§ 366-a. Applications for assistance; investigations; reconsideration. 1. Any person requesting medical assistance may make application therefor by a written application to the social services official of the county in which the applicant resides or is found or to the department of health or its agent; a phone application; or an on-line application. Notwithstanding any provision of law to the contrary, an in-person interview with the applicant or with the person who made application on his or her behalf shall not be required as part of a determination of initial or continuing eligibility pursuant to this title.

1-a. Every person making application for medical assistance, and every person on whose behalf an application is made, shall, if interested, be given the New York state department of health model health care proxy form by the person taking the application, except where doing so would impede the immediate provision of health care services.

2. (a) Upon receipt of such application, the appropriate social services official, or the department of health or its agent shall verify the eligibility of such applicant. In accordance with the regulations of the department of health, it shall be the responsibility of the applicant to provide information and documentation necessary for the determination of initial and ongoing eligibility for medical assistance. If an applicant or recipient is unable to provide necessary documentation, the social services official or the department of health or its agent shall promptly cause an investigation to be made. Where an investigation is necessary, sources of information other than public records will be consulted only with permission of the applicant or recipient. In the event that such permission is not granted by the applicant or recipient, or necessary documentation cannot be obtained, the social services official or the department of health or its agent may suspend or deny medical assistance until such time as it may be satisfied as to the applicant's or recipient's eligibility therefor.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an applicant or recipient may attest to the amount of his or her accumulated resources, unless such applicant or recipient is seeking medical assistance payment for long term care services. For purposes of this paragraph, long term care services shall mean care,

treatment, maintenance, and services described in paragraph (b) of subdivision 1 of section three hundred sixty-seven-f of this title, with the exception of short term rehabilitation, as defined by the commissioner of health.

(c) Notwithstanding the provisions of paragraph (a) of this subdivision, an applicant or recipient providing written documentation of income eligibility of a child for free or reduced breakfast or lunch through the school meal program certified by the child's school shall meet the evidentiary requirement necessary to document income.

* (d) Notwithstanding the provisions of paragraph (a) of this subdivision, an applicant or recipient whose eligibility under this title is determined without regard to the amount of his or her accumulated resources may attest to the amount of interest income generated by such resources if the amount of such interest income is expected to be immaterial to medical assistance eligibility, as determined by the commissioner of health. In the event there is an inconsistency between the information reported by the applicant or recipient and any information obtained by the commissioner of health from other sources and such inconsistency is material to medical assistance eligibility, the commissioner of health shall request that the applicant or recipient provide adequate documentation to verify his or her interest income.

* NB There are 2 par (d)'s

* (d) The commissioner of health may verify the accuracy of the information provided by the applicant or recipient pursuant to paragraphs (b) and (c) of this subdivision, by matching it against information to which the commissioner of health has access, including under subdivision eight of this section. In the event there is an inconsistency between the information reported by the applicant or recipient and any information obtained by the commissioner of health from other sources and such inconsistency is material to medical assistance eligibility, the commissioner of health shall request that the applicant or recipient provide adequate documentation to verify his or her resources.

* NB There are 2 par (d)'s

3. Upon the receipt of such application, and after the completion of

any investigation that shall be deemed necessary, the appropriate social services official or the department of health or its agent shall

(a) decide whether the applicant is eligible for and should receive medical assistance, the amount thereof and the date on which it shall begin, which shall be the date of the application or, subject to applicable department regulations, such earlier or later date as may be deemed reasonable;

(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. 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.

(c) with respect to a person determined eligible for assistance under this title by the federal social security administration under an agreement between the department and the secretary of health, education and welfare pursuant to section three hundred sixty-three-b of this title issue a medical assistance identification card which shall be valid for periods determined by the local social services official, but not to exceed six months.

4. Every applicant or recipient shall promptly advise the public welfare district of any change in his financial condition or income, number of wage earners and members in the family unit on such forms and in such manner as the department by regulation may prescribe. In the event that any applicant or recipient shall no longer be eligible for medical assistance, he shall promptly return his identification card issued pursuant to the provisions of this article to the public welfare district.

5. (a) All continuing assistance under this title shall be reconsidered from time to time, or as frequently as may be required by the regulations of the department. After such further investigation as the social services official may deem necessary or the department may require, the assistance may be modified or withdrawn if it is found that the recipient's circumstances have changed sufficiently to warrant such action. The assistance may be cancelled for cause, and payment thereof may be suspended for cause for such periods as may be deemed necessary, subject to review by the department as provided in section twenty-two of this chapter.

(b) The commissioner shall develop a simplified statewide recertification form for use in redetermining eligibility under this title. The form may include requests only for such information that is:

(i) reasonably necessary to determine continued eligibility for medical assistance under this title; and

(ii) subject to change since the date of the recipient's initial application.

(c) The regulations required by paragraph (a) of this subdivision shall provide that:

(i) the redetermination of eligibility will be made based on reliable information possessed or available to the department of health or its agent, including information accessed from databases pursuant to subdivision eight of this section;

(ii) if the department of health or its agent is unable to renew eligibility based on available information, the recipient will be requested to supply any such information as is necessary to determine continued eligibility for medical assistance under this title; and

(iii) for persons whose medical assistance eligibility is based on modified adjusted gross income, eligibility must be renewed at least once every twelve months, unless the department of health or its agent receives information about a change in a recipient's circumstances that may affect eligibility.

* (d) An in-person interview with the recipient shall not automatically be required as part of a redetermination of eligibility pursuant to this subdivision unless the department of health determines otherwise.

* NB There are 2 par (d)'s

* (d) The commissioner of health shall verify the accuracy of the information provided by an applicant or recipient by matching it against information to which the commissioner of health has access, including under subdivision eight of this section. In the event the information reported by the recipient is not reasonably compatible with any information obtained by the commissioner of health from other sources and such incompatibility is material to medical assistance eligibility, the commissioner of health shall request that the recipient provide adequate documentation to verify his or her place of residence or income, as applicable. In addition to the documentation of residence and income authorized by this paragraph, the commissioner of health is authorized to periodically require a reasonable sample of recipients to provide documentation of residence and income at recertification. The commissioner of health shall consult with the medicaid inspector general regarding income and residence verification practices and procedures necessary to maintain program integrity and deter fraud and abuse.

* NB There are 2 par (d)'s

6. Notwithstanding any other provisions of this chapter or other law, the investigations, decisions and actions required to be made or taken by a public welfare official pursuant to this section shall be made or taken only by the chief executive officer of the public welfare department of a public welfare district, or by an employee of such welfare department designated by such chief executive officer.

7. Local social services districts shall be authorized, with the approval of the department, to station local social services employees at federal social security offices for the purpose of providing information and referral services relating to medical assistance to eligible persons.

8. (a) Notwithstanding subdivisions two and five of this section, information concerning income and resources of applicants for and recipients of medical assistance may be verified by matching client information with information contained in the wage reporting system established by section one hundred seventy-one-a of the tax law and in

similar systems operating in other geographically contiguous states, by means of an income verification performed pursuant to a memorandum of understanding with the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-b of the tax law, and, to the extent required by federal law, with information contained in the non-wage income file maintained by the United States internal revenue service, in the beneficiary data exchange maintained by the United States department of health and human services, and in the unemployment insurance benefits file. Such matching shall provide for procedures which document significant inconsistent results of matching activities. Nothing in this section shall be construed to prohibit activities the department reasonably believes necessary to conform with federal requirements under section one thousand one hundred thirty-seven of the social security act.

(b) Any verification response by the department of taxation and finance pursuant to paragraph (a) of this subdivision shall not be a public record and shall not be released except pursuant to this paragraph. Information disclosed pursuant to this paragraph shall be limited to information necessary for verification. Information so disclosed shall be kept confidential by the party receiving such information. Such information shall be expunged within a reasonable time to be determined by the commissioner and the department of taxation and finance.

9. (a) Every applicant for or recipient of medical assistance who has dependent children shall be informed in writing at the time of application and at the time of any action affecting his or her receipt of such assistance of the availability of:

(i) medical assistance without cash assistance under this title;

(ii) transitional medical assistance under paragraphs (a), (b) and (c) of subdivision four of section three hundred sixty-six of this title;

(iii) the expanded eligibility provisions for pregnant women and children under paragraphs (m), (n), (o), (p) and (q), (s) and (t) of subdivision four of section three hundred sixty-six of this title;

(iv) medical assistance for aged, blind or disabled persons under subdivision one of section three hundred sixty-six of this title;

(v) family health plus under section three hundred sixty-nine-ee of

this article; and,

(vi) child health plus under title one-A of article twenty-five of the public health law.

(b) Every applicant for or recipient of medical assistance who has no dependent children shall be informed in writing at the time of application and at the time of any action affecting his or her receipt of such assistance of the availability of:

(i) medical assistance without cash assistance under this title;

(ii) the expanded eligibility provisions for pregnant women under paragraphs (m) and (o) of subdivision four of section three hundred sixty-six of this title;

(iii) medical assistance for aged, blind or disabled persons under subdivision one of section three hundred sixty-six of this title; and,

(iv) family health plus under section three hundred sixty-nine-ee of this article.

(10) As a condition for the provision of medical assistance for nursing facility services, the application of an individual for such assistance, including any recertification of eligibility for such assistance, shall disclose a description of any interest the individual or community spouse has in an annuity or similar financial instrument, regardless of whether the annuity is irrevocable or is treated as an asset. Such application or recertification form shall include a statement that the state of New York becomes a remainder beneficiary under such annuity or similar financial instrument by virtue of the provision of such medical assistance.

11. (a) Notwithstanding any inconsistent provision of law, rule or regulation, the commissioner of health is authorized to (i) establish standards and procedures for express lane enrollment and renewal implemented in accordance with section 1902(e)(13) of the federal social security act, including but not limited to reliance on a finding made by an express lane agency, as defined in section 1902(e)(13)(F) and (H) of the federal social security act, to determine whether a child meets one or more of the eligibility criteria for medical assistance; (ii) specify such standards and procedures in the medical assistance state plan established under title XIX of the federal social security act; and (iii) waive any information and documentation requirements set forth in

this section necessary to implement express lane eligibility; provided, however, information and documentation required pursuant to section one hundred twenty-two of this chapter may not be waived.

(b) Subject to federal approval, such standards and procedures shall specify that information and documentation regarding citizenship and immigration status collected by an express lane agency and provided to the commissioner for the purpose of express lane eligibility may be used to satisfy the requirements of section one hundred twenty-two of this chapter.

(c) Such standards and procedures shall also include a process for determining enrollment error rates and implementing corrective actions as required by section 1902(e)(13)(E) of the federal social security act.

(d) For purposes of a medical assistance eligibility determination made in accordance with this subdivision, a child shall be deemed to satisfy the income eligibility criteria for medical assistance if an express lane agency, as defined in section 1902(e)(13)(F) and (H) of the federal social security act and specified in the standards and procedures established pursuant to paragraph (a) of this subdivision, has determined that: the child's family has income that does not exceed a screening threshold amount, as determined by the commissioner of health, equal to a percentage of the federal poverty line (as defined and annually revised by the United States department of health and human services) that exceeds by thirty percentage points the highest income eligibility level applicable to a family of the same size under the medical assistance program.

12. The commissioner shall develop expedited procedures for determining medical assistance eligibility for any medical assistance applicant with an immediate need for personal care or consumer directed personal assistance services pursuant to paragraph (e) of subdivision two of section three hundred sixty-five-a of this title or section three hundred sixty-five-f of this title, respectively. Such procedures shall require that a final eligibility determination be made within seven days of the date of a complete medical assistance application.