



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Christine Radogno

SYNOPSIS AS INTRODUCED:

305 ILCS 5/3-1	from Ch. 23, par. 3-1
305 ILCS 5/3-4	from Ch. 23, par. 3-4
305 ILCS 5/5-2.4 new	

Amends the Illinois Public Aid Code. For purposes of the AABD program, provides that "disabled person" is defined as in the Social Security Act (instead of providing a definition separate from that Act). Sets forth standards to be used by the Department of Human Services in determining whether persons are disabled for purposes of the AABD program. Provides Medicaid eligibility for non-citizens in the case of medical care needed for treatment of an emergency condition, if the non-citizen otherwise meets the financial eligibility requirements for the AABD MAG program or Family Care program. Effective immediately.

LRB093 16751 DRJ 42402 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 3-1 and 3-4 and by adding Section 5-2.4 as
6 follows:

7 (305 ILCS 5/3-1) (from Ch. 23, par. 3-1)

8 Sec. 3-1. Eligibility Requirements. Financial aid in
9 meeting basic maintenance requirements for a livelihood
10 compatible with health and well-being shall be given under this
11 Article to or in behalf of aged, blind, or disabled persons who
12 meet the eligibility conditions of Sections 3-1.1 through
13 3-1.7. Financial aid under this Article shall be available only
14 for persons who are receiving Supplemental Security Income
15 (SSI) or who have been found ineligible for SSI on the basis of
16 income.

17 "Aged person" means a person who has attained age 65, as
18 demonstrated by such evidence of age as the Illinois Department
19 may by rule prescribe.

20 "Blind person" means a person who has no vision or whose
21 vision with corrective glasses is so defective as to prevent
22 the performance of ordinary duties or tasks for which eyesight
23 is essential. The Illinois Department shall define blindness in
24 terms of ophthalmic measurements or ocular conditions. For
25 purposes of this Act, an Illinois Disabled Person
26 Identification Card issued pursuant to The Illinois
27 Identification Card Act, indicating that the person thereon
28 named has a Type 3 disability shall be evidence that such
29 person is a blind person within the meaning of this Section;
30 however, such a card shall not qualify such person for aid as a
31 blind person under this Act, and eligibility for aid as a blind
32 person shall be determined as provided in this Act.

1 "Disabled person" means, as defined by the Social Security
2 Act and implementing federal regulations, a person over the age
3 of 18 who is unable to do any substantial gainful activity by
4 reason of any medically determinable physical or mental
5 impairment which can be expected to result in death or which
6 has lasted or can be expected to last for a continuous period
7 of not less than 12 months. To meet this definition, the person
8 must have a severe impairment that makes the person unable to
9 do his or her previous work or any other substantial gainful
10 activity that exists in the national economy. To determine
11 whether the person is able to do any other work, the person's
12 residual functional capacity, age, education, and work
13 experience must be considered under the guidelines used to
14 determine disability under the Social Security Act as set forth
15 in 20 CFR 416, Subpart I. ~~a person age 18 or over who has a~~
16 ~~physical or mental impairment, disease, or loss which is of a~~
17 ~~permanent nature and which substantially impairs his ability to~~
18 ~~perform labor or services or to engage in useful occupations~~
19 ~~for which he is qualified, as determined by rule and regulation~~
20 ~~of the Illinois Department. For purposes of this Act, an~~
21 ~~Illinois Disabled Person Identification Card issued pursuant~~
22 ~~to The Illinois Identification Card Act, indicating that the~~
23 ~~person thereon named has a Type 1 or 2, Class 2 disability~~
24 ~~shall be evidence that such person is a disabled person under~~
25 ~~this Section; however, such a card shall not qualify such~~
26 ~~person for aid as a disabled person under this Act, and~~
27 ~~eligibility for aid as a disabled person shall be determined as~~
28 ~~provided in this Act. If federal law or regulation permit or~~
29 ~~require the inclusion of blind or disabled persons whose~~
30 ~~blindness or disability is not of the degree specified in the~~
31 ~~foregoing definitions, or permit or require the inclusion of~~
32 ~~disabled persons under age 18 or aged persons under age 65, the~~
33 ~~Illinois Department, upon written approval of the Governor, may~~
34 ~~provide by rule that all aged, blind or disabled persons toward~~
35 ~~whose aid federal funds are available be eligible for~~
36 ~~assistance under this Article as is given to those who meet the~~

1 ~~foregoing definitions of blind person and disabled person or~~
2 ~~aged person.~~

3 (Source: P.A. 89-21, eff. 7-1-95.)

4 (305 ILCS 5/3-4) (from Ch. 23, par. 3-4)

5 Sec. 3-4. Examination as to disability.

6 (a) For all purposes, in determining whether an applicant
7 is a "disabled person", the Client Assessment Unit or its
8 successor office shall rely on all regulations and other
9 guidance that are used by the Illinois Bureau of Disability
10 Determination Services in the Office of Rehabilitation
11 Services in determining disability under the Social Security
12 Act.

13 (b) As part of making a disability determination, the
14 Client Assessment Unit or its successor office shall determine
15 whether an applicant (i) has applied for Supplemental Security
16 Income (SSI) or Old-Age, Survivors, and Disability Insurance
17 (OASDI) disability benefits from the Social Security
18 Administration and received a decision on that application
19 within the last 12 months or (ii) has a pending application for
20 such benefits. In the case of a person who has received a
21 decision on such an application within the last 12 months or is
22 receiving SSI or OASDI benefits at the time of application
23 based on disability, the Client Assessment Unit or its
24 successor office shall follow the procedures set forth in
25 subsection (c). In the case of a person who has such an
26 application pending with the Social Security Administration or
27 the Bureau of Disability Determination Services, the Client
28 Assessment Unit or its successor office shall request copies of
29 medical and other records held by the Social Security
30 Administration or the Bureau of Disability Determination
31 Services for use in determining disability for purposes of
32 Article III or Article V of this Code.

33 (c) The Client Assessment Unit or its successor office must
34 do all of the following:

35 (1) Accept as binding a finding of disability made by

1 the Social Security Administration if an applicant is
2 receiving SSI or primary OASDI benefits.

3 (2) Make a determination of disability if the applicant
4 has been denied SSI on the basis of too much income or if
5 the applicant is applying for medical assistance only and
6 not receiving SSI or OASDI.

7 If an individual applying for or receiving medical
8 assistance is determined currently "not disabled" by the Social
9 Security Administration under the SSI or OASDI program, the
10 Client Assessment Unit or its successor office shall accept the
11 Social Security Administration's determination of disability
12 and deny or cancel the case, no matter which agency made the
13 original determination of eligibility. Notwithstanding the
14 preceding sentence, however:

15 (A) If the individual appeals the Social Security
16 Administration's determination of disability to the Social
17 Security Administration, medical assistance under Article
18 V shall be continued for recipients through the level of a
19 determination by an Administrative Law Judge.

20 (B) If medical assistance has been canceled, but the
21 client later appeals to the Social Security
22 Administration, the case shall be reinstated through the
23 level of a determination by an Administrative Law Judge.

24 (C) If an Administrative Law Judge finds the individual
25 "not disabled", the Client Assessment Unit or its successor
26 office shall accept that finding as final. The individual
27 does not have the right to appeal the determination of
28 disability to the Client Assessment Unit or its successor
29 office at any time during this process.

30 (d) As part of making disability determinations, the Client
31 Assessment Unit or its successor office shall do the following:

32 (1) Identify and assist persons who are receiving
33 mental health treatment and services from Office of Mental
34 Health facilities, county health departments, and
35 community mental health agencies pursuant to a Serious
36 Mental Illness (SMI) finding in applying for medical

1 assistance under Article V.

2 (2) Provide uniform policies and forms for submission
3 of mental health records from Office of Mental Health
4 facilities, county health departments, and community
5 mental health agencies that include completion of a mental
6 health treatment packet that contains the following
7 documents to be used by the Client Assessment Unit or its
8 successor office in determining disability status:

9 (A) the SMI determination;

10 (B) the medical evidence underlying the SMI
11 determination;

12 (C) the treatment plan; and

13 (D) a residual functional capacity form completed
14 by the treating mental health professional.

15 (3) Train staff of the Client Assessment Unit or its
16 successor office on the programs provided by the Office of
17 Mental Health, county departments of health, and community
18 mental health agencies and the process and significance of
19 findings of SMI in these settings; and require that a
20 finding of SMI status, with the corresponding receipt of
21 mental health treatment and services, constitutes a
22 presumption of disability that may be overridden only in
23 those cases in which actual medical evidence exists that
24 satisfactorily overrides the SMI designation.

25 (4) Monitor, on an ongoing basis, the resolution of
26 disability determinations for medical assistance
27 applicants receiving treatment and services from the
28 Office of Mental Health, county departments of health, and
29 community mental health agencies.

30 (e) As part of making disability determinations, the Client
31 Assessment Unit or its successor office shall do the following:

32 (1) Identify and assist persons who have had a
33 Determination of Need (DON) assessment with a score of 30
34 or higher done by staff from the Department on Aging, the
35 Department of Human Services, or the Department of Public
36 Aid in applying for medical assistance under Article V.

1 (2) Provide uniform policies and forms for submission
2 of health records by staff involved in doing the DON
3 assessment that include completion of a treatment packet
4 that contains the following documents to be used by the
5 Client Assessment Unit or its successor office in
6 determining disability status:

7 (A) the DON determination;

8 (B) the medical evidence underlying the DON
9 determination;

10 (C) the treatment plan, if any; and

11 (D) a residual functional capacity form completed
12 by the staff who completed the DON assessment.

13 (3) Train staff of the Client Assessment Unit or its
14 successor office on the DON assessment and programs
15 provided by State agencies for persons with DON assessment
16 scores of 30 or higher; and require that a DON score of 30
17 or higher, with the corresponding receipt of services from
18 a State agency, constitutes a presumption of disability
19 that may be overridden only in those cases in which actual
20 medical evidence exists that satisfactorily overrides the
21 DON assessment.

22 (4) Monitor, on an ongoing basis, the resolution of
23 disability determinations for medical assistance
24 applicants who have DON assessment scores of 30 or higher.

25 (f) Redetermination of disability is a condition of
26 continuing eligibility for individuals who are not applying for
27 or receiving SSI or OASDI benefits.

28 (g) When appropriate, the Client Assessment Unit or its
29 successor office shall obtain and arrange for payment of a
30 medical examination to determine disability. ~~For all purposes,~~
31 ~~the Illinois Department may accept determinations as to~~
32 ~~disability performed under the auspices of the Federal Social~~
33 ~~Security Administration and properly certified to the~~
34 ~~Department.~~

35 (Source: P.A. 89-21, eff. 7-1-95.)

1 (305 ILCS 5/5-2.4 new)

2 Sec. 5-2.4. Non-citizen; emergency medical condition.

3 (a) For purposes of this Section, "emergency medical
4 condition" means a medical condition (including labor and
5 delivery and including treatment of end stage renal disease,
6 other than organ transplants and related services) of
7 sufficient severity (including severe pain) such that the
8 absence of immediate medical attention could result in:

9 (1) placing the non-citizen's health in serious
10 jeopardy;

11 (2) serious impairments to bodily functions; or

12 (3) serious dysfunction of any organ or part (42 U.S.C.
13 1396(b)(v)).

14 (b) A non-citizen who is not otherwise eligible for medical
15 assistance because he or she is not within a group eligible for
16 medical assistance, as defined by the Department of Public Aid,
17 is eligible for coverage of medical care and services if (i)
18 the medical care and services are necessary for the treatment
19 of an emergency medical condition of the non-citizen and (ii)
20 the non-citizen otherwise meets the income, asset, and
21 categorical requirements of the AABD MAG program or Family Care
22 program.

23 (c) For purposes of determining whether a non-citizen has
24 an emergency medical condition, the Client Assessment Unit or
25 its successor office must do the following:

26 (1) Consider all relevant evidence that is submitted in
27 support of the application for assistance.

28 This evidence may contain medical opinions. For
29 purposes of this item (1), "medical opinions" means
30 statements from physicians and psychologists or other
31 medical sources that reflect judgments about the nature and
32 severity of the applicant's medical condition, including
33 symptoms, diagnosis, and medical care and treatment
34 provided or to be provided. In deciding whether an
35 applicant has an emergency medical condition, the Client
36 Assessment Unit or its successor office must always

1 consider the medical opinions that have been submitted that
2 underlie the medical care and treatment that was provided
3 or is to be provided.

4 After the Client Assessment Unit or its successor
5 office reviews all of the evidence relevant to the
6 application, including medical opinions, the Client
7 Assessment Unit or its successor office shall make findings
8 about what the evidence shows.

9 If all of the evidence received by the Client
10 Assessment Unit or its successor office, including all
11 medical opinions stating that emergency medical care and
12 treatment is required, is consistent, and if there is
13 sufficient evidence for the Client Assessment Unit or its
14 successor office to determine whether the applicant has an
15 emergency medical condition, the Client Assessment Unit or
16 its successor office shall make its determination based on
17 that evidence and shall find that the applicant has an
18 emergency medical condition.

19 If any of the evidence submitted, including any medical
20 opinions, is inconsistent with other evidence submitted,
21 or if any such evidence is internally inconsistent, the
22 Client Assessment Unit or its successor office shall weigh
23 all of the evidence and determine whether it is able to
24 determine whether the applicant has an emergency medical
25 condition based on the evidence that the Client Assessment
26 Unit or its successor office has.

27 If the evidence is consistent but the Client Assessment
28 Unit or its successor office does not have sufficient
29 evidence to determine whether the applicant has an
30 emergency medical condition, or if after weighing the
31 evidence the Client Assessment Unit or its successor office
32 is unable to reach a conclusion as to whether the applicant
33 has an emergency medical condition, the Client Assessment
34 Unit or its successor office shall try to obtain additional
35 evidence by recontacting the medical staff who treated the
36 applicant for the emergency medical condition and consider

1 any additional evidence that is received, together with the
2 evidence already received.

3 If there are inconsistencies in the evidence that
4 cannot be resolved or if, despite efforts to obtain
5 additional evidence, the evidence is not complete, the
6 Client Assessment Unit or its successor office shall make a
7 determination or decision based on the evidence it has.

8 (2) Evaluate every medical opinion it receives.

9 Unless the Client Assessment Unit or its successor
10 office gives a treating source's opinion controlling
11 weight under item (1) of this subsection, the Client
12 Assessment Unit or its successor office shall consider all
13 of the following factors in deciding the weight that it
14 gives to any medical opinion:

15 (A) Examining relationship. The Client Assessment
16 Unit or its successor office shall give more weight to
17 the opinion of a source who has examined and treated
18 the applicant than to the opinion of a source who has
19 not examined or treated the applicant.

20 (B) Treatment relationship. The Client Assessment
21 Unit or its successor office shall give more weight to
22 opinions from treating sources, because these sources
23 are likely to be the medical professionals most able to
24 provide a detailed, longitudinal picture of the
25 applicant's medical impairment or impairments and may
26 bring a unique perspective to the medical evidence that
27 cannot be obtained from the objective medical findings
28 alone or from reports of individual examinations. If a
29 treating source's opinion on the issue of whether an
30 emergency medical condition exists is well-supported
31 by medically acceptable clinical and laboratory
32 diagnostic techniques and is not inconsistent with the
33 other substantial evidence submitted, the Client
34 Assessment Unit or its successor office shall give it
35 controlling weight. If the Client Assessment Unit or
36 its successor office does not give the treating

1 source's opinion controlling weight, the Client
2 Assessment Unit or its successor office must explain in
3 its notice of determination the weight that it gave the
4 treating source's opinion.

5 (C) Supportability. The more a medical source
6 presents relevant evidence to support an opinion,
7 particularly medical signs and laboratory findings,
8 the more weight the Client Assessment Unit or its
9 successor office shall give that opinion. Because
10 nonexamining sources have no examining or treating
11 relationship with the applicant, the weight to be given
12 their opinions shall depend on the degree to which they
13 provide supporting explanations for their opinions.
14 The Client Assessment Unit or its successor office
15 shall evaluate the degree to which these opinions
16 consider all of the pertinent evidence in the claim,
17 including opinions of treating and other examining
18 sources.

19 (D) Consistency. The more consistent an opinion is
20 with the record as a whole, the more weight the Client
21 Assessment Unit or its successor office shall give to
22 that opinion.

23 (E) Specialization. The Client Assessment Unit or
24 its successor office shall give more weight to the
25 opinion of a specialist about medical issues related to
26 his or her area of specialty than to the opinion of a
27 source who is not a specialist.

28 (d) For purposes of determining whether a non-citizen has
29 an emergency medical condition, the Client Assessment Unit or
30 its successor office may not require a showing that the medical
31 condition either (i) occurs suddenly and unexpectedly or (ii)
32 is caused by injury or illness.

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