

Rep. Sara Feigenholtz

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LRB097 17744 KTG 73161 a

1 AMENDMENT TO SENATE BILL 3441

2 AMENDMENT NO. _____. Amend Senate Bill 3441 by replacing

3 everything after the enacting clause with the following:

"Section 1. Findings. The General Assembly finds it is in the best interests of the State to take advantage of the Patient Protection and Affordable Care Act to enable Illinois to receive enhanced federal revenue to cover the costs of health care for low-income adults who are otherwise not eligible for Medicaid. The General Assembly further finds that the administration and financing of the Medicaid program must be sound to ensure Illinois may take full advantage of national health care reform to keep people healthier; reimburse hospitals and clinics for uncompensated and charity care for the uninsured; and replace spending by county and local governments for healthcare costs now borne by local health departments, social service agencies, homeless shelters, mental health clinics, drug treatment centers, township

- 1 organizations, and others for the care of the uninsured.
- 2 Accordingly, the General Assembly finds that, while filling the
- 3 current gap in Medicaid coverage, it is essential that the
- 4 State preserve and extend recent efforts to reform Illinois'
- 5 Medicaid program. Changes designed to increase efficiencies
- 6 and enhance program integrity must continue to prevent client
- 7 and provider fraud and abuse; to impose controls on use of
- 8 Medicaid services to prevent over-use or waste; to rationalize
- 9 the Medicaid health care delivery system by adopting care
- 10 coordination models wherever feasible to achieve effective and
- 11 efficient care delivery across all covered services; and to
- operate the program within budget limits.
- 13 Section 5. The Illinois Public Aid Code is amended by
- changing Sections 5-1.1, 5-1.4, and 5-2 as follows:
- 15 (305 ILCS 5/5-1.1) (from Ch. 23, par. 5-1.1)
- Sec. 5-1.1. Definitions. The terms defined in this Section
- shall have the meanings ascribed to them, except when the
- 18 context otherwise requires.
- 19 (a) "Nursing facility" means a facility, licensed by the
- 20 Department of Public Health under the Nursing Home Care Act,
- 21 that provides nursing facility services within the meaning of
- 22 Title XIX of the federal Social Security Act.
- 23 (b) "Intermediate care facility for the developmentally
- 24 disabled" or "ICF/DD" means a facility, licensed by the

- 1 Department of Public Health under the ID/DD Community Care Act,
- 2 that is an intermediate care facility for the mentally retarded
- 3 within the meaning of Title XIX of the federal Social Security
- 4 Act.
- 5 (c) "Standard services" means those services required for
- 6 the care of all patients in the facility and shall, as a
- 7 minimum, include the following: (1) administration; (2)
- 8 dietary (standard); (3) housekeeping; (4) laundry and linen;
- 9 (5) maintenance of property and equipment, including
- 10 utilities; (6) medical records; (7) training of employees; (8)
- 11 utilization review; (9) activities services; (10) social
- 12 services; (11) disability services; and all other similar
- services required by either the laws of the State of Illinois
- or one of its political subdivisions or municipalities or by
- 15 Title XIX of the Social Security Act.
- 16 (d) "Patient services" means those which vary with the
- 17 number of personnel; professional and para-professional skills
- of the personnel; specialized equipment, and reflect the
- 19 intensity of the medical and psycho-social needs of the
- 20 patients. Patient services shall as a minimum include: (1)
- 21 physical services; (2) nursing services, including restorative
- 22 nursing; (3) medical direction and patient care planning; (4)
- 23 health related supportive and habilitative services and all
- 24 similar services required by either the laws of the State of
- 25 Illinois or one of its political subdivisions or municipalities
- or by Title XIX of the Social Security Act.

- 1 "Ancillary services" means those services (e) require a specific physician's order and defined as under the 2 3 medical assistance program as not being routine in nature for 4 skilled nursing facilities and ICF/DDs. Such services 5 generally must be authorized prior to delivery and payment as 6 provided for under the rules of the Department of Healthcare 7 and Family Services.
 - (f) "Capital" means the investment in a facility's assets for both debt and non-debt funds. Non-debt capital is the difference between an adjusted replacement value of the assets and the actual amount of debt capital.
 - (g) "Profit" means the amount which shall accrue to a facility as a result of its revenues exceeding its expenses as determined in accordance with generally accepted accounting principles.
 - (h) "Non-institutional services" means those services provided under paragraph (f) of Section 3 of the Disabled Persons Rehabilitation Act and those services provided under Section 4.02 of the Illinois Act on the Aging.
 - (i) (Blank).

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(j) "Institutionalized person" means an individual who is an inpatient in an ICF/DD or nursing facility, or who is an inpatient in a medical institution receiving a level of care equivalent to that of an ICF/DD or nursing facility, or who is receiving services under Section 1915(c) of the Social Security Act.

- 1 (k) "Institutionalized spouse" means an institutionalized
- 2 person who is expected to receive services at the same level of
- 3 care for at least 30 days and is married to a spouse who is not
- 4 an institutionalized person.
- 5 (1) "Community spouse" is the spouse of an
- 6 institutionalized spouse.
- 7 (m) "Health Benefits Service Package" means, subject to
- 8 federal approval, benefits covered by the medical assistance
- 9 program as determined by the Department by rule for individuals
- 10 eligible for medical assistance under paragraph 18 of Section
- 11 5-2 of this Code.
- 12 (Source: P.A. 96-1530, eff. 2-16-11; 97-227, eff. 1-1-12;
- 13 97-820, eff. 7-17-12.)
- 14 (305 ILCS 5/5-1.4)
- 15 Sec. 5-1.4. Moratorium on eligibility expansions.
- Beginning on January 25, 2011 (the effective date of Public Act
- 17 96-1501), there shall be a 4-year moratorium on the expansion
- 18 of eligibility through increasing financial eligibility
- 19 standards, or through increasing income disregards, or through
- the creation of new programs which would add new categories of
- 21 eligible individuals under the medical assistance program in
- 22 addition to those categories covered on January 1, 2011 or
- above the level of any subsequent reduction in eligibility.
- 24 This moratorium shall not apply to expansions required as a
- 25 federal condition of State participation in the medical

1 assistance program or to expansions approved by the federal 2 government that are financed entirely by units of local government and federal matching funds. If the State of Illinois 3 4 finds that the State has borne a cost related to such an 5 expansion, the unit of local government shall reimburse the 6 State. All federal funds associated with an expansion funded by a unit of local government shall be returned to the local 7 government entity funding the expansion, pursuant to 8 9 intergovernmental agreement between the Department of 10 Healthcare and Family Services and the local government entity. 11 Within 10 calendar days of the effective date of this amendatory Act of the 97th General Assembly, the Department of 12 13 Healthcare and Family Services shall formally advise the Centers for Medicare and Medicaid Services of the passage of 14 15 this amendatory Act of the 97th General Assembly. The State is 16 prohibited from submitting additional waiver requests that expand or allow for an increase in the classes of persons 17 eligible for medical assistance under this Article to the 18 federal government for its consideration beginning on the 20th 19 20 calendar day following the effective date of this amendatory 21 Act of the 97th General Assembly until January 25, 2015. This 22 moratorium shall not apply to those persons eligible for 23 medical assistance pursuant to 42 U.S.C. 24 1396a(a)(10)(A)(i)(VIII) as set forth in paragraph 18 of 25 Section 5-2 of this Code.

(Source: P.A. 96-1501, eff. 1-25-11; 97-687, eff. 6-14-12.)

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- (305 ILCS 5/5-2) (from Ch. 23, par. 5-2) 1
- Sec. 5-2. Classes of Persons Eligible. Medical assistance 3 under this Article shall be available to any of the following classes of persons in respect to whom a plan for coverage has 4 been submitted to the Governor by the Illinois Department and 5 6 approved by him:
 - 1. Recipients of basic maintenance grants Articles III and IV.
 - 2. Persons otherwise eligible for basic maintenance under Articles III and IV, excluding any eligibility requirements that are inconsistent with any federal law or federal regulation, as interpreted by the U.S. Department of Health and Human Services, but who fail to qualify thereunder on the basis of need or who qualify but are not receiving basic maintenance under Article IV, and who have insufficient income and resources to meet the costs of necessary medical care, including but not limited to the following:
 - All persons otherwise eligible for basic maintenance under Article III but who fail to qualify under that Article on the basis of need and who meet either of the following requirements:
 - (i) their income, as determined by Illinois Department in accordance with any federal requirements, is equal to or less than 70% in

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fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size; or

- (ii) their income, after the deduction of costs incurred for medical care and for other types of remedial care, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined in item (i) of this subparagraph (a).
- (b) All persons who, excluding any eligibility requirements that are inconsistent with any federal law or federal regulation, as interpreted by the U.S. Department of Health and Human Services, would be determined eligible for such basic maintenance under Article IV by disregarding the maximum earned income

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1 permitted by federal law.

- 3. Persons who would otherwise qualify for Aid to the Medically Indigent under Article VII.
- 4. Persons not eligible under any of the preceding paragraphs who fall sick, are injured, or die, not having sufficient money, property or other resources to meet the costs of necessary medical care or funeral and burial expenses.
- 5.(a) Women during pregnancy, after the fact of pregnancy has been determined by medical diagnosis, and during the 60-day period beginning on the last day of the pregnancy, together with their infants and children born after September 30, 1983, whose income and resources are insufficient to meet the costs of necessary medical care to the maximum extent possible under Title XIX of the Federal Social Security Act.
- (b) The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 5(a) by April 1, 1990. Such plan shall provide ambulatory prenatal care to pregnant women during a presumptive eligibility period and establish an income eligibility standard that is equal to 133% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the

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same size, provided that costs incurred for medical care are not taken into account in determining such income eligibility.

- (C) The Illinois Department may conduct demonstration in at least one county that will provide medical assistance to pregnant women, together with their infants and children up to one year of age, where the income eligibility standard is set up to 185% of nonfarm income official poverty line, as defined by the federal Office of Management and Budget. The Illinois Department shall seek and obtain necessary authorization provided under federal law to implement such demonstration. Such demonstration may establish resource standards that are not more restrictive than established under Article IV of this Code.
- 6. Persons under the age of 18 who fail to qualify as dependent under Article IV and who have insufficient income and resources to meet the costs of necessary medical care to the maximum extent permitted under Title XIX of the Federal Social Security Act.
 - 7. (Blank).
- 8. Persons who become ineligible for basic maintenance assistance under Article IV of this Code in programs administered by the Illinois Department due to employment earnings and persons in assistance units comprised of adults and children who become ineligible for basic

maintenance assistance under Article VI of this Code due to

| 2 | employment earnings. The plan for coverage for this class |
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| 3 | of persons shall: |
| 4 | (a) extend the medical assistance coverage for up |
| 5 | to 12 months following termination of basic |
| 6 | maintenance assistance; and |
| 7 | (b) offer persons who have initially received 6 |
| 8 | months of the coverage provided in paragraph (a) above, |
| 9 | the option of receiving an additional 6 months of |
| 10 | coverage, subject to the following: |
| 11 | (i) such coverage shall be pursuant to |
| 12 | provisions of the federal Social Security Act; |
| 13 | (ii) such coverage shall include all services |
| 14 | covered while the person was eligible for basic |
| 15 | maintenance assistance; |
| 16 | (iii) no premium shall be charged for such |
| 17 | coverage; and |
| 18 | (iv) such coverage shall be suspended in the |
| 19 | event of a person's failure without good cause to |
| 20 | file in a timely fashion reports required for this |
| 21 | coverage under the Social Security Act and |
| 22 | coverage shall be reinstated upon the filing of |
| 23 | such reports if the person remains otherwise |
| 24 | eligible. |
| 25 | 9. Persons with acquired immunodeficiency syndrome |
| 26 | (AIDS) or with AIDS-related conditions with respect to whom |

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there has been a determination that but for home or community-based services such individuals would require level of care provided in an inpatient hospital, skilled nursing facility or intermediate care facility the cost of which is reimbursed under this Article. Assistance shall be provided to such persons to the maximum extent permitted under Title XIX of the Federal Social Security Act.

- 10. Participants in the long-term care insurance partnership program established under Illinois the Long-Term Care Partnership Program Act who meet the qualifications for protection of resources described in Section 15 of that Act.
- 11. Persons with disabilities who are employed and Medicaid, eligible for pursuant to 1902(a)(10)(A)(ii)(xv) of the Social Security Act, and, subject to federal approval, persons with a medically improved disability who are employed and eligible for Medicaid pursuant to Section 1902(a)(10)(A)(ii)(xvi) of the Social Security Act, as provided by the Illinois Department by rule. In establishing eligibility standards under this paragraph 11, the Department shall, subject to federal approval:
 - (a) set the income eligibility standard at not lower than 350% of the federal poverty level;
 - (b) exempt retirement accounts that the person

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| 1 | cannot access without penalty before the age of 59 $1/2$, |
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| 2 | and medical savings accounts established pursuant to |
| 3 | 26 U.S.C. 220; |

- (c) allow non-exempt assets up to \$25,000 as to those assets accumulated during periods of eligibility under this paragraph 11; and
- (d) continue to apply subparagraphs (b) and (c) in determining the eligibility of the person under this Article even if the person loses eligibility under this paragraph 11.
- 12. Subject to federal approval, persons who are eligible for medical assistance coverage under applicable provisions of the federal Social Security Act and the federal Breast and Cervical Cancer Prevention Treatment Act of 2000. Those eligible persons are defined to include, but not be limited to, the following persons:
 - (1) persons who have been screened for breast or cervical cancer under the U.S. Centers for Disease Control and Prevention Breast and Cervical Cancer Program established under Title XV of the federal Public Health Services Act in accordance with the requirements of Section 1504 of that Act administered by the Illinois Department of Public Health: and
 - (2) persons whose screenings under the above program were funded in whole or in part by funds

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appropriated to the Illinois Department of Public Health for breast or cervical cancer screening.

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

In addition to the persons who are eligible for medical assistance pursuant to subparagraphs (1) and (2) of this paragraph 12, and to be paid from funds appropriated to the Department for its medical programs, any uninsured person as defined by the Department in rules residing in Illinois who is younger than 65 years of age, who has been screened for breast and cervical cancer in accordance with standards and procedures adopted by the Department of Public Health for screening, and who is referred to the Department by the Department of Public Health as being in need of treatment for breast or cervical cancer is eligible for medical assistance benefits that are consistent with the benefits provided to those persons described in subparagraphs (1) and (2). Medical assistance coverage for the persons who are eligible under the preceding sentence is not dependent on federal approval, but federal moneys may be used to pay for services provided under that coverage upon federal

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- 13. Subject to appropriation and to federal approval, persons living with HIV/AIDS who are not otherwise eligible under this Article and who qualify for services covered under Section 5-5.04 as provided by the Illinois Department by rule.
- 14. Subject to the availability of funds for this purpose, the Department may provide coverage under this Article to persons who reside in Illinois who are not eligible under any of the preceding paragraphs and who meet the income guidelines of paragraph 2(a) of this Section and (i) have an application for asylum pending before the federal Department of Homeland Security or on appeal before a court of competent jurisdiction and are represented either by counsel or by an advocate accredited by the federal Department of Homeland Security and employed by a not-for-profit organization in regard to that application appeal, or (ii) are receiving services through a federally funded torture treatment center. Medical coverage under this paragraph 14 may be provided for up to 24 continuous months from the initial eligibility date so long as an individual continues to satisfy the criteria of this paragraph 14. If an individual has an appeal pending regarding an application for asylum before the Department of Homeland Security, eligibility under this paragraph 14 may be extended until a final decision is rendered on the

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| 1 | appeal. The Department may adopt rules governing the |
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| 2 | implementation of this paragraph 14. |
| 3 | 15. Family Care Eligibility. |
| 4 | (a) On and after July 1, 2012, a caretaker relative |
| 5 | who is 19 years of age or older when countable income |
| 6 | is at or below 133% of the Federal Poverty Level |
| 7 | Guidelines, as published annually in the Federal |
| 8 | Register, for the appropriate family size. A person may |
| 9 | not spend down to become eligible under this paragraph |
| 10 | 15. |
| 11 | (b) Eligibility shall be reviewed annually. |
| 12 | (c) (Blank). |
| 13 | (d) (Blank). |
| 14 | (e) (Blank). |
| 15 | (f) (Blank). |
| 16 | (g) (Blank). |
| 17 | (h) (Blank). |
| 18 | (i) Following termination of an individual's |
| 19 | coverage under this paragraph 15, the individual must |
| 20 | be determined eligible before the person can be |
| 21 | re-enrolled. |
| 22 | 16. Subject to appropriation, uninsured persons who |
| 23 | are not otherwise eligible under this Section who have been |
| 24 | certified and referred by the Department of Public Health |

as having been screened and found to need diagnostic

evaluation or treatment, or both diagnostic evaluation and

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

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services under this paragraph 16 and (ii) does not have a lien against any homestead property or other legal or equitable real property interest owned by a recipient of services under this paragraph 16.

- 17. Persons who, pursuant to a waiver approved by the Secretary of the U.S. Department of Health and Human Services, are eligible for medical assistance under Title XXI of the federal Social Security Act. Notwithstanding any other provision of this Code and consistent with the terms of the approved waiver, the Illinois Department, may by rule:
 - (a) Limit the geographic areas in which the waiver program operates.
 - (b) Determine the scope, quantity, duration, and quality, and the rate and method of reimbursement, of the medical services to be provided, which may differ from those for other classes of persons eligible for assistance under this Article.
 - (c) Restrict the persons' freedom in choice of providers.
- 18. Beginning January 1, 2014, persons aged 19 or older, but younger than 65, who are not otherwise eligible for medical assistance under this Section 5-2, who qualify for medical assistance pursuant to 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) and as set forth in 42 CFR 435.119, and who have income at or below 133% of the

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federal poverty level plus 5% for the applicable family size as determined pursuant to 42 U.S.C. 1396a(e)(14) and as set forth in 42 CFR 435.603. Persons eligible for medical assistance under this paragraph 18 shall receive coverage for the Health Benefits Service Package as that term is defined in subsection (m) of Section 5-1.1 of this Code. If Illinois' federal medical assistance percentage (FMAP) is reduced below 90% for persons eligible for medical assistance under this paragraph 18, eligibility under this paragraph 18 shall cease no later than the end of the third month following the month in which the reduction in FMAP takes effect.

In implementing the provisions of Public Act 96-20, the Department is authorized to adopt only those rules necessary, including emergency rules. Nothing in Public Act 96-20 permits the Department to adopt rules or issue a decision that expands eligibility for the FamilyCare Program to a person whose income exceeds 185% of the Federal Poverty Level as determined from time to time by the U.S. Department of Health and Human Services, unless the Department is provided with express statutory authority.

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

The eligibility of any such person for medical assistance under this Article is not affected by the payment of any grant

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under the Senior Citizens and Disabled Persons Property Tax Relief Act or any distributions or items of income described under subparagraph (X) of paragraph (2) of subsection (a) of Section 203 of the Illinois Income Tax Act. The Department shall by rule establish the amounts of assets to be disregarded in determining eligibility for medical assistance, which shall at a minimum equal the amounts to be disregarded under the Federal Supplemental Security Income Program. The amount of assets of a single person to be disregarded shall not be less than \$2,000, and the amount of assets of a married couple to be disregarded shall not be less than \$3,000.

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

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

Notwithstanding any other provision of this Code, if the United States Supreme Court holds Title II, Subtitle A, Section 2001(a) of Public Law 111-148 to be unconstitutional, or if a holding of Public Law 111-148 makes Medicaid eligibility

- 1 allowed under Section 2001(a) inoperable, the State or a unit
- 2 local government shall be prohibited from enrolling
- 3 individuals in the Medical Assistance Program as the result of
- 4 federal approval of a State Medicaid waiver on or after the
- 5 effective date of this amendatory Act of the 97th General
- 6 and any individuals enrolled in Assembly, the Medical
- Assistance Program pursuant to eligibility permitted as a 7
- result of such a State Medicaid waiver shall become immediately 8
- 9 ineligible.
- 10 Notwithstanding any other provision of this Code, if an Act
- of Congress that becomes a Public Law eliminates Section 11
- 2001(a) of Public Law 111-148, the State or a unit of local 12
- 13 government shall be prohibited from enrolling individuals in
- 14 the Medical Assistance Program as the result of federal
- 15 approval of a State Medicaid waiver on or after the effective
- 16 date of this amendatory Act of the 97th General Assembly, and
- any individuals enrolled in the Medical Assistance Program 17
- pursuant to eligibility permitted as a result of such a State 18
- 19 Medicaid waiver shall become immediately ineligible.
- 20 (Source: P.A. 96-20, eff. 6-30-09; 96-181, eff. 8-10-09;
- 96-328, eff. 8-11-09; 96-567, eff. 1-1-10; 96-1000, eff. 21
- 7-2-10; 96-1123, eff. 1-1-11; 96-1270, eff. 7-26-10; 97-48, 22
- eff. 6-28-11; 97-74, eff. 6-30-11; 97-333, eff. 8-12-11; 23
- 97-687, eff. 6-14-12; 97-689, eff. 6-14-12; 97-813, eff. 24
- 25 7-13-12; revised 7-23-12.)

- Section 99. Effective date. This Act takes effect upon 1
- 2 becoming law.".