



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5113

Introduced 1/29/2010, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-2

from Ch. 23, par. 5-2

Amends the Medical Assistance Article of the Illinois Public Aid Code. Prohibits the Department of Healthcare and Family Services, the Department of Human Services, the Department on Aging, or any other State agency from utilizing a third-party managed care organization, a health maintenance organization, or any similar provider to administer or pay for medical assistance benefits made available under the Social Security Act or basic maintenance benefits made available by federal waiver to those persons eligible under specified provisions of the Code, unless the third party has an existing contractual relationship with the State to provide benefits to those eligible persons on or before December 31, 2009. Effective immediately.

LRB096 18588 KTG 33970 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 5-2 as follows:

6 (305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

7 Sec. 5-2. Classes of Persons Eligible. Medical assistance
8 under this Article shall be available to any of the following
9 classes of persons in respect to whom a plan for coverage has
10 been submitted to the Governor by the Illinois Department and
11 approved by him:

12 1. Recipients of basic maintenance grants under
13 Articles III and IV.

14 2. Persons otherwise eligible for basic maintenance
15 under Articles III and IV, excluding any eligibility
16 requirements that are inconsistent with any federal law or
17 federal regulation, as interpreted by the U.S. Department
18 of Health and Human Services, but who fail to qualify
19 thereunder on the basis of need or who qualify but are not
20 receiving basic maintenance under Article IV, and who have
21 insufficient income and resources to meet the costs of
22 necessary medical care, including but not limited to the
23 following:

1 (a) All persons otherwise eligible for basic
2 maintenance under Article III but who fail to qualify
3 under that Article on the basis of need and who meet
4 either of the following requirements:

5 (i) their income, as determined by the
6 Illinois Department in accordance with any federal
7 requirements, is equal to or less than 70% in
8 fiscal year 2001, equal to or less than 85% in
9 fiscal year 2002 and until a date to be determined
10 by the Department by rule, and equal to or less
11 than 100% beginning on the date determined by the
12 Department by rule, of the nonfarm income official
13 poverty line, as defined by the federal Office of
14 Management and Budget and revised annually in
15 accordance with Section 673(2) of the Omnibus
16 Budget Reconciliation Act of 1981, applicable to
17 families of the same size; or

18 (ii) their income, after the deduction of
19 costs incurred for medical care and for other types
20 of remedial care, is equal to or less than 70% in
21 fiscal year 2001, equal to or less than 85% in
22 fiscal year 2002 and until a date to be determined
23 by the Department by rule, and equal to or less
24 than 100% beginning on the date determined by the
25 Department by rule, of the nonfarm income official
26 poverty line, as defined in item (i) of this

1 subparagraph (a).

2 At no time shall the Department of Healthcare and
3 Family Services, the Department of Human Services, the
4 Department on Aging, or any other State agency utilize
5 a third-party managed care organization, a health
6 maintenance organization, or any similar provider to
7 administer or pay for any and all benefits made
8 available under Title XIX of the Social Security Act or
9 any and all benefits made available by federal waiver
10 to those persons eligible under Article III, unless the
11 third party has an existing contractual relationship
12 with the State to provide benefits to those persons
13 eligible under Article III on or before December 31,
14 2009. This provision does not apply to programs
15 administered by the Department on Aging if federal law
16 or regulations require that any willing and qualified
17 providers be granted access to the program.

18 (b) All persons who, excluding any eligibility
19 requirements that are inconsistent with any federal
20 law or federal regulation, as interpreted by the U.S.
21 Department of Health and Human Services, would be
22 determined eligible for such basic maintenance under
23 Article IV by disregarding the maximum earned income
24 permitted by federal law.

25 3. Persons who would otherwise qualify for Aid to the
26 Medically Indigent under Article VII.

1 4. Persons not eligible under any of the preceding
2 paragraphs who fall sick, are injured, or die, not having
3 sufficient money, property or other resources to meet the
4 costs of necessary medical care or funeral and burial
5 expenses.

6 5.(a) Women during pregnancy, after the fact of
7 pregnancy has been determined by medical diagnosis, and
8 during the 60-day period beginning on the last day of the
9 pregnancy, together with their infants and children born
10 after September 30, 1983, whose income and resources are
11 insufficient to meet the costs of necessary medical care to
12 the maximum extent possible under Title XIX of the Federal
13 Social Security Act.

14 (b) The Illinois Department and the Governor shall
15 provide a plan for coverage of the persons eligible under
16 paragraph 5(a) by April 1, 1990. Such plan shall provide
17 ambulatory prenatal care to pregnant women during a
18 presumptive eligibility period and establish an income
19 eligibility standard that is equal to 133% of the nonfarm
20 income official poverty line, as defined by the federal
21 Office of Management and Budget and revised annually in
22 accordance with Section 673(2) of the Omnibus Budget
23 Reconciliation Act of 1981, applicable to families of the
24 same size, provided that costs incurred for medical care
25 are not taken into account in determining such income
26 eligibility.

1 (c) The Illinois Department may conduct a
2 demonstration in at least one county that will provide
3 medical assistance to pregnant women, together with their
4 infants and children up to one year of age, where the
5 income eligibility standard is set up to 185% of the
6 nonfarm income official poverty line, as defined by the
7 federal Office of Management and Budget. The Illinois
8 Department shall seek and obtain necessary authorization
9 provided under federal law to implement such a
10 demonstration. Such demonstration may establish resource
11 standards that are not more restrictive than those
12 established under Article IV of this Code.

13 6. Persons under the age of 18 who fail to qualify as
14 dependent under Article IV and who have insufficient income
15 and resources to meet the costs of necessary medical care
16 to the maximum extent permitted under Title XIX of the
17 Federal Social Security Act.

18 7. Persons who are under 21 years of age and would
19 qualify as disabled as defined under the Federal
20 Supplemental Security Income Program, provided medical
21 service for such persons would be eligible for Federal
22 Financial Participation, and provided the Illinois
23 Department determines that:

24 (a) the person requires a level of care provided by
25 a hospital, skilled nursing facility, or intermediate
26 care facility, as determined by a physician licensed to

1 practice medicine in all its branches;

2 (b) it is appropriate to provide such care outside
3 of an institution, as determined by a physician
4 licensed to practice medicine in all its branches;

5 (c) the estimated amount which would be expended
6 for care outside the institution is not greater than
7 the estimated amount which would be expended in an
8 institution.

9 8. Persons who become ineligible for basic maintenance
10 assistance under Article IV of this Code in programs
11 administered by the Illinois Department due to employment
12 earnings and persons in assistance units comprised of
13 adults and children who become ineligible for basic
14 maintenance assistance under Article VI of this Code due to
15 employment earnings. The plan for coverage for this class
16 of persons shall:

17 (a) extend the medical assistance coverage for up
18 to 12 months following termination of basic
19 maintenance assistance; and

20 (b) offer persons who have initially received 6
21 months of the coverage provided in paragraph (a) above,
22 the option of receiving an additional 6 months of
23 coverage, subject to the following:

24 (i) such coverage shall be pursuant to
25 provisions of the federal Social Security Act;

26 (ii) such coverage shall include all services

1 covered while the person was eligible for basic
2 maintenance assistance;

3 (iii) no premium shall be charged for such
4 coverage; and

5 (iv) such coverage shall be suspended in the
6 event of a person's failure without good cause to
7 file in a timely fashion reports required for this
8 coverage under the Social Security Act and
9 coverage shall be reinstated upon the filing of
10 such reports if the person remains otherwise
11 eligible.

12 9. Persons with acquired immunodeficiency syndrome
13 (AIDS) or with AIDS-related conditions with respect to whom
14 there has been a determination that but for home or
15 community-based services such individuals would require
16 the level of care provided in an inpatient hospital,
17 skilled nursing facility or intermediate care facility the
18 cost of which is reimbursed under this Article. Assistance
19 shall be provided to such persons to the maximum extent
20 permitted under Title XIX of the Federal Social Security
21 Act.

22 10. Participants in the long-term care insurance
23 partnership program established under the Illinois
24 Long-Term Care Partnership Program Act who meet the
25 qualifications for protection of resources described in
26 Section 15 of that Act.

1 11. Persons with disabilities who are employed and
2 eligible for Medicaid, pursuant to Section
3 1902(a)(10)(A)(ii)(xv) of the Social Security Act, and,
4 subject to federal approval, persons with a medically
5 improved disability who are employed and eligible for
6 Medicaid pursuant to Section 1902(a)(10)(A)(ii)(xvi) of
7 the Social Security Act, as provided by the Illinois
8 Department by rule. In establishing eligibility standards
9 under this paragraph 11, the Department shall, subject to
10 federal approval:

11 (a) set the income eligibility standard at not
12 lower than 350% of the federal poverty level;

13 (b) exempt retirement accounts that the person
14 cannot access without penalty before the age of 59 1/2,
15 and medical savings accounts established pursuant to
16 26 U.S.C. 220;

17 (c) allow non-exempt assets up to \$25,000 as to
18 those assets accumulated during periods of eligibility
19 under this paragraph 11; and

20 (d) continue to apply subparagraphs (b) and (c) in
21 determining the eligibility of the person under this
22 Article even if the person loses eligibility under this
23 paragraph 11.

24 12. Subject to federal approval, persons who are
25 eligible for medical assistance coverage under applicable
26 provisions of the federal Social Security Act and the

1 federal Breast and Cervical Cancer Prevention and
2 Treatment Act of 2000. Those eligible persons are defined
3 to include, but not be limited to, the following persons:

4 (1) persons who have been screened for breast or
5 cervical cancer under the U.S. Centers for Disease
6 Control and Prevention Breast and Cervical Cancer
7 Program established under Title XV of the federal
8 Public Health Services Act in accordance with the
9 requirements of Section 1504 of that Act as
10 administered by the Illinois Department of Public
11 Health; and

12 (2) persons whose screenings under the above
13 program were funded in whole or in part by funds
14 appropriated to the Illinois Department of Public
15 Health for breast or cervical cancer screening.

16 "Medical assistance" under this paragraph 12 shall be
17 identical to the benefits provided under the State's
18 approved plan under Title XIX of the Social Security Act.
19 The Department must request federal approval of the
20 coverage under this paragraph 12 within 30 days after the
21 effective date of this amendatory Act of the 92nd General
22 Assembly.

23 13. Subject to appropriation and to federal approval,
24 persons living with HIV/AIDS who are not otherwise eligible
25 under this Article and who qualify for services covered
26 under Section 5-5.04 as provided by the Illinois Department

1 by rule.

2 14. Subject to the availability of funds for this
3 purpose, the Department may provide coverage under this
4 Article to persons who reside in Illinois who are not
5 eligible under any of the preceding paragraphs and who meet
6 the income guidelines of paragraph 2(a) of this Section and
7 (i) have an application for asylum pending before the
8 federal Department of Homeland Security or on appeal before
9 a court of competent jurisdiction and are represented
10 either by counsel or by an advocate accredited by the
11 federal Department of Homeland Security and employed by a
12 not-for-profit organization in regard to that application
13 or appeal, or (ii) are receiving services through a
14 federally funded torture treatment center. Medical
15 coverage under this paragraph 14 may be provided for up to
16 24 continuous months from the initial eligibility date so
17 long as an individual continues to satisfy the criteria of
18 this paragraph 14. If an individual has an appeal pending
19 regarding an application for asylum before the Department
20 of Homeland Security, eligibility under this paragraph 14
21 may be extended until a final decision is rendered on the
22 appeal. The Department may adopt rules governing the
23 implementation of this paragraph 14.

24 15. Family Care Eligibility.

25 (a) A caretaker relative who is 19 years of age or
26 older when countable income is at or below 185% of the

1 Federal Poverty Level Guidelines, as published
2 annually in the Federal Register, for the appropriate
3 family size. A person may not spend down to become
4 eligible under this paragraph 15.

5 (b) Eligibility shall be reviewed annually.

6 (c) Caretaker relatives enrolled under this
7 paragraph 15 in families with countable income above
8 150% and at or below 185% of the Federal Poverty Level
9 Guidelines shall be counted as family members and pay
10 premiums as established under the Children's Health
11 Insurance Program Act.

12 (d) Premiums shall be billed by and payable to the
13 Department or its authorized agent, on a monthly basis.

14 (e) The premium due date is the last day of the
15 month preceding the month of coverage.

16 (f) Individuals shall have a grace period through
17 the month of coverage to pay the premium.

18 (g) Failure to pay the full monthly premium by the
19 last day of the grace period shall result in
20 termination of coverage.

21 (h) Partial premium payments shall not be
22 refunded.

23 (i) Following termination of an individual's
24 coverage under this paragraph 15, the following action
25 is required before the individual can be re-enrolled:

26 (1) A new application must be completed and the

1 individual must be determined otherwise eligible.

2 (2) There must be full payment of premiums due
3 under this Code, the Children's Health Insurance
4 Program Act, the Covering ALL KIDS Health
5 Insurance Act, or any other healthcare program
6 administered by the Department for periods in
7 which a premium was owed and not paid for the
8 individual.

9 (3) The first month's premium must be paid if
10 there was an unpaid premium on the date the
11 individual's previous coverage was canceled.

12 The Department is authorized to implement the
13 provisions of this amendatory Act of the 95th General
14 Assembly by adopting the medical assistance rules in effect
15 as of October 1, 2007, at 89 Ill. Admin. Code 125, and at
16 89 Ill. Admin. Code 120.32 along with only those changes
17 necessary to conform to federal Medicaid requirements,
18 federal laws, and federal regulations, including but not
19 limited to Section 1931 of the Social Security Act (42
20 U.S.C. Sec. 1396u-1), as interpreted by the U.S. Department
21 of Health and Human Services, and the countable income
22 eligibility standard authorized by this paragraph 15. The
23 Department may not otherwise adopt any rule to implement
24 this increase except as authorized by law, to meet the
25 eligibility standards authorized by the federal government
26 in the Medicaid State Plan or the Title XXI Plan, or to

1 meet an order from the federal government or any court.

2 16. ~~15.~~ Subject to appropriation, uninsured persons
3 who are not otherwise eligible under this Section who have
4 been certified and referred by the Department of Public
5 Health as having been screened and found to need diagnostic
6 evaluation or treatment, or both diagnostic evaluation and
7 treatment, for prostate or testicular cancer. For the
8 purposes of this paragraph 16 ~~15~~, uninsured persons are
9 those who do not have creditable coverage, as defined under
10 the Health Insurance Portability and Accountability Act,
11 or have otherwise exhausted any insurance benefits they may
12 have had, for prostate or testicular cancer diagnostic
13 evaluation or treatment, or both diagnostic evaluation and
14 treatment. To be eligible, a person must furnish a Social
15 Security number. A person's assets are exempt from
16 consideration in determining eligibility under this
17 paragraph 16 ~~15~~. Such persons shall be eligible for medical
18 assistance under this paragraph 16 ~~15~~ for so long as they
19 need treatment for the cancer. A person shall be considered
20 to need treatment if, in the opinion of the person's
21 treating physician, the person requires therapy directed
22 toward cure or palliation of prostate or testicular cancer,
23 including recurrent metastatic cancer that is a known or
24 presumed complication of prostate or testicular cancer and
25 complications resulting from the treatment modalities
26 themselves. Persons who require only routine monitoring

1 services are not considered to need treatment. "Medical
2 assistance" under this paragraph 16 ~~15~~ shall be identical
3 to the benefits provided under the State's approved plan
4 under Title XIX of the Social Security Act. Notwithstanding
5 any other provision of law, the Department (i) does not
6 have a claim against the estate of a deceased recipient of
7 services under this paragraph 16 ~~15~~ and (ii) does not have
8 a lien against any homestead property or other legal or
9 equitable real property interest owned by a recipient of
10 services under this paragraph 16 ~~15~~.

11 In implementing the provisions of Public Act 96-20 ~~this~~
12 ~~amendatory Act of the 96th General Assembly~~, the Department is
13 authorized to adopt only those rules necessary, including
14 emergency rules. Nothing in Public Act 96-20 ~~this amendatory~~
15 ~~Act of the 96th General Assembly~~ permits the Department to
16 adopt rules or issue a decision that expands eligibility for
17 the FamilyCare Program to a person whose income exceeds 185% of
18 the Federal Poverty Level as determined from time to time by
19 the U.S. Department of Health and Human Services, unless the
20 Department is provided with express statutory authority.

21 The Illinois Department and the Governor shall provide a
22 plan for coverage of the persons eligible under paragraph 7 as
23 soon as possible after July 1, 1984.

24 The eligibility of any such person for medical assistance
25 under this Article is not affected by the payment of any grant
26 under the Senior Citizens and Disabled Persons Property Tax

1 Relief and Pharmaceutical Assistance Act or any distributions
2 or items of income described under subparagraph (X) of
3 paragraph (2) of subsection (a) of Section 203 of the Illinois
4 Income Tax Act. The Department shall by rule establish the
5 amounts of assets to be disregarded in determining eligibility
6 for medical assistance, which shall at a minimum equal the
7 amounts to be disregarded under the Federal Supplemental
8 Security Income Program. The amount of assets of a single
9 person to be disregarded shall not be less than \$2,000, and the
10 amount of assets of a married couple to be disregarded shall
11 not be less than \$3,000.

12 To the extent permitted under federal law, any person found
13 guilty of a second violation of Article VIII A shall be
14 ineligible for medical assistance under this Article, as
15 provided in Section 8A-8.

16 The eligibility of any person for medical assistance under
17 this Article shall not be affected by the receipt by the person
18 of donations or benefits from fundraisers held for the person
19 in cases of serious illness, as long as neither the person nor
20 members of the person's family have actual control over the
21 donations or benefits or the disbursement of the donations or
22 benefits.

23 (Source: P.A. 95-546, eff. 8-29-07; 95-1055, eff. 4-10-09;
24 96-20, eff. 6-30-09; 96-181, eff. 8-10-09; 96-328, eff.
25 8-11-09; 96-567, eff. 1-1-10; revised 9-25-09.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.