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Int. No. 1194-A

By Council Members Schulman, Louis, Narcisse, Banks, Hanks, Gutiérrez, Rivera, Joseph and Mealy

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. Section 21-126 of the administrative code of the city of New York, as added by local law number 49 for the year 1997, is amended to read as follows:

§ 21-126 [Division of AIDS services.] Provision of services to people living with HIV. There shall be a division [of AIDS services] within the New York city department of social services[. Such division shall] to provide access to benefits and services, as defined in section 21-128(a)(1) [of this chapter], 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,] with HIV who requests assistance, and such division shall ensure the provision of benefits and services to eligible persons, as defined in section [21-128(a)(3) of this chapter with clinical/symptomatic HIV illness or with AIDS] 21-128(a)(4), with HIV.

§ 2. Section 21-127 of the administrative code of the city of New York, as added by local law number 49 for the year 1997, is amended to read as follows:

§ 21-127 Case management and allowances. The commissioner shall direct staff of the division [of AIDS services] established pursuant to section 21-126 to provide to persons 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,] HIV 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] 1 caseworker or supervisor to [twenty-five] 25 family cases, and with an overall average ratio for all cases which shall not exceed [one] 1 caseworker or supervisor to [thirty-four] 34 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.

§ 3. Section 21-128 of the administrative code of the city of New York, as added by local law number 49 for the year 1997, subdivision a as amended by local law number 32 for the year 2005 and paragraph 1 of such subdivision as added by local law number 49 for the year 1997, subdivision c as amended by local law number 50 for the year 2005, subdivision j as amended by local law number 32 for the year 2005, and subdivision l as added by local law number 51 for the year 2005, is amended to read as follows:

§ 21-128 Benefits and services to be provided to persons with [clinical/symptomatic HIV illness or with AIDS] HIV. a. [Whenever] Definitions. As used in this section, the following terms [shall be defined as follows] have the following meanings:

1. ["Access to benefits and services" shall mean] Access to benefits and services. The term "access to benefits and services" means the provision of assistance by staff of the division to a person with [clinical/symptomatic HIV illness or with AIDS] HIV 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[;].

2. ["Completed application"] Completed application. The term "completed application" means:

(a) the date on the client's receipt indicating that the application is complete pursuant to paragraph [2] 1 of subdivision c of this section; or

(b) where no receipt is provided, the date on which the client has provided the division with all of the information and documentation necessary to complete the client's application for a benefit or service; or

(c) in the case of a separate determination of eligibility for medicaid or food stamps, the date on which a person's application for public assistance was denied or a recipient's public assistance case was closed.

3. ["Division" shall mean] Division. The term "division" means the division [of AIDS services as] established pursuant to [§] section 21-126 <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCadmin/0-0-0-216721> [of this chapter], or its functional or legal equivalent[;].

4. ["Eligible person" shall mean] Eligible person. The term "eligible person" means a person who satisfies the eligibility requirements established pursuant to applicable local, state, or federal statute, law, regulation, or rule for the benefits and services set forth in subdivision b of this section or for any other benefits and services deemed appropriate by the commissioner[;].

5. ["Immediate needs grant"] Immediate needs grant. The term "immediate needs grant" means a pre-investigation grant provided to a person who appears to be in immediate need[;].

6. ["Legally mandated time frame"] Legally mandated time frame. The term "legally mandated time frame" means the time period within which a benefit or service must be provided to an eligible applicant under federal, state, or local law, rule, regulation or by order of a court of competent jurisdiction[;].

7. ["Medically appropriate transitional and permanent housing" shall mean] Medically appropriate transitional and permanent housing. The term "medically appropriate transitional and permanent housing" means housing which is suitable for persons with severely compromised immune systems, and if necessary, accessible to persons with disabilities as defined in section 8-102 <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCadmin/0-0-0-207412> [of this code]. Such housing shall include, but not be limited to, individual refrigerated food and medicine storage and adequate bathroom facilities which shall, at a minimum, provide an effective locking mechanism and any other such measures as are necessary to ensure privacy[;].

8. ["Non-emergency housing" shall mean] Non-emergency housing. The term "non-emergency housing" means housing provided or administered by the division, including but not limited to programs referred to as scatter site I housing, scatter site II housing, and congregate housing[;].

9. ["Person with clinical/symptomatic HIV illness or with AIDS" shall mean] Person with HIV. The term "person with HIV" means a person 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;] been diagnosed by a licensed medical professional as infected with the human immunodeficiency virus.

10. ["Processing time for applications for benefits or services"] Processing time for applications for benefits or services. The term "processing time for applications for benefits or services" means the length of time required to process an application for benefits or services administered by the division, which shall not be represented in terms of averages, but shall be reported in terms of categories covering various periods of time as follows:

(a) for non-emergency applications for food stamps, medicaid, and public assistance benefits: 0 to 15 days; 16 to 30 days; 31 to 45 days; 46 to 65 days; 66 to 75 days; and more than 76 days;

(b) for immediate needs grants and expedited food stamps: same day; 1 to 5 days; 6 to 10 days; 11 to 17 days; and more than 18 days;

(c) for all other non-emergency benefits and services, including but not limited to exceptions to policy for enhanced rental assistance and additional allowances: 0 to 15 days; 16 to 30 days; 31 to 45 days; 46 to 75 days; and more than 76 days;

(d) for all other benefits and services provided on an emergency basis, including benefits and services currently referred to as "emergency CBCFAs":

[(i)] (1) in reporting the time frame from completed application to approval or denial: 0 to 2 days; 3-5 days; 6-10 days; 11-15 days; and more than 16 days; and

[(ii)] (2) in reporting the time frame from approval to provision of the benefit: 0-1 days; 2-5 days; 6-10 days; 11-15 days; and more than 16 days; and

(e) for applications for non-emergency housing: 0 to 15 days; 16 to 30 days; 31 to 45 days; 46 to 75 days; 76 to 100 days; and more than 100 days.

11. ["Separate determination of eligibility for medicaid or food stamps"] Separate determination of eligibility for medicaid or food stamps. The term "separate determination of eligibility for medicaid or food stamps" means a determination regarding eligibility for medicaid or food stamps made either when a person's application for public assistance has been denied or when a recipient's public assistance case is closed.

b. The commissioner shall direct staff of the division [of AIDS services] to provide access to benefits and services to every eligible person with [clinical/symptomatic HIV illness or with AIDS] HIV who requests assistance, and shall ensure the provision of benefits and services to eligible persons with [clinical/symptomatic HIV illness and with AIDS] HIV. 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] paragraph k of 352.3 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] 30 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.

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 with [clinical/symptomatic HIV illness or with AIDS] HIV, 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.

2. Processing of applications for medically appropriate non-emergency housing. (a) Unless the client shall decline, the division shall provide the following to every homeless client of the division on the day the client is determined to be eligible for services as a client of the division:

[(i)] (1) an application for medically appropriate non-emergency housing; and

[(ii)] (2) information regarding financial assistance available to assist eligible clients in obtaining housing and regarding available housing options.

(b) The division shall ensure that every client receives any assistance needed to complete the application for medically appropriate non-emergency housing within 10 business days of the day on which the client is determined to be eligible for services as a client of the division.

(c) Within 90 days of initial placement in emergency housing or of completion of the physical documentation required from the client for the application for non-emergency housing, whichever is sooner, the division must provide every client who is eligible for non-emergency housing a referral to an available medically appropriate non-emergency housing option, which takes into consideration the medical, educational and familial needs and social circumstances of the client, to the extent such option is available.

(d) For any client who remains homeless or in emergency housing for over 45 days after the requirements of subparagraph (c) of this paragraph or the requirements of this subparagraph have been met, the division shall provide a referral to another medically appropriate non-emergency housing option, to the extent such option is available.

3. Where no statute, law, regulation, or rule provides a time period within which a benefit or service shall be provided to an eligible person who requests such a benefit or service, such benefit or service shall be provided no later than [twenty] 20 business days following submission of all information or documentation required to determine eligibility.

d. Where a person with [clinical/symptomatic HIV illness or with AIDS] HIV who applies for benefits and services, or access to benefits and services, indicates that [one] 1 or more minor children reside with [him or her] such person or are in [his or her] such person's 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.

e. Recertification of eligibility, as required by any state or federal law, statute, regulation, or rule shall be conducted no more frequently than mandated by such statute, law, regulation, or rule.

f. Eligibility for benefits and services for persons with [clinical/symptomatic HIV illness or with AIDS] HIV 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] such recipient's 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] 90 days to locate the recipient, including sending written notice by certified mail, return receipt requested, to the last known address of such recipient, requiring [the] such recipient to contact the division within [ten] 10 days.

g. [Not] No later than [sixty] 60 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 with [clinical/symptomatic HIV illness or with AIDS] HIV, 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 with [clinical/symptomatic HIV illness or with AIDS] HIV. Such list of advocacy resources shall be updated semi-annually. Within [thirty] 30 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] 1 noticed public hearing at a site accessible to [the disabled] individuals with disabilities, 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] 30 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.

h. [Not] No later than [sixty] 60 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 with [clinical/symptomatic HIV illness or with AIDS] HIV. Such draft bill of rights shall include, but not be limited to, an explanation of the benefits and services for which persons with [clinical/symptomatic HIV illness or with AIDS] HIV 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] such applicant’s and recipient’s 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] 8 . Within [sixty] 60 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] 1 noticed public hearing at a site accessible to [the disabled] individuals with disabilities 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] 30 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.

i. [Not] No later than [ninety] 90 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 with [clinical/symptomatic HIV illness or with AIDS] HIV 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] 10 days from the date such policy or procedure is established.

j. The commissioner shall submit written, quarterly reports to the mayor and the speaker of the council [that]no later than 60 days after the last day of the time period covered by the report and shall, at a minimum, provide the following information:

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

2. The processing time for applications for benefits or services, disaggregated by field office, type of benefit and individual versus family case, specified as follows:

[(i)] (a) for non-emergency applications for food stamps, medicaid, and public assistance benefits, including separate determinations of eligibility for medicaid or food stamps:

(1) the number of days from completed application to the provision of the benefit or service; and

(2) in cases of denial, the number of days from the completed application to denial of the application[.];

[(ii)] (b) for immediate needs grants and expedited food stamps:

(1) the number of days from the request date to the date of issuance of a grant; and

(2) in cases of denial, the number of days from the request date to the date of denial[.];

[(iii)] (c) for all other non-emergency benefits or services provided by or through any division center or office, including but not limited to exceptions to policy for enhanced rental assistance and additional allowances:

[(1) (a)] (1)(A) the number of days from initial request to completed application; and

[(b)] (B) the number of days from completed application to the provision of the benefit or service; and

(2) in cases of denial, the number of days from completed application to denial of the application[.];

[(iv)] (d) for all other benefits or services provided on an emergency basis, including but not limited to exceptions to policy for enhanced rental assistance and additional allowances:

(1) the number of days from initial request to completed application;

(2) the number of days from completed application to approval or denial of the application; and

(3) the number of days from approval of an application to the provision of the benefit or service[.];

[(v)] (e) for applications for non-emergency housing:

(1) the number of days from a request for housing to completed application;

(2) the number of days from completed application to approval or denial of the application;

(3) the number of days from approval of an application to the date on which the client takes occupancy of non-emergency housing; and

(4) with respect to applications that are approved, the number of days from completed application to the date on which the client takes occupancy of non-emergency housing[.];

3. The number of division staff, by job title, whose duties include providing benefits and services or access to benefits and services pursuant to this section, disaggregated by field office and family versus overall cases; the number of cases at each field office, disaggregated by family versus overall cases; and the ratio of

case managers and supervisors to clients at each field office, disaggregated by family versus overall cases[.];

4. The number of cases closed, disaggregated by the reasons for closure[.];

5. The number of closed cases that were re-opened, the length of time required to re-open such closed cases, starting from the date on which the case was closed, and the total number of cases closed in error and the length of time required to reopen such closed cases, starting from the date on which the case was closed, disaggregated by field office and reported in the following categories: 0 to 15 days; 16 to 30 days; 31 to 45 days; 46 to 60 days; 61 to 75 days; 76 to 90 days; and more than 91 days[.];

6. The number of administrative fair hearings requested, the number of fair hearing decisions in favor of applicants and recipients and the length of time for compliance with such fair hearing decisions, disaggregated by decisions where there was compliance within 30 days of the decision date and decisions where there was compliance after 30 days of the decision date;

7. The number of proceedings initiated pursuant to article 78 of the civil practice law and rules challenging fair hearing decisions, and the number of article 78 decisions rendered in favor of applicants or recipients;

8. The number of clients in emergency housing and the average length of stay, disaggregated on a monthly basis;

9. The number of facilities used to provide emergency shelter for clients and the number of units per facility, disaggregated by the type of facility;

10. The number of facilities used to provide emergency shelter placed on non-referral status for each month in the reporting period and the number of facilities placed on non-referral status that remedied the situation that led to non-referral status[.];

11. The number of facilities used to provide emergency shelter placed on discontinuance of use status and the number of facilities placed on discontinuance of use status that remedied the situation that led to discontinuance of use status[.];

12. The number of requests for emergency housing assistance, the number of persons referred to the department of homeless services[;], the number of persons referred to commercial single room occupancy hotels, the average length of stay in commercial single room occupancy hotels, the number of applications for non-emergency housing each month[;], and the number of persons placed in non-emergency housing each month[.]; and

13. The number of inspections of emergency housing conducted by the division.

[14. Quarterly reports required by this subdivision shall be delivered no later than 60 days after the last day of the time period covered by the report. The first quarterly report required by this subdivision shall be delivered no later than August 31, 2005.]

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 [with clinical/symptomatic HIV illness or with AIDS] HIV as required by this section. This advisory board shall consist of [eleven] 11 members to be appointed for [two-year] 2-year terms as follows: [five] 5 members, at least [three] 3 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] 6 members, including the chairperson of the advisory board, at least [three] 3 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] HIV 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.

l. Centralized housing referral and placement system. [(1) Development and maintenance of referral and placement system.] Within [one] 1 year of the effective date of the local law that added this subdivision, the commissioner shall establish and maintain a housing referral and placement system to track referrals to and

placements in emergency and non-emergency housing and to track the conditions at emergency facilities at which clients with [clinical/symptomatic HIV illness or with AIDS] HIV reside. At a minimum, the housing referral and placement system required by this subdivision shall have:

[(i)] 1. a mechanism to track vacancies at non-emergency housing facilities and to match eligible applicants to appropriate vacancies;

[(ii)] 2. a mechanism to track conditions at emergency housing facilities; and

[(iii)] 3. a mechanism to track the outcome of referrals and length of stay at emergency housing facilities and non-emergency housing facilities.

§ 4. This local law takes effect 90 days after it becomes law.

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