



Legislation Text

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By Council Members Palma, Arroyo, James, Gonzalez, Gerson, Koppell, Seabrook, Weprin, Mark-Viverito, Liu, Avella, Barron, Jackson and Mendez

A Local Law to amend the administrative code of the city of New York, in relation to the provision of services to people living with HIV and AIDS.

Be it enacted by the Council as follows:

Section 1. Legislative Intent. The Council finds that an estimated 30,000 New York City residents are infected with HIV but do not know their HIV status. Further, many HIV-infected individuals are low income, homeless, or inadequately housed, including an estimated 490 HIV-infected persons who reside in homeless shelters, many of whom also experience chronic chemical dependence and/or chronic mental illness. The Council also finds that a lack of housing, transportation and nutritional support among persons infected with HIV correlates with poor health care maintenance and corresponding disease progression and often leads to behaviors that increase the risk of transmitting the HIV infection to others.

The Council finds that the expanded availability of certain benefits and services offered by the division of AIDS services, as specified in Sections 21-126 through 21-128 of the administrative code of the city of New York, to the population of individuals who are HIV infected but currently asymptomatic, will encourage participation in treatment that significantly delays disease advancement, and will reduce transmission of HIV to others. The Council further finds that the provision of these benefits and services will decrease the rate of HIV infection in New York City and will improve the quality of life of New York City residents infected with and affected by HIV, and that the costs of providing such benefits and services will be greatly offset by the decrease in Medicaid and other health care expenditures for the treatment of advanced HIV disease and the treatment of averted HIV infections.

§2. Section 21-126 of chapter one of title twenty-one of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

§ 21 - 126 Division of AIDS services.

There shall be a division of AIDS services within the New York city department of social services. Such division shall provide access to benefits and services as defined in section 21-128(a)(1) of this chapter to every person infected with HIV, and to

every person with clinical/symptomatic HIV illness, as determined by the New York state department of health AIDS institute, or with AIDS, as defined by the federal centers for disease control and prevention, who requests assistance, and shall ensure the provision of benefits and services to eligible persons as defined in section 21-128(a)(3) of this chapter infected with HIV, with clinical/symptomatic HIV illness or with AIDS.

§3. Section 21-127 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

§ 21 -127 Case management and allowances.

The commissioner shall direct staff of the division of AIDS services to provide to persons infected with HIV, with clinical/symptomatic HIV illness, as determined by the New York state department of health AIDS institute, or persons with AIDS, as defined by the federal centers for disease control and prevention, who satisfy the income eligibility requirements for medicaid as set forth in section 1396 et. seq. of title 42 of the United States code: (i) intensive case management with an average ratio which shall not exceed one caseworker or supervisor to twenty-five family cases, and with an overall average ratio for all cases which shall not exceed one caseworker or supervisor to thirty-four cases; and (ii) transportation and nutrition allowances. Such transportation and nutrition allowances shall be provided to each such person in an amount not less than the amount per person provided on the effective date of the local law that added this section. Notwithstanding the requirements of this section, in the event of a material reduction in the state of New York's funding allocation, the council and the mayor shall modify such amount of allowances pursuant to section 107 or sections 254, 255 and 256 of the charter of the city of New York.

§4. Paragraphs 1 and 9 of subdivision a of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997 and local law 32 of 2005, respectively, are amended to read as follows:

a. Whenever used in this section, the following terms shall be defined as follows:

1. "Access to benefits and services" shall mean the provision of assistance by staff of the division to a person infected with HIV, with clinical/symptomatic HIV illness or with AIDS at a single location in order to apply for publicly subsidized benefits and services, to establish any and all elements of eligibility including, but not limited to, those elements required to be established for financial benefits, and to maintain such eligibility and shall include, but not be limited to, assistance provided at a field office of the department, at the home of the applicant or recipient, at a hospital where such applicant or recipient is a patient or at another location, in assembling such documentation as may be necessary to establish any and all elements of eligibility and to maintain such eligibility;

9. "Person infected with HIV, with clinical/symptomatic HIV illness or with AIDS" shall mean a person who has received a

conclusive determination that he or she is HIV positive or who has at any time been diagnosed with clinical/symptomatic HIV illness, as determined by the New York state department of health AIDS institute, or a person with AIDS, as defined by the federal centers for disease control and prevention;

§5. Subdivision b of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

b. The commissioner shall direct staff of the division of AIDS services to provide access to benefits and services to every eligible person infected with HIV, with clinical/symptomatic HIV illness or with AIDS who requests assistance, and shall ensure the provision of benefits and services to eligible persons infected with HIV, with clinical/symptomatic HIV illness and with AIDS. Any eligible person shall receive only those benefits and services for which such person qualifies in accordance with the applicable eligibility standards established pursuant to local, state or federal statute, law, regulation or rule. Such benefits and services shall include, but not be limited to: medically appropriate transitional and permanent housing; medicaid, as set forth in section 1396 et. seq. of title 42 of the United States code and other health-related services; home care and home health services as set forth in sections 505.21 and 505.23 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; personal care services as set forth in section 505.14 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; homemaker service as set forth in part 460 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; food stamps, as set forth in section 2011 et. seq. of title 7 of the United States code; transportation and nutrition allowances as required by section 21-127 of this chapter; housing subsidies, including, but not limited to, enhanced rental assistance as set forth in section 397.11 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; financial benefits; and intensive case management as required by section 21-127 of this chapter. The commissioner shall have the authority to provide access to additional benefits and services and ensure the provision of such additional benefits and services whenever deemed appropriate. The requirements with respect to such access to and eligibility for benefits and services shall not be more restrictive than those requirements mandated by state or federal statute, law, regulation or rule. Within thirty days of the effective date of the local law that added this section, the commissioner shall establish criteria pursuant to which an applicant shall be entitled to a home or hospital visit for the purpose of establishing eligibility and applying for benefits and services.

§6. Paragraph 1 of subdivision c of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 50 of 2005, is amended to read as follows:

c. 1. Upon written or oral application to the division for benefits and services or submission of documents required to establish eligibility for benefits and services by a person infected with HIV, with clinical/symptomatic HIV illness or with AIDS, such

person shall immediately be provided with a receipt which shall include, but not be limited to, the date, a description of the information received, and a statement as to whether any application for such benefits and services is complete or incomplete, and if incomplete, such receipt shall identify any information or documents needed in order for the application to be deemed complete.

§7. Subdivision d of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

d. Where a person infected with HIV, with clinical/symptomatic HIV illness or with AIDS who applies for benefits and services, or access to benefits and services, indicates that one or more minor children reside with him or her or are in his or her care or custody, such person shall be given information and program referrals on child care options and custody planning, including the availability of standby guardianship pursuant to section 1726 of the surrogate's court procedure act of the state of New York and referral to legal assistance programs.

§8. Subdivision f of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

f. Eligibility for benefits and services for persons infected with HIV, with clinical/symptomatic HIV illness or with AIDS may not be terminated except where the recipient is determined to no longer satisfy eligibility requirements, is deceased, or upon certification by the commissioner that the recipient cannot be located to verify his or her continued eligibility for benefits and services. In the latter circumstance, the division shall conduct a reasonable good faith search for at least a ninety-day period to locate the recipient, including sending written notice by certified mail, return receipt requested, to the last known address of such recipient, requiring the recipient to contact the division within ten days.

§9. Subdivision g of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

g. Not later than sixty days from the effective date of the local law that added this section, the commissioner shall prepare a draft policy and procedures manual for division staff. Such policy and procedures manual shall include, but not be limited to, strict guidelines on maintaining the confidentiality of the identity of and information relating to all applicants and recipients, instructional materials relating to the medical and psychological needs of persons infected with HIV, with clinical/symptomatic HIV illness or with AIDS, application procedures, eligibility standards, mandated time periods for the provision of each benefit and service available to applicants and recipients and advocacy resources available to persons infected with HIV, with clinical/symptomatic HIV illness or with AIDS. Such list of advocacy resources shall be updated semi-annually. Within thirty days following the preparation of such draft policy and procedures manual and prior to the preparation of a final policy and procedures manual, the commissioner shall distribute

such draft policy and procedure manual to all social service agencies and organizations that contract with the department to provide HIV-related services and to all others whom the commissioner deems appropriate, and hold no fewer than one noticed public hearing at a site accessible to the disabled, at which advocates, service providers, persons who have tested positive for HIV, and any other member of the public shall be given an opportunity to comment on such draft policy and procedures manual. The commissioner shall prepare a final policy and procedures manual within thirty days after the conclusion of such hearing and shall thereafter review and where appropriate, revise such policy and procedures manual on an annual basis. The commissioner shall provide for semi-annual training, using such policy and procedures manual, for all division staff.

§10. Subdivision h of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

h. Not later than sixty days from the effective date of the local law that added this section, the commissioner shall publish a proposed rule establishing a bill of rights for persons infected with HIV, with clinical/symptomatic HIV illness or with AIDS. Such draft bill of rights shall include, but not be limited to, an explanation of the benefits and services for which persons infected with HIV, with clinical/symptomatic HIV illness or with AIDS may be eligible; timetables within which such benefits and services shall be provided to eligible persons; an explanation of an applicant's and recipient's right to examine his or her file and the procedure for disputing any information contained therein; an explanation of an applicant's and recipient's right to a home or hospital visit for the purpose of applying for or maintaining benefits or services; an explanation of the process for requesting a division conference or New York state fair hearing; and a summary of the rights and remedies for the redress of discrimination as provided for in title eight of this code. Within sixty days following the publication of such proposed rule, and prior to the publication of a final rule, the commissioner shall hold no fewer than one noticed public hearing at a site accessible to the disabled at which advocates, service providers, persons who have tested positive for HIV, and any other member of the public shall be given an opportunity to comment on such draft bill of rights. The commissioner shall publish a final rule within thirty days after the conclusion of such hearing and shall thereafter review, and where appropriate, revise such bill of rights on an annual basis. Such bill of rights shall be conspicuously posted in all division offices that are open to the public and shall be available for distribution to the public in English, Spanish and any other languages that the commissioner deems appropriate.

§11. Subdivision i of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

i. Not later than ninety days from the effective date of the local law that added this section, the commissioner shall establish a policy or procedure for overseeing and monitoring the delivery of services required

pursuant to this section to persons infected with HIV, with clinical/symptomatic HIV illness or with AIDS which shall include, but not be limited to, quality assurance measurements. The commissioner shall submit such policy or procedure to the mayor and the council in writing within ten days from the date such policy or procedure is established.

§12. Paragraph 1 of subdivision j of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 32 of 2005, is amended to read as follows:

j. The commissioner shall submit written, quarterly reports to the mayor and the council that shall, at a minimum, provide the following information:

1. The number of persons infected with HIV, with clinical/symptomatic HIV illness or with AIDS who requested benefits or services set forth in subdivision b of this section or any other benefits or services provided by the division.

§13. Subdivision k of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 49 of 1997, is amended to read as follows:

k. There shall be an advisory board to advise the commissioner on the provision of benefits and services and access to benefits and services to persons infected with HIV, with clinical/symptomatic HIV illness or with AIDS as required by this section. This advisory board shall consist of eleven members to be appointed for two-year terms as follows: five members, at least three of whom shall be eligible for benefits and services pursuant to this section, who shall be appointed by the speaker of the council and six members, including the chairperson of the advisory board, at least three of whom shall be eligible for benefits and services pursuant to this section, who shall be appointed by the mayor. The advisory board shall meet at least quarterly and members shall serve without compensation. Such advisory board may formulate and recommend to the commissioner a policy or procedure for overseeing and monitoring the delivery of services to persons with clinical/symptomatic HIV illness or with AIDS which may include quality assurance measurements. Such advisory board shall submit such recommended policy or procedure to the mayor and the council upon submission to the commissioner.

§14. Subdivision l of section 21-128 of chapter one of title 21 of the administrative code of the city of New York, as last amended by local law 51 of 2005, is amended by adding a new paragraph 2 to read as follows:

(2) The provisions of paragraph 1 of this subdivision shall also apply to the tracking of information of clients infected with HIV.

§15. This local law shall take effect immediately upon its enactment into law.

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