



Sen. Emil Jones Jr.

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1 AMENDMENT TO HOUSE BILL 806

2 AMENDMENT NO. _____. Amend House Bill 806 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Covering ALL KIDS Health Insurance Act.

6 Section 5. Legislative intent. The General Assembly finds
7 that, for the economic and social benefit of all residents of
8 the State, it is important to enable all children of this State
9 to access affordable health insurance that offers
10 comprehensive coverage and emphasizes preventive healthcare.
11 Many children in working families, including many families
12 whose family income ranges between \$40,000 and \$80,000, are
13 uninsured. Numerous studies, including the Institute of
14 Medicine's report, "Health Insurance Matters", demonstrate
15 that lack of insurance negatively affects health status. The
16 General Assembly further finds that access to healthcare is a
17 key component for children's healthy development and
18 successful education. The effects of lack of insurance also
19 negatively impact those who are insured because the cost of
20 paying for care to the uninsured is often shifted to those who
21 have insurance in the form of higher health insurance premiums.
22 A Families USA 2005 report indicates that family premiums in
23 Illinois are increased by \$1,059 due to cost-shifting from the
24 uninsured. It is, therefore, the intent of this legislation to

1 provide access to affordable health insurance to all uninsured
2 children in Illinois.

3 Section 10. Definitions. In this Act:

4 "Application agent" means an organization or individual,
5 such as a licensed health care provider, school, youth service
6 agency, employer, labor union, local chamber of commerce,
7 community-based organization, or other organization, approved
8 by the Department to assist in enrolling children in the
9 Program.

10 "Child" means a person under the age of 19.

11 "Department" means the Department of Healthcare and Family
12 Services.

13 "Medical assistance" means health care benefits provided
14 under Article V of the Illinois Public Aid Code.

15 "Program" means the Covering ALL KIDS Health Insurance
16 Program.

17 "Resident" means an individual (i) who is in the State for
18 other than a temporary or transitory purpose during the taxable
19 year or (ii) who is domiciled in this State but is absent from
20 the State for a temporary or transitory purpose during the
21 taxable year.

22 Section 15. Operation of Program. The Covering ALL KIDS
23 Health Insurance Program is created. The Program shall be
24 administered by the Department of Healthcare and Family
25 Services. The Department shall have the same powers and
26 authority to administer the Program as are provided to the
27 Department in connection with the Department's administration
28 of the Illinois Public Aid Code and the Children's Health
29 Insurance Program Act. The Department shall coordinate the
30 Program with the existing children's health programs operated
31 by the Department and other State agencies.

1 Section 20. Eligibility.

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

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

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

8 (3) either (i) who has been without health insurance
9 coverage for a period set forth by the Department in rules,
10 but not less than 6 months during the first month of
11 operation of the Program, 7 months during the second month
12 of operation, 8 months during the third month of operation,
13 9 months during the fourth month of operation, 10 months
14 during the fifth month of operation, 11 months during the
15 sixth month of operation, and 12 months thereafter, (ii)
16 whose parent has lost employment that made available
17 affordable dependent health insurance coverage, until such
18 time as affordable employer-sponsored dependent health
19 insurance coverage is again available for the child as set
20 forth by the Department in rules, (iii) who is a newborn
21 whose responsible relative does not have available
22 affordable private or employer-sponsored health insurance,
23 or (iv) who, within one year of applying for coverage under
24 this Act, lost medical benefits under the Illinois Public
25 Aid Code or the Children's Health Insurance Program Act.

26 An entity that provides health insurance coverage (as
27 defined in Section 2 of the Comprehensive Health Insurance Plan
28 Act) to Illinois residents shall provide health insurance data
29 match to the Department of Healthcare and Family Services for
30 the purpose of determining eligibility for the Program under
31 this Act.

32 The Department of Healthcare and Family Services, in
33 collaboration with the Department of Financial and
34 Professional Regulation, Division of Insurance, shall adopt

1 rules governing the exchange of information under this Section.
2 The rules shall be consistent with all laws relating to the
3 confidentiality or privacy of personal information or medical
4 records, including provisions under the Federal Health
5 Insurance Portability and Accountability Act (HIPAA).

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

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

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

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

25 (1) the premium required under Section 40 has not been
26 timely paid; if the required premiums are not paid, the
27 liability of the Program shall be limited to benefits
28 incurred under the Program for the time period for which
29 premiums have been paid; if the required monthly premium is
30 not paid, the child is ineligible for re-enrollment for a
31 minimum period of 3 months; re-enrollment shall be
32 completed before the next covered medical visit, and the
33 first month's required premium shall be paid in advance of
34 the next covered medical visit; or

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

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

14 Section 25. Enrollment in Program. The Department shall
15 develop procedures to allow application agents to assist in
16 enrolling children in the Program or other children's health
17 programs operated by the Department. At the Department's
18 discretion, technical assistance payments may be made
19 available for approved applications facilitated by an
20 application agent.

21 Section 30. Program outreach and marketing. The Department
22 may provide grants to application agents and other
23 community-based organizations to educate the public about the
24 availability of the Program. The Department shall adopt rules
25 regarding performance standards and outcomes measures expected
26 of organizations that are awarded grants under this Section,
27 including penalties for nonperformance of contract standards.

28 Section 35. Health care benefits for children.

29 (a) The Department shall purchase or provide health care
30 benefits for eligible children that are identical to the
31 benefits provided for children under the Illinois Children's

1 Health Insurance Program Act, except for non-emergency
2 transportation.

3 (b) As an alternative to the benefits set forth in
4 subsection (a), and when cost-effective, the Department may
5 offer families subsidies toward the cost of privately sponsored
6 health insurance, including employer-sponsored health
7 insurance.

8 (c) Notwithstanding clause (i) of subdivision (a)(3) of
9 Section 20, the Department may consider offering, as an
10 alternative to the benefits set forth in subsection (a),
11 partial coverage to children who are enrolled in a
12 high-deductible private health insurance plan.

13 (d) Notwithstanding clause (i) of subdivision (a)(3) of
14 Section 20, the Department may consider offering, as an
15 alternative to the benefits set forth in subsection (a), a
16 limited package of benefits to children in families who have
17 private or employer-sponsored health insurance that does not
18 cover certain benefits such as dental or vision benefits.

19 (e) The content and availability of benefits described in
20 subsections (b), (c), and (d), and the terms of eligibility for
21 those benefits, shall be at the Department's discretion and the
22 Department's determination of efficacy and cost-effectiveness
23 as a means of promoting retention of private or
24 employer-sponsored health insurance.

25 Section 40. Cost-sharing.

26 (a) Children enrolled in the Program under subsection (a)
27 of Section 35 are subject to the following cost-sharing
28 requirements:

29 (1) The Department, by rule, shall set forth
30 requirements concerning co-payments and coinsurance for
31 health care services and monthly premiums. This
32 cost-sharing shall be on a sliding scale based on family
33 income. The Department may periodically modify such

1 cost-sharing.

2 (2) Notwithstanding paragraph (1), there shall be no
3 co-payment required for well-baby or well-child health
4 care, including, but not limited to, age-appropriate
5 immunizations as required under State or federal law.

6 (b) Children enrolled in a privately sponsored health
7 insurance plan under subsection (b) of Section 35 are subject
8 to the cost-sharing provisions stated in the privately
9 sponsored health insurance plan.

10 (c) Notwithstanding any other provision of law, rates paid
11 by the Department shall not be used in any way to determine the
12 usual and customary or reasonable charge, which is the charge
13 for health care that is consistent with the average rate or
14 charge for similar services furnished by similar providers in a
15 certain geographic area.

16 Section 45. Study.

17 (a) The Department shall conduct a study that includes, but
18 is not limited to, the following:

19 (1) Establishing estimates, broken down by regions of
20 the State, of the number of children with and without
21 health insurance coverage; the number of children who are
22 eligible for Medicaid or the Children's Health Insurance
23 Program, and, of that number, the number who are enrolled
24 in Medicaid or the Children's Health Insurance Program; and
25 the number of children with access to dependent coverage
26 through an employer, and, of that number, the number who
27 are enrolled in dependent coverage through an employer.

28 (2) Surveying those families whose children have
29 access to employer-sponsored dependent coverage but who
30 decline such coverage as to the reasons for declining
31 coverage.

32 (3) Ascertaining, for the population of children
33 accessing employer-sponsored dependent coverage or who

1 have access to such coverage, the comprehensiveness of
2 dependent coverage available, the amount of cost-sharing
3 currently paid by the employees, and the cost-sharing
4 associated with such coverage.

5 (4) Measuring the health outcomes or other benefits for
6 children utilizing the Covering ALL KIDS Health Insurance
7 Program and analyzing the effects on utilization of
8 healthcare services for children after enrollment in the
9 Program compared to the preceding period of uninsured
10 status.

11 (b) The studies described in subsection (a) shall be
12 conducted in a manner that compares a time period preceding or
13 at the initiation of the program with a later period.

14 (c) The Department shall submit the preliminary results of
15 the study to the Governor and the General Assembly no later
16 than July 1, 2008 and shall submit the final results to the
17 Governor and the General Assembly no later than July 1, 2010.

18 Section 50. Consultation with stakeholders. The Department
19 shall present details regarding implementation of the Program
20 to the Medicaid Advisory Committee, and the Committee shall
21 serve as the forum for healthcare providers, advocates,
22 consumers, and other interested parties to advise the
23 Department with respect to the Program.

24 Section 55. Charge upon claims and causes of action; right
25 of subrogation; recoveries. Sections 11-22, 11-22a, 11-22b,
26 and 11-22c of the Illinois Public Aid Code apply to health care
27 benefits provided to children under this Act, as provided in
28 those Sections.

29 Section 60. Federal financial participation. The
30 Department shall request any necessary state plan amendments or
31 waivers of federal requirements in order to allow receipt of

1 federal funds for implementing any or all of the provisions of
2 the Program. The failure of the responsible federal agency to
3 approve a waiver or other State plan amendment shall not
4 prevent the implementation of any provision of this Act.

5 Section 65. Emergency rulemaking. The Department may adopt
6 rules necessary to establish and implement this Act through the
7 use of emergency rulemaking in accordance with Section 5-45 of
8 the Illinois Administrative Procedure Act. For the purposes of
9 that Act, the General Assembly finds that the adoption of rules
10 to implement this Act is deemed an emergency and necessary for
11 the public interest, safety, and welfare. This Section is
12 repealed on July 1, 2008.

13 Section 90. The Illinois Public Aid Code is amended by
14 changing Sections 11-22, 11-22a, 11-22b, and 11-22c as follows:

15 (305 ILCS 5/11-22) (from Ch. 23, par. 11-22)

16 Sec. 11-22. Charge upon claims and causes of action for
17 injuries. The Illinois Department shall have a charge upon all
18 claims, demands and causes of action for injuries to an
19 applicant for or recipient of (i) financial aid under Articles
20 III, IV, and V or (ii) health care benefits provided under the
21 Covering ALL KIDS Health Insurance Act for the total amount of
22 medical assistance provided the recipient from the time of
23 injury to the date of recovery upon such claim, demand or cause
24 of action. In addition, if the applicant or recipient was
25 employable, as defined by the Department, at the time of the
26 injury, the Department shall also have a charge upon any such
27 claims, demands and causes of action for the total amount of
28 aid provided to the recipient and his dependents, including all
29 cash assistance and medical assistance only to the extent
30 includable in the claimant's action, from the time of injury to
31 the date of recovery upon such claim, demand or cause of

1 action. Any definition of "employable" adopted by the
2 Department shall apply only to persons above the age of
3 compulsory school attendance.

4 If the injured person was employable at the time of the
5 injury and is provided aid under Articles III, IV, or V and any
6 dependent or member of his family is provided aid under Article
7 VI, or vice versa, both the Illinois Department and the local
8 governmental unit shall have a charge upon such claims, demands
9 and causes of action for the aid provided to the injured person
10 and any dependent member of his family, including all cash
11 assistance, medical assistance and food stamps, from the time
12 of the injury to the date of recovery.

13 "Recipient", as used herein, means (i) in the case of
14 financial aid provided under this Code, the grantee of record
15 and any persons whose needs are included in the financial aid
16 provided to the grantee of record or otherwise met by grants
17 under the appropriate Article of this Code for which such
18 person is eligible and (ii) in the case of health care benefits
19 provided under the Covering ALL KIDS Health Insurance Act, the
20 child to whom those benefits are provided.

21 In each case, the notice shall be served by certified mail
22 or registered mail, upon the party or parties against whom the
23 applicant or recipient has a claim, demand or cause of action.
24 The notice shall claim the charge and describe the interest the
25 Illinois Department, the local governmental unit, or the
26 county, has in the claim, demand, or cause of action. The
27 charge shall attach to any verdict or judgment entered and to
28 any money or property which may be recovered on account of such
29 claim, demand, cause of action or suit from and after the time
30 of the service of the notice.

31 On petition filed by the Illinois Department, or by the
32 local governmental unit or county if either is claiming a
33 charge, or by the recipient, or by the defendant, the court, on
34 written notice to all interested parties, may adjudicate the

1 rights of the parties and enforce the charge. The court may
2 approve the settlement of any claim, demand or cause of action
3 either before or after a verdict, and nothing in this Section
4 shall be construed as requiring the actual trial or final
5 adjudication of any claim, demand or cause of action upon which
6 the Illinois Department, the local governmental unit or county
7 has charge. The court may determine what portion of the
8 recovery shall be paid to the injured person and what portion
9 shall be paid to the Illinois Department, the local
10 governmental unit or county having a charge against the
11 recovery. In making this determination, the court shall conduct
12 an evidentiary hearing and shall consider competent evidence
13 pertaining to the following matters:

14 (1) the amount of the charge sought to be enforced
15 against the recovery when expressed as a percentage of the
16 gross amount of the recovery; the amount of the charge
17 sought to be enforced against the recovery when expressed
18 as a percentage of the amount obtained by subtracting from
19 the gross amount of the recovery the total attorney's fees
20 and other costs incurred by the recipient incident to the
21 recovery; and whether the Department, unit of local
22 government or county seeking to enforce the charge against
23 the recovery should as a matter of fairness and equity bear
24 its proportionate share of the fees and costs incurred to
25 generate the recovery from which the charge is sought to be
26 satisfied;

27 (2) the amount, if any, of the attorney's fees and
28 other costs incurred by the recipient incident to the
29 recovery and paid by the recipient up to the time of
30 recovery, and the amount of such fees and costs remaining
31 unpaid at the time of recovery;

32 (3) the total hospital, doctor and other medical
33 expenses incurred for care and treatment of the injury to
34 the date of recovery therefor, the portion of such expenses

1 theretofore paid by the recipient, by insurance provided by
2 the recipient, and by the Department, unit of local
3 government and county seeking to enforce a charge against
4 the recovery, and the amount of such previously incurred
5 expenses which remain unpaid at the time of recovery and by
6 whom such incurred, unpaid expenses are to be paid;

7 (4) whether the recovery represents less than
8 substantially full recompense for the injury and the
9 hospital, doctor and other medical expenses incurred to the
10 date of recovery for the care and treatment of the injury,
11 so that reduction of the charge sought to be enforced
12 against the recovery would not likely result in a double
13 recovery or unjust enrichment to the recipient;

14 (5) the age of the recipient and of persons dependent
15 for support upon the recipient, the nature and permanency
16 of the recipient's injuries as they affect not only the
17 future employability and education of the recipient but
18 also the reasonably necessary and foreseeable future
19 material, maintenance, medical, rehabilitative and
20 training needs of the recipient, the cost of such
21 reasonably necessary and foreseeable future needs, and the
22 resources available to meet such needs and pay such costs;

23 (6) the realistic ability of the recipient to repay in
24 whole or in part the charge sought to be enforced against
25 the recovery when judged in light of the factors enumerated
26 above.

27 The burden of producing evidence sufficient to support the
28 exercise by the court of its discretion to reduce the amount of
29 a proven charge sought to be enforced against the recovery
30 shall rest with the party seeking such reduction.

31 The court may reduce and apportion the Illinois
32 Department's lien proportionate to the recovery of the
33 claimant. The court may consider the nature and extent of the
34 injury, economic and noneconomic loss, settlement offers,

1 comparative negligence as it applies to the case at hand,
2 hospital costs, physician costs, and all other appropriate
3 costs. The Illinois Department shall pay its pro rata share of
4 the attorney fees based on the Illinois Department's lien as it
5 compares to the total settlement agreed upon. This Section
6 shall not affect the priority of an attorney's lien under the
7 Attorneys Lien Act. The charges of the Illinois Department
8 described in this Section, however, shall take priority over
9 all other liens and charges existing under the laws of the
10 State of Illinois with the exception of the attorney's lien
11 under said statute.

12 Whenever the Department or any unit of local government has
13 a statutory charge under this Section against a recovery for
14 damages incurred by a recipient because of its advancement of
15 any assistance, such charge shall not be satisfied out of any
16 recovery until the attorney's claim for fees is satisfied,
17 irrespective of whether or not an action based on recipient's
18 claim has been filed in court.

19 This Section shall be inapplicable to any claim, demand or
20 cause of action arising under (a) the Workers' Compensation Act
21 or the predecessor Workers' Compensation Act of June 28, 1913,
22 (b) the Workers' Occupational Diseases Act or the predecessor
23 Workers' Occupational Diseases Act of March 16, 1936; and (c)
24 the Wrongful Death Act.

25 (Source: P.A. 91-357, eff. 7-29-99; 92-111, eff. 1-1-02.)

26 (305 ILCS 5/11-22a) (from Ch. 23, par. 11-22a)

27 Sec. 11-22a. Right of Subrogation. To the extent of the
28 amount of (i) medical assistance provided by the Department to
29 or on behalf of a recipient under Article V or VI or (ii)
30 health care benefits provided for a child under the Covering
31 ALL KIDS Health Insurance Act, the Department shall be
32 subrogated to any right of recovery such recipient may have
33 under the terms of any private or public health care coverage

1 or casualty coverage, including coverage under the "Workers'
2 Compensation Act", approved July 9, 1951, as amended, or the
3 "Workers' Occupational Diseases Act", approved July 9, 1951, as
4 amended, without the necessity of assignment of claim or other
5 authorization to secure the right of recovery to the
6 Department. To enforce its subrogation right, the Department
7 may (i) intervene or join in an action or proceeding brought by
8 the recipient, his or her guardian, personal representative,
9 estate, dependents, or survivors against any person or public
10 or private entity that may be liable; (ii) institute and
11 prosecute legal proceedings against any person or public or
12 private entity that may be liable for the cost of such
13 services; or (iii) institute and prosecute legal proceedings,
14 to the extent necessary to reimburse the Illinois Department
15 for its costs, against any noncustodial parent who (A) is
16 required by court or administrative order to provide insurance
17 or other coverage of the cost of health care services for a
18 child eligible for medical assistance under this Code and (B)
19 has received payment from a third party for the costs of those
20 services but has not used the payments to reimburse either the
21 other parent or the guardian of the child or the provider of
22 the services.

23 (Source: P.A. 92-111, eff. 1-1-02.)

24 (305 ILCS 5/11-22b) (from Ch. 23, par. 11-22b)

25 Sec. 11-22b. Recoveries.

26 (a) As used in this Section:

27 (1) "Carrier" means any insurer, including any private
28 company, corporation, mutual association, trust fund,
29 reciprocal or interinsurance exchange authorized under the
30 laws of this State to insure persons against liability or
31 injuries caused to another and any insurer providing benefits
32 under a policy of bodily injury liability insurance covering
33 liability arising out of the ownership, maintenance or use of a

1 motor vehicle which provides uninsured motorist endorsement or
2 coverage.

3 (2) "Beneficiary" means any person or their dependents who
4 has received benefits or will be provided benefits under this
5 Code or under the Covering ALL KIDS Health Insurance Act
6 because of an injury for which another person may be liable. It
7 includes such beneficiary's guardian, conservator or other
8 personal representative, his estate or survivors.

9 (b) (1) When benefits are provided or will be provided to a
10 beneficiary under this Code or under the Covering ALL KIDS
11 Health Insurance Act because of an injury for which another
12 person is liable, or for which a carrier is liable in
13 accordance with the provisions of any policy of insurance
14 issued pursuant to the Illinois Insurance Code, the Illinois
15 Department shall have a right to recover from such person or
16 carrier the reasonable value of benefits so provided. The
17 Attorney General may, to enforce such right, institute and
18 prosecute legal proceedings against the third person or carrier
19 who may be liable for the injury in an appropriate court,
20 either in the name of the Illinois Department or in the name of
21 the injured person, his guardian, personal representative,
22 estate, or survivors.

23 (2) The Department may:

24 (A) compromise or settle and release any such claim for
25 benefits provided under this Code, or

26 (B) waive any such claims for benefits provided under
27 this Code, in whole or in part, for the convenience of the
28 Department or if the Department determines that collection
29 would result in undue hardship upon the person who suffered
30 the injury or, in a wrongful death action, upon the heirs
31 of the deceased.

32 (3) No action taken on behalf of the Department pursuant to
33 this Section or any judgment rendered in such action shall be a
34 bar to any action upon the claim or cause of action of the

1 beneficiary, his guardian, conservator, personal
2 representative, estate, dependents or survivors against the
3 third person who may be liable for the injury, or shall operate
4 to deny to the beneficiary the recovery for that portion of any
5 damages not covered hereunder.

6 (c) (1) When an action is brought by the Department
7 pursuant to subsection (b), it shall be commenced within the
8 period prescribed by Article XIII of the Code of Civil
9 Procedure.

10 However, the Department may not commence the action prior
11 to 5 months before the end of the applicable period prescribed
12 by Article XIII of the Code of Civil Procedure. Thirty days
13 prior to commencing an action, the Department shall notify the
14 beneficiary of the Department's intent to commence such an
15 action.

16 (2) The death of the beneficiary does not abate any right
17 of action established by subsection (b).

18 (3) When an action or claim is brought by persons entitled
19 to bring such actions or assert such claims against a third
20 person who may be liable for causing the death of a
21 beneficiary, any settlement, judgment or award obtained is
22 subject to the Department's claim for reimbursement of the
23 benefits provided to the beneficiary under this Code or under
24 the Covering ALL KIDS Health Insurance Act.

25 (4) When the action or claim is brought by the beneficiary
26 alone and the beneficiary incurs a personal liability to pay
27 attorney's fees and costs of litigation, the Department's claim
28 for reimbursement of the benefits provided to the beneficiary
29 shall be the full amount of benefits paid on behalf of the
30 beneficiary under this Code or under the Covering ALL KIDS
31 Health Insurance Act less a pro rata share which represents the
32 Department's reasonable share of attorney's fees paid by the
33 beneficiary and that portion of the cost of litigation expenses
34 determined by multiplying by the ratio of the full amount of

1 the expenditures of the full amount of the judgment, award or
2 settlement.

3 (d) (1) If either the beneficiary or the Department brings
4 an action or claim against such third party or carrier, the
5 beneficiary or the Department shall within 30 days of filing
6 the action give to the other written notice by personal service
7 or registered mail of the action or claim and of the name of
8 the court in which the action or claim is brought. Proof of
9 such notice shall be filed in such action or claim. If an
10 action or claim is brought by either the Department or the
11 beneficiary, the other may, at any time before trial on the
12 facts, become a party to such action or claim or shall
13 consolidate his action or claim with the other if brought
14 independently.

15 (2) If an action or claim is brought by the Department
16 pursuant to subsection (b)(1), written notice to the
17 beneficiary, guardian, personal representative, estate or
18 survivor given pursuant to this Section shall advise him of his
19 right to intervene in the proceeding, his right to obtain a
20 private attorney of his choice and the Department's right to
21 recover the reasonable value of the benefits provided.

22 (e) In the event of judgment or award in a suit or claim
23 against such third person or carrier:

24 (1) If the action or claim is prosecuted by the beneficiary
25 alone, the court shall first order paid from any judgment or
26 award the reasonable litigation expenses incurred in
27 preparation and prosecution of such action or claim, together
28 with reasonable attorney's fees, when an attorney has been
29 retained. After payment of such expenses and attorney's fees
30 the court shall, on the application of the Department, allow as
31 a first lien against the amount of such judgment or award the
32 amount of the Department's expenditures for the benefit of the
33 beneficiary under this Code or under the Covering ALL KIDS
34 Health Insurance Act, as provided in subsection (c)(4).

1 (2) If the action or claim is prosecuted both by the
2 beneficiary and the Department, the court shall first order
3 paid from any judgment or award the reasonable litigation
4 expenses incurred in preparation and prosecution of such action
5 or claim, together with reasonable attorney's fees for
6 plaintiffs attorneys based solely on the services rendered for
7 the benefit of the beneficiary. After payment of such expenses
8 and attorney's fees, the court shall apply out of the balance
9 of such judgment or award an amount sufficient to reimburse the
10 Department the full amount of benefits paid on behalf of the
11 beneficiary under this Code or under the Covering ALL KIDS
12 Health Insurance Act.

13 (f) The court shall, upon further application at any time
14 before the judgment or award is satisfied, allow as a further
15 lien the amount of any expenditures of the Department in
16 payment of additional benefits arising out of the same cause of
17 action or claim provided on behalf of the beneficiary under
18 this Code or under the Covering ALL KIDS Health Insurance Act,
19 when such benefits were provided or became payable subsequent
20 to the original order.

21 (g) No judgment, award, or settlement in any action or
22 claim by a beneficiary to recover damages for injuries, when
23 the Department has an interest, shall be satisfied without
24 first giving the Department notice and a reasonable opportunity
25 to perfect and satisfy its lien.

26 (h) When the Department has perfected a lien upon a
27 judgment or award in favor of a beneficiary against any third
28 party for an injury for which the beneficiary has received
29 benefits under this Code or under the Covering ALL KIDS Health
30 Insurance Act, the Department shall be entitled to a writ of
31 execution as lien claimant to enforce payment of said lien
32 against such third party with interest and other accruing costs
33 as in the case of other executions. In the event the amount of
34 such judgment or award so recovered has been paid to the

1 beneficiary, the Department shall be entitled to a writ of
2 execution against such beneficiary to the extent of the
3 Department's lien, with interest and other accruing costs as in
4 the case of other executions.

5 (i) Except as otherwise provided in this Section,
6 notwithstanding any other provision of law, the entire amount
7 of any settlement of the injured beneficiary's action or claim,
8 with or without suit, is subject to the Department's claim for
9 reimbursement of the benefits provided and any lien filed
10 pursuant thereto to the same extent and subject to the same
11 limitations as in Section 11-22 of this Code.

12 (Source: P.A. 92-651, eff. 7-11-02.)

13 (305 ILCS 5/11-22c) (from Ch. 23, par. 11-22c)

14 Sec. 11-22c. (a) As used in this Section, "recipient" means
15 any person receiving financial assistance under Article IV or
16 Article VI of this Code or receiving health care benefits under
17 the Covering ALL KIDS Health Insurance Act.

18 (b) If a recipient maintains any suit, charge or other
19 court or administrative action against an employer seeking back
20 pay for a period during which the recipient received financial
21 assistance under Article IV or Article VI of this Code or
22 health care benefits under the Covering ALL KIDS Health
23 Insurance Act, the recipient shall report such fact to the
24 Department. To the extent of the amount of assistance provided
25 to or on behalf of the recipient under Article IV or Article VI
26 or health care benefits provided under the Covering ALL KIDS
27 Health Insurance Act, the Department may by intervention or
28 otherwise without the necessity of assignment of claim, attach
29 a lien on the recovery of back wages equal to the amount of
30 assistance provided by the Department to the recipient under
31 Article IV or Article VI or under the Covering ALL KIDS Health
32 Insurance Act.

33 (Source: P.A. 86-497.)

1 Section 97. Severability. If any provision of this Act or
2 its application to any person or circumstance is held invalid,
3 the invalidity of that provision or application does not affect
4 other provisions or applications of this Act that can be given
5 effect without the invalid provision or application, and to
6 this end the provisions of this Act are severable.

7 Section 98. Repealer. This Act is repealed on July 1,
8 2011.

9 Section 99. Effective date. This Act takes effect July 1,
10 2006.".