

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 9A-11 as follows:

6 (305 ILCS 5/9A-11) (from Ch. 23, par. 9A-11)

7 Sec. 9A-11. Child Care.

8 (a) The General Assembly recognizes that families with
9 children need child care in order to work. Child care is
10 expensive and families with low incomes, including those who
11 are transitioning from welfare to work, often struggle to pay
12 the costs of day care. The General Assembly understands the
13 importance of helping low income working families become and
14 remain self-sufficient. The General Assembly also believes
15 that it is the responsibility of families to share in the costs
16 of child care. It is also the preference of the General
17 Assembly that all working poor families should be treated
18 equally, regardless of their welfare status.

19 (b) To the extent resources permit, the Illinois Department
20 shall provide child care services to parents or other relatives
21 as defined by rule who are working or participating in
22 employment or Department approved education or training
23 programs. At a minimum, the Illinois Department shall cover the

1 following categories of families:

2 (1) recipients of TANF under Article IV participating
3 in work and training activities as specified in the
4 personal plan for employment and self-sufficiency;

5 (2) families transitioning from TANF to work;

6 (3) families at risk of becoming recipients of TANF;

7 (4) families with special needs as defined by rule; and

8 (5) working families with very low incomes as defined
9 by rule.

10 The Department shall specify by rule the conditions of
11 eligibility, the application process, and the types, amounts,
12 and duration of services. Eligibility for child care benefits
13 and the amount of child care provided may vary based on family
14 size, income, and other factors as specified by rule.

15 In determining income eligibility for child care benefits,
16 the Department annually, at the beginning of each fiscal year,
17 shall establish, by rule, one income threshold for each family
18 size, in relation to percentage of State median income for a
19 family of that size, that makes families with incomes below the
20 specified threshold eligible for assistance and families with
21 incomes above the specified threshold ineligible for
22 assistance. ~~The Through and including fiscal year 2007, the~~
23 ~~specified threshold must be no less than 50% of the~~
24 ~~then-current State median income for each family size.~~
25 ~~Beginning in fiscal year 2008, the~~ specified threshold must be
26 no less than 200% ~~185%~~ of the then-current federal poverty

1 level for each family size.

2 In determining eligibility for assistance, the Department
3 shall not give preference to any category of recipients or give
4 preference to individuals based on their receipt of benefits
5 under this Code.

6 The Department shall allocate \$7,500,000 annually for a
7 test program for families who are income-eligible for child
8 care assistance, who are not recipients of TANF under Article
9 IV, and who need child care assistance to participate in
10 education and training activities. The Department shall
11 specify by rule the conditions of eligibility for this test
12 program.

13 Nothing in this Section shall be construed as conferring
14 entitlement status to eligible families.

15 The Illinois Department is authorized to lower income
16 eligibility ceilings, raise parent co-payments, create waiting
17 lists, or take such other actions during a fiscal year as are
18 necessary to ensure that child care benefits paid under this
19 Article do not exceed the amounts appropriated for those child
20 care benefits. These changes may be accomplished by emergency
21 rule under Section 5-45 of the Illinois Administrative
22 Procedure Act, except that the limitation on the number of
23 emergency rules that may be adopted in a 24-month period shall
24 not apply.

25 The Illinois Department may contract with other State
26 agencies or child care organizations for the administration of

1 child care services.

2 (c) Payment shall be made for child care that otherwise
3 meets the requirements of this Section and applicable standards
4 of State and local law and regulation, including any
5 requirements the Illinois Department promulgates by rule in
6 addition to the licensure requirements promulgated by the
7 Department of Children and Family Services and Fire Prevention
8 and Safety requirements promulgated by the Office of the State
9 Fire Marshal and is provided in any of the following:

10 (1) a child care center which is licensed or exempt
11 from licensure pursuant to Section 2.09 of the Child Care
12 Act of 1969;

13 (2) a licensed child care home or home exempt from
14 licensing;

15 (3) a licensed group child care home;

16 (4) other types of child care, including child care
17 provided by relatives or persons living in the same home as
18 the child, as determined by the Illinois Department by
19 rule.

20 (c-5) ~~(b-5)~~ Solely for the purposes of coverage under the
21 Illinois Public Labor Relations Act, child and day care home
22 providers, including licensed and license exempt,
23 participating in the Department's child care assistance
24 program shall be considered to be public employees and the
25 State of Illinois shall be considered to be their employer as
26 of the effective date of this amendatory Act of the 94th

1 General Assembly, but not before. The State shall engage in
2 collective bargaining with an exclusive representative of
3 child and day care home providers participating in the child
4 care assistance program concerning their terms and conditions
5 of employment that are within the State's control. Nothing in
6 this subsection shall be understood to limit the right of
7 families receiving services defined in this Section to select
8 child and day care home providers or supervise them within the
9 limits of this Section. The State shall not be considered to be
10 the employer of child and day care home providers for any
11 purposes not specifically provided in this amendatory Act of
12 the 94th General Assembly, including but not limited to,
13 purposes of vicarious liability in tort and purposes of
14 statutory retirement or health insurance benefits. Child and
15 day care home providers shall not be covered by the State
16 Employees Group Insurance Act of 1971.

17 In according child and day care home providers and their
18 selected representative rights under the Illinois Public Labor
19 Relations Act, the State intends that the State action
20 exemption to application of federal and State antitrust laws be
21 fully available to the extent that their activities are
22 authorized by this amendatory Act of the 94th General Assembly.

23 (d) The Illinois Department shall, by rule, require
24 co-payments for child care services by any parent, including
25 parents whose only income is from assistance under this Code.
26 The co-payment shall be assessed based on a sliding scale based

1 on family income, family size, and the number of children in
2 care. The amount of a family's co-payment shall not exceed the
3 sum of the following:

4 (1) 3% of the family's countable income, if any, that
5 is not more than 100% of the federal poverty level; plus

6 (2) 7% of the family's countable income, if any, that
7 is more than 100% of the federal poverty level but not more
8 than 150% of the federal poverty level; plus

9 (3) 12% of the family's countable income, if any, that
10 is more than 150% of the federal poverty level but not more
11 than 200% of the federal poverty level.

12 Notwithstanding the preceding sentence, however, if a
13 family's countable income is less than 50% of the federal
14 poverty level, the family's co-payment shall be \$1 per week.

15 Co-payments shall not be increased due solely to a change
16 in the methodology for counting family income.

17 (d-5) The Illinois Department, in consultation with its
18 Child Care and Development Advisory Council, shall develop a
19 plan to revise the child care assistance program's co-payment
20 scale. The plan shall be completed no later than February 1,
21 2008, and shall include:

22 (1) findings as to the percentage of income that the
23 average American family spends on child care and the
24 relative amounts that low-income families and the average
25 American family spend on other necessities of life;

26 (2) recommendations for revising the child care

1 co-payment scale to assure that families receiving child
2 care services from the Department are paying no more than
3 they can reasonably afford;

4 (3) recommendations for revising the child care
5 co-payment scale to provide at-risk children with complete
6 access to Preschool for All and Head Start; and

7 (4) recommendations for changes in child care program
8 policies that affect the affordability of child care.

9 (e) (Blank).

10 (f) The Illinois Department shall, by rule, set rates to be
11 paid for the various types of child care. Child care may be
12 provided through one of the following methods:

13 (1) arranging the child care through eligible
14 providers by use of purchase of service contracts or
15 vouchers;

16 (2) arranging with other agencies and community
17 volunteer groups for non-reimbursed child care;

18 (3) (blank); or

19 (4) adopting such other arrangements as the Department
20 determines appropriate.

21 (f-5) (Blank).

22 (g) Families eligible for assistance under this Section
23 shall be given the following options:

24 (1) receiving a child care certificate issued by the
25 Department or a subcontractor of the Department that may be
26 used by the parents as payment for child care and

1 development services only; or

2 (2) if space is available, enrolling the child with a
3 child care provider that has a purchase of service contract
4 with the Department or a subcontractor of the Department
5 for the provision of child care and development services.
6 The Department may identify particular priority
7 populations for whom they may request special
8 consideration by a provider with purchase of service
9 contracts, provided that the providers shall be permitted
10 to maintain a balance of clients in terms of household
11 incomes and families and children with special needs, as
12 defined by rule.

13 (h) Notwithstanding any other rulemaking authority that
14 may exist, neither the Governor nor any agency or agency head
15 under the jurisdiction of the Governor has any authority to
16 make or promulgate rules to implement or enforce the provisions
17 of this amendatory Act of the 95th General Assembly. If,
18 however, the Governor believes that rules are necessary to
19 implement or enforce the provisions of this amendatory Act of
20 the 95th General Assembly, the Governor may suggest rules to
21 the General Assembly by filing them with the Clerk of the House
22 and Secretary of the Senate and by requesting that the General
23 Assembly authorize such rulemaking by law, enact those
24 suggested rules into law, or take any other appropriate action
25 in the General Assembly's discretion. Nothing contained in this
26 amendatory Act of the 95th General Assembly shall be

1 interpreted to grant rulemaking authority under any other
2 Illinois statute where such authority is not otherwise
3 explicitly given. For the purposes of this amendatory Act of
4 the 95th General Assembly, "rules" is given the meaning
5 contained in Section 1-70 of the Illinois Administrative
6 Procedure Act, and "agency" and "agency head" are given the
7 meanings contained in Sections 1-20 and 1-25 of the Illinois
8 Administrative Procedure Act to the extent that such
9 definitions apply to agencies or agency heads under the
10 jurisdiction of the Governor.

11 (Source: P.A. 94-320, eff. 1-1-06; 95-206, eff. 8-16-07;
12 95-322, eff. 1-1-08; revised 11-15-07.)

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