty days of such child entering foster care.

(ii) Rescreen all children in foster care annually for eligibility for all federal benefits, and within thirty days of receipt of any new information tending to indicate that a child may be eligible for benefits and apply for such benefits on behalf of any such child within sixty days of the determination of such potential eligibility.

(iii) Provide notice to a child, such child's attorney, and such child's parent or parents or legal guardian or guardians of any application, decision, communication, or appeal related to such child's retirement, survivors and disability insurance, supplemental security income, veterans' or any other federal social security benefits.

(iv) For each child the commissioner determines may potentially be eligible for benefits, identify an appropriate representative payee, in cooperation with such child, such child's family, and the attorney for such child, pursuant to the established categories of preferred payees in 20 C.F.R. §§ 404.2021 and 416.621. The commissioner shall seek to be appointed as the representative payee only when there is no other appro-

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

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priate preferred payee available who agrees to use and preserve the benefits in the interest of a child.

(r) For each child for whom a commissioner is appointed to serve as the representative payee, such commissioner shall: (i) Meet regularly with any child who is developmentally able to participate in financial planning and such child's attorney to develop a plan to use and conserve the benefits.

(ii) Use the payments to meet the child's specific immediate unmet needs, as determined in cooperation with such child, such child's caretaker, and such child's attorney. Benefits may be used to meet such child's needs for goods or services not provided through the foster care system and that are not covered by such child's health insurance, including but not limited to, disability aids, school tuition, a car, or tools of the trade for employed youth.

(iii) Monitor the federal and state asset limitations on federal benefits, and deposit any benefits that are subject to such asset limitation and are not used to meet the child's immediate needs in a special needs trust, a pooled special needs trust, an achieving a better life experience (ABLE) account under 26 U.S. Code § 529A, or other trust account or legal mechanism that will allow a child to save in excess of any federal and state asset limitations, in accordance with 20 C.F.R. § 416.645.

(iv) Provide the child and the attorney for such child with an annual accounting of the use or conservation of such child's benefits.

(v) Upon discharge from foster care, transfer all conserved funds to the new representative payee or the child, as appropriate.

(vi) Decline to use a child's benefits to reimburse the local social services district for the costs associated with maintaining any child in the care and custody or the custody and guardianship of the commissioner, including the administrative costs associated with foster care.

(s) For all children in foster care, a commissioner shall: (i) Provide all representative payees and beneficiaries with information about what is legally required under law regarding the use and conservation of federal benefits.

(ii) Assist any child who may qualify to be their own payee in completing an application to become the payee for such child's benefits.

(iii) Assist any child who needs to be re-certified to remain eligible for a benefit after reaching the age of majority to be re-certified far enough in advance of such child reaching the age of majority to avoid a gap in the provision of such benefit.

(iv) For any child who the commissioner anticipates will be discharged from care within three months, and who is not able to serve as such child's own representative payee, identify an appropriate representative payee, in cooperation with such child, such child's family, and the attorney for such child, pursuant to the established categories of preferred payees in 20 C.F.R. §§ 404.2021 and 416.621, and assist the identified individual in processing an application to become the representative payee.

(v) Provide at least five hours of developmentally appropriate financial literacy and skill building annually for all children age fourteen or older, and for all family members who will serve as a representative payee for a child. Such training shall include skill building around proper use and conservation of benefits, including the use of specialized accounts enumerated in subparagraph (iii) of paragraph (r) of this subdivision.

§ 2. This act shall take effect immediately.