



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4147

Introduced 2/27/2009, by Rep. Ron Stephens

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-2

from Ch. 23, par. 5-2

Amends the Illinois Public Aid Code. In connection with Medicaid eligibility of certain persons under the Breast and Cervical Cancer Program, provides that the program must: include coverage for all medically necessary pain medication and pain therapy related to the treatment of breast cancer; require no co-payment or other cost-sharing requirement; and not be subject to any annual or lifetime maximum benefit. Provides that the Department of Healthcare and Family Services shall make every effort to ensure that services under the program are made available in rural and medically underserved areas in Illinois, including by means of telemedicine. Effective immediately.

LRB096 08594 DRJ 22670 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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. "Medical assistance" under this paragraph 12  
22 must include coverage for all medically necessary pain  
23 medication and pain therapy related to the treatment of  
24 breast cancer. For purposes of this paragraph 12, "pain  
25 therapy" means pain therapy that is medically based and  
26 includes reasonably defined goals, including, but not

1 limited to, stabilizing or reducing pain, with periodic  
2 evaluations of the efficacy of the pain therapy against  
3 those goals. There shall be no co-payment or other  
4 cost-sharing requirement in connection with any screenings  
5 or treatment covered under this paragraph 12. Coverage  
6 under this paragraph 12 shall not be applied to any annual  
7 or lifetime maximum benefit. The Department shall make  
8 every effort to ensure that services under this paragraph  
9 12 are made available in rural and medically underserved  
10 areas in Illinois, including by means of telemedicine.

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

16 14. Subject to the availability of funds for this  
17 purpose, the Department may provide coverage under this  
18 Article to persons who reside in Illinois who are not  
19 eligible under any of the preceding paragraphs and who meet  
20 the income guidelines of paragraph 2(a) of this Section and  
21 (i) have an application for asylum pending before the  
22 federal Department of Homeland Security or on appeal before  
23 a court of competent jurisdiction and are represented  
24 either by counsel or by an advocate accredited by the  
25 federal Department of Homeland Security and employed by a  
26 not-for-profit organization in regard to that application

1 or appeal, or (ii) are receiving services through a  
2 federally funded torture treatment center. Medical  
3 coverage under this paragraph 14 may be provided for up to  
4 24 continuous months from the initial eligibility date so  
5 long as an individual continues to satisfy the criteria of  
6 this paragraph 14. If an individual has an appeal pending  
7 regarding an application for asylum before the Department  
8 of Homeland Security, eligibility under this paragraph 14  
9 may be extended until a final decision is rendered on the  
10 appeal. The Department may adopt rules governing the  
11 implementation of this paragraph 14.

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

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

1 amount of assets of a married couple to be disregarded shall  
2 not be less than \$3,000.

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

7 The eligibility of any person for medical assistance under  
8 this Article shall not be affected by the receipt by the person  
9 of donations or benefits from fundraisers held for the person  
10 in cases of serious illness, as long as neither the person nor  
11 members of the person's family have actual control over the  
12 donations or benefits or the disbursement of the donations or  
13 benefits.

14 (Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06;  
15 95-546, eff. 8-29-07; revised 1-22-08.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.