

1 AN ACT concerning State government.

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 but who fail to qualify
16 thereunder on the basis of need, and who have insufficient
17 income and resources to meet the costs of necessary medical
18 care, including but not limited to the following:

19 (a) All persons otherwise eligible for basic
20 maintenance under Article III but who fail to qualify
21 under that Article on the basis of need and who meet
22 either of the following requirements:

23 (i) their income, as determined by the

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

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

23 (b) All persons who would be determined eligible
24 for such basic maintenance under Article IV by
25 disregarding the maximum earned income permitted by
26 federal law.

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

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

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

16 (b) The Illinois Department and the Governor shall
17 provide a plan for coverage of the persons eligible under
18 paragraph 5(a) by April 1, 1990. Such plan shall provide
19 ambulatory prenatal care to pregnant women during a
20 presumptive eligibility period and establish an income
21 eligibility standard that is equal to 133% of the nonfarm
22 income official poverty line, as defined by the federal
23 Office of Management and Budget and revised annually in
24 accordance with Section 673(2) of the Omnibus Budget
25 Reconciliation Act of 1981, applicable to families of the
26 same size, provided that costs incurred for medical care

1 are not taken into account in determining such income
2 eligibility.

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

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

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

26 (a) the person requires a level of care provided by

1 a hospital, skilled nursing facility, or intermediate
2 care facility, as determined by a physician licensed to
3 practice medicine in all its branches;

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

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

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

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

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

26 (i) such coverage shall be pursuant to

1 provisions of the federal Social Security Act;

2 (ii) such coverage shall include all services
3 covered while the person was eligible for basic
4 maintenance assistance;

5 (iii) no premium shall be charged for such
6 coverage; and

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

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

24 10. Participants in the long-term care insurance
25 partnership program established under the Illinois
26 Long-Term Care Partnership Program Act ~~Partnership for~~

1 ~~Long Term Care Act~~ who meet the qualifications for
2 protection of resources described in Section 15 ~~25~~ of that
3 Act.

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

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

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

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

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

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

1 Treatment Act of 2000. Those eligible persons are defined
2 to include, but not be limited to, the following persons:

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

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

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

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

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

23 15. Subject to appropriation, uninsured persons who
24 are not otherwise eligible under this Section who have been
25 certified and referred by the Department of Public Health
26 as having been screened and found to need diagnostic

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

1 claim against the estate of a deceased recipient of
2 services under this paragraph 15 and (ii) does not have a
3 lien against any homestead property or other legal or
4 equitable real property interest owned by a recipient of
5 services under this paragraph 15.

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

9 The eligibility of any such person for medical assistance
10 under this Article is not affected by the payment of any grant
11 under the Senior Citizens and Disabled Persons Property Tax
12 Relief and Pharmaceutical Assistance Act or any distributions
13 or items of income described under subparagraph (X) of
14 paragraph (2) of subsection (a) of Section 203 of the Illinois
15 Income Tax Act. The Department shall by rule establish the
16 amounts of assets to be disregarded in determining eligibility
17 for medical assistance, which shall at a minimum equal the
18 amounts to be disregarded under the Federal Supplemental
19 Security Income Program. The amount of assets of a single
20 person to be disregarded shall not be less than \$2,000, and the
21 amount of assets of a married couple to be disregarded shall
22 not be less than \$3,000.

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

1 The eligibility of any person for medical assistance under
2 this Article shall not be affected by the receipt by the person
3 of donations or benefits from fundraisers held for the person
4 in cases of serious illness, as long as neither the person nor
5 members of the person's family have actual control over the
6 donations or benefits or the disbursement of the donations or
7 benefits.

8 Notwithstanding any other rulemaking authority that may
9 exist, neither the Governor nor any agency or agency head under
10 the jurisdiction of the Governor has any authority to make or
11 promulgate rules to implement or enforce the provisions of this
12 amendatory Act of the 95th General Assembly. If, however, the
13 Governor believes that rules are necessary to implement or
14 enforce the provisions of this amendatory Act of the 95th
15 General Assembly, the Governor may suggest rules to the General
16 Assembly by filing them with the Clerk of the House and
17 Secretary of the Senate and by requesting that the General
18 Assembly authorize such rulemaking by law, enact those
19 suggested rules into law, or take any other appropriate action
20 in the General Assembly's discretion. Nothing contained in this
21 amendatory Act of the 95th General Assembly shall be
22 interpreted to grant rulemaking authority under any other
23 Illinois statute where such authority is not otherwise
24 explicitly given. For the purposes of this amendatory Act of
25 the 95th General Assembly, "rules" is given the meaning
26 contained in Section 1-70 of the Illinois Administrative

1 Procedure Act, and "agency" and "agency head" are given the
2 meanings contained in Sections 1-20 and 1-25 of the Illinois
3 Administrative Procedure Act to the extent that such
4 definitions apply to agencies or agency heads under the
5 jurisdiction of the Governor.

6 (Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06;
7 95-546, eff. 8-29-07; revised 1-22-08.)