



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4233

Introduced 1/5/2022, by Rep. Anna Moeller

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-4

from Ch. 23, par. 5-4

Amends the Medical Assistance Article of the Illinois Public Aid Code. Requires the community spouse resource allowance to be established and maintained at the maximum amount permitted under a specified provision of the Social Security Act, or an amount set after a fair hearing, or the amount transferred by the institutionalized spouse to the community spouse by court order, whichever is greater (rather than requiring the community spouse resource allowance to be established and maintained at the higher of \$109,560 or the minimum level permitted under the Social Security Act, or an amount set after a fair hearing, whichever is greater). Requires the monthly maintenance allowance for the community spouse to be established and maintained at the maximum amount permitted under a specified provision of the Social Security Act, or an amount set after a fair hearing, or the amount transferred by the institutionalized spouse to the community spouse by court order, whichever is greater (rather than requiring the monthly maintenance allowance for the community spouse to be established and maintained at the higher of \$2,739 per month or the minimum level permitted under the Social Security Act, or an amount set after a fair hearing, whichever is greater).

LRB102 21734 KTG 30853 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 5-4 as follows:

6 (305 ILCS 5/5-4) (from Ch. 23, par. 5-4)

7 Sec. 5-4. Amount and nature of medical assistance.

8 (a) The amount and nature of medical assistance shall be  
9 determined in accordance with the standards, rules, and  
10 regulations of the Department of Healthcare and Family  
11 Services, with due regard to the requirements and conditions  
12 in each case, including contributions available from legally  
13 responsible relatives. However, the amount and nature of such  
14 medical assistance shall not be affected by the payment of any  
15 grant under the Senior Citizens and Persons with Disabilities  
16 Property Tax Relief Act or any distributions or items of  
17 income described under subparagraph (X) of paragraph (2) of  
18 subsection (a) of Section 203 of the Illinois Income Tax Act.  
19 The amount and nature of medical assistance shall not be  
20 affected by the receipt of donations or benefits from  
21 fundraisers in cases of serious illness, as long as neither  
22 the person nor members of the person's family have actual  
23 control over the donations or benefits or the disbursement of

1 the donations or benefits.

2 In determining the income and resources available to the  
3 institutionalized spouse and to the community spouse, the  
4 Department of Healthcare and Family Services shall follow the  
5 procedures established by federal law. If an institutionalized  
6 spouse or community spouse refuses to comply with the  
7 requirements of Title XIX of the federal Social Security Act  
8 and the regulations duly promulgated thereunder by failing to  
9 provide the total value of assets, including income and  
10 resources, to the extent either the institutionalized spouse  
11 or community spouse has an ownership interest in them pursuant  
12 to 42 U.S.C. 1396r-5, such refusal may result in the  
13 institutionalized spouse being denied eligibility and  
14 continuing to remain ineligible for the medical assistance  
15 program based on failure to cooperate.

16 ~~The Subject to federal approval, the~~ community spouse  
17 resource allowance shall be established and maintained at the  
18 maximum amount higher of \$109,560 or the minimum level  
19 permitted pursuant to Section 1924(f)(2) (A)(ii)(II) of the  
20 Social Security Act, as now or hereafter amended, or an amount  
21 set after a fair hearing, or the amount transferred by the  
22 institutionalized spouse to the community spouse by court  
23 order, whichever is greater. The monthly maintenance allowance  
24 for the community spouse shall be established and maintained  
25 at the maximum amount higher of \$2,739 per month or the minimum  
26 level permitted pursuant to Section 1924(d)(3) (C) of the

1 Social Security Act, as now or hereafter amended, or an amount  
2 set after a fair hearing, or the amount transferred by the  
3 institutionalized spouse to the community spouse by court  
4 order, whichever is greater. Subject to the approval of the  
5 Secretary of the United States Department of Health and Human  
6 Services, the provisions of this Section shall be extended to  
7 persons who but for the provision of home or community-based  
8 services under Section 4.02 of the Illinois Act on the Aging,  
9 would require the level of care provided in an institution, as  
10 is provided for in federal law.

11 (b) Spousal support for institutionalized spouses  
12 receiving medical assistance.

13 (i) The Department may seek support for an  
14 institutionalized spouse, who has assigned his or her  
15 right of support from his or her spouse to the State, from  
16 the resources and income available to the community  
17 spouse.

18 (ii) The Department may bring an action in the circuit  
19 court to establish support orders or itself establish  
20 administrative support orders by any means and procedures  
21 authorized in this Code, as applicable, except that the  
22 standard and regulations for determining ability to  
23 support in Section 10-3 shall not limit the amount of  
24 support that may be ordered.

25 (iii) Proceedings may be initiated to obtain support,  
26 or for the recovery of aid granted during the period such

1 support was not provided, or both, for the obtainment of  
2 support and the recovery of the aid provided. Proceedings  
3 for the recovery of aid may be taken separately or they may  
4 be consolidated with actions to obtain support. Such  
5 proceedings may be brought in the name of the person or  
6 persons requiring support or may be brought in the name of  
7 the Department, as the case requires.

8 (iv) The orders for the payment of moneys for the  
9 support of the person shall be just and equitable and may  
10 direct payment thereof for such period or periods of time  
11 as the circumstances require, including support for a  
12 period before the date the order for support is entered.  
13 In no event shall the orders reduce the community spouse  
14 resource allowance below the level established in  
15 subsection (a) of this Section or an amount set after a  
16 fair hearing, whichever is greater, or reduce the monthly  
17 maintenance allowance for the community spouse below the  
18 level permitted pursuant to subsection (a) of this  
19 Section.

20 (Source: P.A. 98-104, eff. 7-22-13; 99-143, eff. 7-27-15.)