AN ACT concerning the Department of Healthcare and Family Services.

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

Section 5. The Illinois Insurance Code is amended by changing Section 5.5 as follows:

(215 ILCS 5/5.5)

Sec. 5.5. Compliance with the Department of Healthcare and Family Services. A company authorized to do business in this State or accredited by the State to issue policies of health insurance, including but not limited to, self-insured plans, group health plans (as defined in Section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are by statute, contract, or agreement legally responsible for payment of a claim for a health care item or service as a condition of doing business in the State must:

(1) provide to the Department of Healthcare and Family Services, or any successor agency, on at least a quarterly basis if so requested by the Department, information to determine during what period any individual may be, or may have been, covered by a health insurer and the nature of

the coverage that is or was provided by the health insurer, including the name, address, and identifying number of the plan;

(2) accept the State's right of recovery and the assignment to the State of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the medical programs of the Department of Healthcare and Family Services, or any successor agency, under this Code or the Illinois Public Aid Code;

(3) respond to any inquiry by the Department of Healthcare and Family Services regarding a claim for payment for any health care item or service that is submitted not later than 3 years after the date of the provision of such health care item or service; and

(4) agree not to deny a claim submitted by the Department of Healthcare and Family Services solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim if (i) the claim is submitted by the Department of Healthcare and Family Services within the 3-year period beginning on the date on which the item or service was furnished and (ii) any action by the Department of Healthcare and Family Services to enforce its rights with respect to such claim is commenced within 6 years of its

submission of such claim.

The Department of Healthcare and Family Services may impose an administrative penalty as provided under Section 12-4.45 of the Illinois Public Aid Code on entities that have established a pattern of failure to provide the information required under this Section, or in ~~In~~ cases in which the Department of Healthcare and Family Services has determined that an entity that provides health insurance coverage has established a pattern of failure to provide the information required under this Section, and has subsequently certified that determination, along with supporting documentation, to the Director of the Department of Insurance, the Director of the Department of Insurance, based upon the certification of determination made by the Department of Healthcare and Family Services, may commence regulatory proceedings in accordance with all applicable provisions of the Illinois Insurance Code. (Source: P.A. 95-632, eff. 9-25-07; 96-1501, eff. 1-25-11.)

Section 10. The Covering ALL KIDS Health Insurance Act is amended by changing Section 20 as follows:

(215 ILCS 170/20)

(Section scheduled to be repealed on July 1, 2016)

Sec. 20. Eligibility.

(a) To be eligible for the Program, a person must be a child:

(1) who is a resident of the State of Illinois;

(2) who is ineligible for medical assistance under the Illinois Public Aid Code or benefits under the Children's Health Insurance Program Act;

(3) either (i) who has been without health insurance coverage for 12 months, (ii) whose parent has lost employment that made available affordable dependent health insurance coverage, until such time as affordable employer-sponsored dependent health insurance coverage is again available for the child as set forth by the Department in rules, (iii) who is a newborn whose responsible relative does not have available affordable private or employer-sponsored health insurance, or (iv) who, within one year of applying for coverage under this Act, lost medical benefits under the Illinois Public Aid Code or the Children's Health Insurance Program Act; and

(3.5) whose household income, as determined by the Department, is at or below 300% of the federal poverty level. This item (3.5) is effective July 1, 2011.

An entity that provides health insurance coverage (as defined in Section 2 of the Comprehensive Health Insurance Plan Act) to Illinois residents shall provide health insurance data match to the Department of Healthcare and Family Services as provided by and subject to Section 5.5 of the Illinois Insurance Code. <u>The Department of Healthcare and Family Services may impose an administrative penalty as provided under</u>

Section 12-4.45 of the Illinois Public Aid Code on entities that have established a pattern of failure to provide the information required under this Section.

The Department of Healthcare and Family Services, in collaboration with the Department of Insurance, shall adopt rules governing the exchange of information under this Section. The rules shall be consistent with all laws relating to the confidentiality or privacy of personal information or medical records, including provisions under the Federal Health Insurance Portability and Accountability Act (HIPAA).

(b) The Department shall monitor the availability and retention of employer-sponsored dependent health insurance coverage and shall modify the period described in subdivision (a)(3) if necessary to promote retention of private or employer-sponsored health insurance and timely access to healthcare services, but at no time shall the period described in subdivision (a)(3) be less than 6 months.

(c) The Department, at its discretion, may take into account the affordability of dependent health insurance when determining whether employer-sponsored dependent health insurance coverage is available upon reemployment of a child's parent as provided in subdivision (a)(3).

(d) A child who is determined to be eligible for the Program shall remain eligible for 12 months, provided that the child maintains his or her residence in this State, has not yet attained 19 years of age, and is not excluded under subsection

(e).

(e) A child is not eligible for coverage under the Program if:

(1) the premium required under Section 40 has not been timely paid; if the required premiums are not paid, the liability of the Program shall be limited to benefits incurred under the Program for the time period for which premiums have been paid; re-enrollment shall be completed before the next covered medical visit, and the first month's required premium shall be paid in advance of the next covered medical visit; or

(2) the child is an inmate of a public institution or an institution for mental diseases.

(f) The Department may adopt rules, including, but not limited to: rules regarding annual renewals of eligibility for the Program in conformance with Section 7 of this Act; rules providing for re-enrollment, grace periods, notice requirements, and hearing procedures under subdivision (e)(1) of this Section; and rules regarding what constitutes availability and affordability of private or employer-sponsored health insurance, with consideration of such factors as the percentage of income needed to purchase children or family health insurance, the availability of employer subsidies, and other relevant factors.

(g) Each child enrolled in the Program as of July 1, 2011 whose family income, as established by the Department, exceeds

300% of the federal poverty level may remain enrolled in the Program for 12 additional months commencing July 1, 2011. Continued enrollment pursuant to this subsection shall be available only if the child continues to meet all eligibility criteria established under the Program as of the effective date of this amendatory Act of the 96th General Assembly without a break in coverage. Nothing contained in this subsection shall prevent a child from qualifying for any other health benefits program operated by the Department.

(Source: P.A. 96-1272, eff. 1-1-11; 96-1501, eff. 1-25-11.)

Section 15. The Illinois Public Aid Code is amended by changing Section 12-9 and by adding Section 12-4.45 as follows:

(305 ILCS 5/12-4.45 new)

Sec. 12-4.45. Third party liability.

(a) To the extent authorized under federal law, the Department of Healthcare and Family Services shall identify individuals receiving services under medical assistance programs funded or partially funded by the State who may be or may have been covered by a third party health insurer, the period of coverage for such individuals, and the nature of coverage. A company, as defined in Section 5.5 of the Illinois Insurance Code and Section 2 of the Comprehensive Health Insurance Plan Act, must provide the Department eligibility information in a federally recommended or mutually agreed-upon

format that includes at a minimum:

(1) The names, addresses, dates, and sex of primary covered persons.

(2) The policy group numbers of the covered persons.

(3) The names, dates of birth, and sex of covered dependents, and the relationship of dependents to the primary covered person.

(4) The effective dates of coverage for each covered person.

(5) The generally defined covered services information, such as drugs, medical, or any other similar description of services covered.

(b) The Department may impose an administrative penalty on a company that does not comply with the request for information made under Section 5.5 of the Illinois Insurance Code and paragraph (3) of subsection (a) of Section 20 of the Covering ALL KIDS Health Insurance Act. The amount of the penalty shall not exceed $10,000 per day for each day of noncompliance that occurs after the 180th day after the date of the request. The first day of the 180-day period commences on the business day following the date of the correspondence requesting the information sent by the Department to the company. The amount shall be based on:

(1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation.

(2) The economic harm caused by the violation.

(3) The history of previous violations.

(4) The amount necessary to deter a future violation.

(5) Efforts to correct the violation.

(6) Any other matter that justice may require.

(c) The enforcement of the penalty may be stayed during the time the order is under administrative review if the company files an appeal.

(d) The Attorney General may bring suit on behalf of the Department to collect the penalty.

(e) Recoveries made by the Department in connection with the imposition of an administrative penalty as provided under this Section shall be deposited into the Public Aid Recoveries Trust Fund created under Section 12-9.

(305 ILCS 5/12-9) (from Ch. 23, par. 12-9)

Sec. 12-9. Public Aid Recoveries Trust Fund; uses. The Public Aid Recoveries Trust Fund shall consist of (1) recoveries by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) authorized by this Code in respect to applicants or recipients under Articles III, IV, V, and VI, including recoveries made by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) from the estates of deceased recipients, (2) recoveries made by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) in

respect to applicants and recipients under the Children's Health Insurance Program Act, and the Covering ALL KIDS Health Insurance Act, (2.5) recoveries made by the Department of Healthcare and Family Services in connection with the imposition of an administrative penalty as provided under Section 12-4.45, (3) federal funds received on behalf of and earned by State universities and local governmental entities for services provided to applicants or recipients covered under this Code, the Children's Health Insurance Program Act, and the Covering ALL KIDS Health Insurance Act, (3.5) federal financial participation revenue related to eligible disbursements made by the Department of Healthcare and Family Services from appropriations required by this Section, and (4) all other moneys received to the Fund, including interest thereon. The Fund shall be held as a special fund in the State Treasury.

Disbursements from this Fund shall be only (1) for the reimbursement of claims collected by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) through error or mistake, (2) for payment to persons or agencies designated as payees or co-payees on any instrument, whether or not negotiable, delivered to the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) as a recovery under this Section, such payment to be in proportion to the respective interests of the payees in the amount so collected, (3) for payments to the Department of Human Services for collections

made by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) on behalf of the Department of Human Services under this Code, the Children's Health Insurance Program Act, and the Covering ALL KIDS Health Insurance Act, (4) for payment of administrative expenses incurred in performing the activities authorized under this Code, the Children's Health Insurance Program Act, and the Covering ALL KIDS Health Insurance Act, (5) for payment of fees to persons or agencies in the performance of activities pursuant to the collection of monies owed the State that are collected under this Code, the Children's Health Insurance Program Act, and the Covering ALL KIDS Health Insurance Act, (6) for payments of any amounts which are reimbursable to the federal government which are required to be paid by State warrant by either the State or federal government, and (7) for payments to State universities and local governmental entities of federal funds for services provided to applicants or recipients covered under this Code, the Children's Health Insurance Program Act, and the Covering ALL KIDS Health Insurance Act. Disbursements from this Fund for purposes of items (4) and (5) of this paragraph shall be subject to appropriations from the Fund to the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid).

The balance in this Fund on the first day of each calendar quarter, after payment therefrom of any amounts reimbursable to

the federal government, and minus the amount reasonably anticipated to be needed to make the disbursements during that quarter authorized by this Section, shall be certified by the Director of Healthcare and Family Services and transferred by the State Comptroller to the Drug Rebate Fund or the Healthcare Provider Relief Fund in the State Treasury, as appropriate, within 30 days of the first day of each calendar quarter. The Director of Healthcare and Family Services may certify and the State Comptroller shall transfer to the Drug Rebate Fund amounts on a more frequent basis.

On July 1, 1999, the State Comptroller shall transfer the sum of $5,000,000 from the Public Aid Recoveries Trust Fund (formerly the Public Assistance Recoveries Trust Fund) into the DHS Recoveries Trust Fund.

(Source: P.A. 96-1100, eff. 1-1-11; 97-647, eff. 1-1-12; 97-689, eff. 6-14-12.)

Section 99. Effective date. This Act takes effect upon becoming law.