§ 332-b. Disability program. 1. (a) Upon application and recertification for public assistance benefits, or whenever a district has reason to believe that a physical or mental impairment may prevent the individual from fully engaging in work activities, the social services district shall inquire whether the individual has any medical condition which would limit the individual's ability to participate in work activities pursuant to this title.

(b) An individual who is eligible to receive comprehensive health services through a special needs plan defined in paragraph (m) or (n) of subdivision one of section three hundred sixty-four-j of this chapter, regardless of whether such a plan is operating in the individual's social services district of residence, shall be considered disabled and unable to engage in work activities or shall be considered work-limited.

2. (a) Under the circumstances set forth in subdivision one of this section, notice shall be provided to the individual of the opportunity to provide, within ten calendar days, any relevant medical documentation, including but not limited to drug prescriptions and reports of the individual's treating health care practitioner, if any; such documentation must contain a specific diagnosis as evidenced by medically appropriate tests or evaluations and must particularize any work related limitations as a result of any such diagnosis.

(b) If, prior to submitting his or her medical documentation, the individual is referred to a health care practitioner certified by the office of disability determinations of the office of temporary and disability assistance or, if applicable, to the contracted agency or institution by or with which such health care practitioner is employed or affiliated for an examination pursuant to subdivision four of this section, such individual shall make best efforts to bring such documentation to the examination, and in no case shall provide such records to the examining health care practitioner certified by the office of disability determinations or, if applicable, to the contracted agency or institution by or with which such health care practitioner is employed or affiliated later than four business days after such examination; provided that the individual may demonstrate good cause as defined in regulations, for failure to provide such records within the specific time periods.

3. The district may in its sole discretion accept such documentation as sufficient evidence that the individual cannot fully engage in work activities and in such case shall modify work assignments consistent with the findings in such medical documents.

4. In instances where the district determines either that the documentation is insufficient to support an exemption from or limitation on work activities or that further medical evaluation is appropriate, the individual shall be referred to a health care practitioner certified by the Office of Disability Determinations of the Department of Social Services for an examination of such individual's medical condition.

The health care practitioner who performs the examination of the individual shall:

(a) review and consider all records or information provided by the individual or his or her treating health care practitioner that are pertinent to the claimed medical condition;

(b) make a specific diagnosis as evidenced by medically appropriate tests or evaluations in determination of the individual's claimed condition;

(c) render to the individual and the social services district, an opinion, particularizing the presence or absence of the alleged condition; and

(d) In the event that he or she identifies a condition, other than the alleged condition, that may interfere with the individual's ability to fully engage in work activities, the practitioner shall report such condition; and

(e) determine whether the individual is:

(i) disabled and unable to engage in work activities pursuant to this title for a stated period of time, in which case the applicant shall be exempt in accordance with paragraph (a) of subdivision one of section three hundred thirty-two of this title;

(ii) for a stated period of time, not disabled, but work limited, and able to engage in work activities pursuant to this title, with stated limitations, or

(iii) neither disabled nor work limited.

4-a. If the practitioner to whom the individual is referred pursuant to subdivision four or paragraph (b) of subdivision two of this section issues an opinion that differs from the applicant's treating health care practitioner, the practitioner shall provide a written determination that specifies why the practitioner disagrees with the applicant's treating health care practitioner's disability determination and present evidence that supports the opinion.

5. When an applicant or recipient has requested or a social services official has directed a determination pursuant to this section, no assignment to work activities may be made until completion of such determination, unless the applicant or recipient agrees to a limited work assignment not inconsistent with the medical condition alleged by such person.

6. When an applicant or recipient receives notification of the examining medical professional's disability determination, he or she shall also be notified of his or her right to request a fair hearing within ten days of such notice. If such applicant timely requests a fair hearing, no assignment to work activities pursuant to this title may be made pending such hearing and determination unless the applicant or recipient agrees to a limited work assignment not inconsistent with the medical condition alleged by such person. Provided, however, that if a social services district has reason to believe that such recipient or applicant does not actually suffer from a work limiting condition, the district shall provide the applicant or recipient with notice of potential sanctions pursuant to subdivision three of section three hundred forty-two of this title, and provided further that recipients will be subject to sanctions pursuant to subdivision three of section three hundred forty-two of this title if the district determines, based on clear medical evidence, that there is no basis for the individual's claim that he or she is unable to fully engage in work activities, and that the individual intentionally misrepresented his or her medical condition.

7. Any applicant or recipient determined to be work limited pursuant

to this section may be assigned to work activities only in accordance with the limitations and protections set forth in paragraph (e) of subdivision five of section three hundred thirty-five-b of this title.