

1 AN ACT in relation to health.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the  
5 Anti-Obesity and Related Comorbidities Therapy Act.

6 Section 5. Public policy. It is declared that for the  
7 benefit of the people of the State of Illinois, the  
8 Department of Public Health, in cooperation with other State  
9 agencies, shall be responsible for supporting programs aimed  
10 at reducing the incidence and effects of obesity and its  
11 related comorbidities. The State acknowledges that obesity  
12 is the second-leading cause of death in the United States  
13 after smoking, resulting in more than 300,000 preventable  
14 deaths each year. There is a causal relationship between  
15 obesity and other serious health complications, including,  
16 but not limited to, coronary heart disease, cerebrovascular  
17 disease (stroke), type II diabetes mellitus, hypertension,  
18 sleep apnea, dyslipidemia, gallbladder disease, gastric  
19 reflux disease, gout, osteoarthritis of the hips and knees,  
20 cancer, infertility, and respiratory difficulties, all of  
21 which lead to an increase in obesity-related morbidity and  
22 mortality. In addition to the health implications, the  
23 economic consequences of the skyrocketing incidence of  
24 obesity rates are substantial. The direct cost of diagnosis,  
25 treatment, and management of obesity and obesity-related  
26 diseases is estimated to be \$45.8 billion, or 6.8% of total  
27 national health care expenditures. The reduction in workplace  
28 productivity due to an increase in the number of sick days  
29 and physical limitations is estimated to have an annual  
30 impact on our economy of \$52 billion per year.

31 Obesity continues to dramatically increase both in the

1 United States and in Illinois. One-third of the U.S.  
2 population is considered to be obese. The Centers for  
3 Disease Control and Prevention reported that 33.5% of the  
4 Illinois population was obese in 1998. Obesity, while on the  
5 rise in all adult demographic categories, is more prevalent  
6 among African-American and Hispanic populations. Among  
7 children, there has been a 42% increase in childhood obesity  
8 rates since 1980, placing children at an increased risk for  
9 diabetes, hypertension, heart disease, and stroke later in  
10 life.

11 It is clear that obesity has a significant impact on the  
12 health of people in Illinois, and the State economy, by  
13 reducing productivity dramatically increasing avoidable  
14 medical costs. Clinical studies demonstrate that weight loss  
15 in overweight and obese individuals decreases the risk for  
16 developing serious health conditions and leads to improvement  
17 in health for many persons with those conditions. By  
18 investing in programs aimed at reducing obesity and its  
19 related comorbidities, the State can improve the physical  
20 health of a significant portion of its citizenry and control  
21 the skyrocketing costs of health care attributed to obesity's  
22 comorbidities. For example, research begun in 1995  
23 demonstrates that intentional weight loss in overweight women  
24 with existing obesity-related diseases led to a 20% reduction  
25 in total mortality, a 40-50% reduction in mortality from  
26 obesity-related cancers and a 30-40% reduction in  
27 diabetes-related deaths.

28 In recent years, new scientific breakthroughs have led to  
29 new drug therapies that are both safe and effective in  
30 treating both obesity and its related comorbidities. These  
31 innovative drug therapies assist obese individuals in losing  
32 weight, improving their health, and reducing their need for  
33 complex and costly medical services that are paid for by the  
34 State's medical assistance program. It is the policy of this

1 State that where prophylactic therapies actually reduce  
 2 health care costs and improve patient health, those therapies  
 3 must be supported. The legislature finds that there is  
 4 sufficient scientific and empirical evidence to establish  
 5 that existing FDA-approved anti-obesity drug therapies, when  
 6 properly supervised by a qualified physician, fit these  
 7 criteria.

8 Section 10. Definitions. In this Act:

9 (1) "At-risk overweight" means having a body mass index  
 10 greater than or equal to 27 kilograms per square meter but  
 11 less than 30 kilograms per square meter and having one or  
 12 more of the following comorbidities:

- 13 (1) Coronary heart disease.
- 14 (2) Cerebrovascular disease (stroke).
- 15 (3) Dyslipidemia.
- 16 (4) Cancer.
- 17 (5) Hypertension.
- 18 (6) Sleep apnea.
- 19 (7) Type II diabetes mellitus.

20 "Body mass index" is a mathematical formula used to  
 21 determine a person's body weight in relation to height as  
 22 measured by dividing a person's weight in kilograms by height  
 23 in meters squared.

24 "Chronic treatment" means any daily drug therapy  
 25 indicated by labeling approved by the federal Food and Drug  
 26 Administration for use for more than 60 days.

27 "Medically indigent patients" means persons who are  
 28 determined to be eligible for medical assistance under  
 29 Article V of the Illinois Public Aid Code.

30 "Obese" means having a body mass index greater than or  
 31 equal to 30 kilograms per square meter.

32 Section 15. Anti-obesity program. The Department of

1 Public Health, in conjunction with the Department of Public  
2 Aid and other appropriate State agencies, shall develop a  
3 program to provide obese or at-risk overweight medically  
4 indigent patients with services for the treatment and  
5 prevention of obesity and its related comorbidities. The  
6 program shall include education, monitoring, and outpatient  
7 prescription drug coverage of anti-obesity drug therapies  
8 that are approved by the United States Food and Drug  
9 Administration if the patient's treating physician prescribes  
10 the therapy as being medically necessary to his or her  
11 healthcare.

12 Section 20. Rules. The Department of Public Health may  
13 adopt rules to enable it to carry out the provisions of this  
14 Act and may coordinate its actions with other State or  
15 federal agencies to comply with this Act. The provisions of  
16 the Illinois Administrative Procedure Act are expressly  
17 adopted and apply to all administrative rules and procedures  
18 adopted by the Department under this Act, except that Section  
19 5-35 of the Illinois Administrative Procedure Act relating  
20 to procedures for rule-making does not apply to the  
21 adoption of any rule required by federal law in connection  
22 with which the Department is precluded by law from  
23 exercising any discretion.

24 Section 90. The Illinois Public Aid Code is amended by  
25 changing Section 5-5 as follows:

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

27 Sec. 5-5. Medical services. The Illinois Department, by  
28 rule, shall determine the quantity and quality of and the  
29 rate of reimbursement for the medical assistance for which  
30 payment will be authorized, and the medical services to be  
31 provided, which may include all or part of the following: (1)

1 inpatient hospital services; (2) outpatient hospital  
2 services; (3) other laboratory and X-ray services; (4)  
3 skilled nursing home services; (5) physicians' services  
4 whether furnished in the office, the patient's home, a  
5 hospital, a skilled nursing home, or elsewhere; (6) medical  
6 care, or any other type of remedial care furnished by  
7 licensed practitioners; (7) home health care services; (8)  
8 private duty nursing service; (9) clinic services; (10)  
9 dental services; (11) physical therapy and related services;  
10 (12) prescribed drugs, dentures, and prosthetic devices; and  
11 eyeglasses prescribed by a physician skilled in the diseases  
12 of the eye, or by an optometrist, whichever the person may  
13 select; (13) other diagnostic, screening, preventive, and  
14 rehabilitative services; (14) transportation and such other  
15 expenses as may be necessary; (15) medical treatment of  
16 sexual assault survivors, as defined in Section 1a of the  
17 Sexual Assault Survivors Emergency Treatment Act, for  
18 injuries sustained as a result of the sexual assault,  
19 including examinations and laboratory tests to discover  
20 evidence which may be used in criminal proceedings arising  
21 from the sexual assault; (16) the diagnosis and treatment of  
22 sickle cell anemia; and (17) any other medical care, and any  
23 other type of remedial care recognized under the laws of this  
24 State, but not including abortions, or induced miscarriages  
25 or premature births, unless, in the opinion of a physician,  
26 such procedures are necessary for the preservation of the  
27 life of the woman seeking such treatment, or except an  
28 induced premature birth intended to produce a live viable  
29 child and such procedure is necessary for the health of the  
30 mother or her unborn child. The Illinois Department, by rule,  
31 shall prohibit any physician from providing medical  
32 assistance to anyone eligible therefor under this Code where  
33 such physician has been found guilty of performing an  
34 abortion procedure in a wilful and wanton manner upon a woman

1 who was not pregnant at the time such abortion procedure was  
 2 performed. The term "any other type of remedial care" shall  
 3 include nursing care and nursing home service for persons who  
 4 rely on treatment by spiritual means alone through prayer for  
 5 healing.

6 Notwithstanding any other provision of this Section, a  
 7 comprehensive tobacco use cessation program that includes  
 8 purchasing prescription drugs or prescription medical devices  
 9 approved by the Food and Drug administration shall be covered  
 10 under the medical assistance program under this Article for  
 11 persons who are otherwise eligible for assistance under this  
 12 Article.

13 Notwithstanding any other provision of this Code, the  
 14 Illinois Department may not require, as a condition of  
 15 payment for any laboratory test authorized under this  
 16 Article, that a physician's handwritten signature appear on  
 17 the laboratory test order form. The Illinois Department may,  
 18 however, impose other appropriate requirements regarding  
 19 laboratory test order documentation.

20 The Illinois Department of Public Aid shall provide the  
 21 following services to persons eligible for assistance under  
 22 this Article who are participating in education, training or  
 23 employment programs operated by the Department of Human  
 24 Services as successor to the Department of Public Aid:

- 25 (1) dental services, which shall include but not be
- 26 limited to prosthodontics; and
- 27 (2) eyeglasses prescribed by a physician skilled in
- 28 the diseases of the eye, or by an optometrist, whichever
- 29 the person may select.

30 The Illinois Department shall provide services for the  
 31 treatment and prevention of obesity and its related  
 32 comorbidities, including education, monitoring, and  
 33 outpatient prescription drug coverage of anti-obesity drug  
 34 therapies that are approved by the United States Food and

1 Drug Administration if the patient's treating physician  
 2 prescribes the therapy as being medically necessary to his or  
 3 her healthcare and the patient is otherwise eligible for  
 4 medical assistance under this Article.

5 The Illinois Department, by rule, may distinguish and  
 6 classify the medical services to be provided only in  
 7 accordance with the classes of persons designated in Section  
 8 5-2.

9 The Illinois Department shall authorize the provision of,  
 10 and shall authorize payment for, screening by low-dose  
 11 mammography for the presence of occult breast cancer for  
 12 women 35 years of age or older who are eligible for medical  
 13 assistance under this Article, as follows: a baseline  
 14 mammogram for women 35 to 39 years of age and an annual  
 15 mammogram for women 40 years of age or older. All screenings  
 16 shall include a physical breast exam, instruction on  
 17 self-examination and information regarding the frequency of  
 18 self-examination and its value as a preventative tool. As  
 19 used in this Section, "low-dose mammography" means the x-ray  
 20 examination of the breast using equipment dedicated  
 21 specifically for mammography, including the x-ray tube,  
 22 filter, compression device, image receptor, and cassettes,  
 23 with an average radiation exposure delivery of less than one  
 24 rad mid-breast, with 2 views for each breast.

25 Any medical or health care provider shall immediately  
 26 recommend, to any pregnant woman who is being provided  
 27 prenatal services and is suspected of drug abuse or is  
 28 addicted as defined in the Alcoholism and Other Drug Abuse  
 29 and Dependency Act, referral to a local substance abuse  
 30 treatment provider licensed by the Department of Human  
 31 Services or to a licensed hospital which provides substance  
 32 abuse treatment services. The Department of Public Aid shall  
 33 assure coverage for the cost of treatment of the drug abuse  
 34 or addiction for pregnant recipients in accordance with the

1 Illinois Medicaid Program in conjunction with the Department  
2 of Human Services.

3 All medical providers providing medical assistance to  
4 pregnant women under this Code shall receive information from  
5 the Department on the availability of services under the Drug  
6 Free Families with a Future or any comparable program  
7 providing case management services for addicted women,  
8 including information on appropriate referrals for other  
9 social services that may be needed by addicted women in  
10 addition to treatment for addiction.

11 The Illinois Department, in cooperation with the  
12 Departments of Human Services (as successor to the Department  
13 of Alcoholism and Substance Abuse) and Public Health, through  
14 a public awareness campaign, may provide information  
15 concerning treatment for alcoholism and drug abuse and  
16 addiction, prenatal health care, and other pertinent programs  
17 directed at reducing the number of drug-affected infants born  
18 to recipients of medical assistance.

19 Neither the Illinois Department of Public Aid nor the  
20 Department of Human Services shall sanction the recipient  
21 solely on the basis of her substance abuse.

22 The Illinois Department shall establish such regulations  
23 governing the dispensing of health services under this  
24 Article as it shall deem appropriate. In formulating these  
25 regulations the Illinois Department shall consult with and  
26 give substantial weight to the recommendations offered by the  
27 Citizens Assembly/Council on Public Aid. The Department  
28 should seek the advice of formal professional advisory  
29 committees appointed by the Director of the Illinois  
30 Department for the purpose of providing regular advice on  
31 policy and administrative matters, information dissemination  
32 and educational activities for medical and health care  
33 providers, and consistency in procedures to the Illinois  
34 Department.



1           The Illinois Department may develop and contract with  
2 Partnerships of medical providers to arrange medical services  
3 for persons eligible under Section 5-2 of this Code.  
4 Implementation of this Section may be by demonstration  
5 projects in certain geographic areas. The Partnership shall  
6 be represented by a sponsor organization. The Department, by  
7 rule, shall develop qualifications for sponsors of  
8 Partnerships. Nothing in this Section shall be construed to  
9 require that the sponsor organization be a medical  
10 organization.

11           The sponsor must negotiate formal written contracts with  
12 medical providers for physician services, inpatient and  
13 outpatient hospital care, home health services, treatment for  
14 alcoholism and substance abuse, and other services determined  
15 necessary by the Illinois Department by rule for delivery by  
16 Partnerships. Physician services must include prenatal and  
17 obstetrical care. The Illinois Department shall reimburse  
18 medical services delivered by Partnership providers to  
19 clients in target areas according to provisions of this  
20 Article and the Illinois Health Finance Reform Act, except  
21 that:

22           (1) Physicians participating in a Partnership and  
23 providing certain services, which shall be determined by  
24 the Illinois Department, to persons in areas covered by  
25 the Partnership may receive an additional surcharge for  
26 such services.

27           (2) The Department may elect to consider and  
28 negotiate financial incentives to encourage the  
29 development of Partnerships and the efficient delivery of  
30 medical care.

31           (3) Persons receiving medical services through  
32 Partnerships may receive medical and case management  
33 services above the level usually offered through the  
34 medical assistance program.

1 Medical providers shall be required to meet certain  
2 qualifications to participate in Partnerships to ensure the  
3 delivery of high quality medical services. These  
4 qualifications shall be determined by rule of the Illinois  
5 Department and may be higher than qualifications for  
6 participation in the medical assistance program. Partnership  
7 sponsors may prescribe reasonable additional qualifications  
8 for participation by medical providers, only with the prior  
9 written approval of the Illinois Department.

10 Nothing in this Section shall limit the free choice of  
11 practitioners, hospitals, and other providers of medical  
12 services by clients. In order to ensure patient freedom of  
13 choice, the Illinois Department shall immediately promulgate  
14 all rules and take all other necessary actions so that  
15 provided services may be accessed from therapeutically  
16 certified optometrists to the full extent of the Illinois  
17 Optometric Practice Act of 1987 without discriminating  
18 between service providers.

19 The Department shall apply for a waiver from the United  
20 States Health Care Financing Administration to allow for the  
21 implementation of Partnerships under this Section.

22 The Illinois Department shall require health care  
23 providers to maintain records that document the medical care  
24 and services provided to recipients of Medical Assistance  
25 under this Article. The Illinois Department shall require  
26 health care providers to make available, when authorized by  
27 the patient, in writing, the medical records in a timely  
28 fashion to other health care providers who are treating or  
29 serving persons eligible for Medical Assistance under this  
30 Article. All dispensers of medical services shall be  
31 required to maintain and retain business and professional  
32 records sufficient to fully and accurately document the  
33 nature, scope, details and receipt of the health care  
34 provided to persons eligible for medical assistance under

1 this Code, in accordance with regulations promulgated by the  
2 Illinois Department. The rules and regulations shall require  
3 that proof of the receipt of prescription drugs, dentures,  
4 prosthetic devices and eyeglasses by eligible persons under  
5 this Section accompany each claim for reimbursement submitted  
6 by the dispenser of such medical services. No such claims for  
7 reimbursement shall be approved for payment by the Illinois  
8 Department without such proof of receipt, unless the Illinois  
9 Department shall have put into effect and shall be operating  
10 a system of post-payment audit and review which shall, on a  
11 sampling basis, be deemed adequate by the Illinois Department  
12 to assure that such drugs, dentures, prosthetic devices and  
13 eyeglasses for which payment is being made are actually being  
14 received by eligible recipients. Within 90 days after the  
15 effective date of this amendatory Act of 1984, the Illinois  
16 Department shall establish a current list of acquisition  
17 costs for all prosthetic devices and any other items  
18 recognized as medical equipment and supplies reimbursable  
19 under this Article and shall update such list on a quarterly  
20 basis, except that the acquisition costs of all prescription  
21 drugs shall be updated no less frequently than every 30 days  
22 as required by Section 5-5.12.

23 The rules and regulations of the Illinois Department  
24 shall require that a written statement including the required  
25 opinion of a physician shall accompany any claim for  
26 reimbursement for abortions, or induced miscarriages or  
27 premature births. This statement shall indicate what  
28 procedures were used in providing such medical services.

29 The Illinois Department shall require that all dispensers  
30 of medical services, other than an individual practitioner or  
31 group of practitioners, desiring to participate in the  
32 Medical Assistance program established under this Article to  
33 disclose all financial, beneficial, ownership, equity, surety  
34 or other interests in any and all firms, corporations,

1 partnerships, associations, business enterprises, joint  
2 ventures, agencies, institutions or other legal entities  
3 providing any form of health care services in this State  
4 under this Article.

5 The Illinois Department may require that all dispensers  
6 of medical services desiring to participate in the medical  
7 assistance program established under this Article disclose,  
8 under such terms and conditions as the Illinois Department  
9 may by rule establish, all inquiries from clients and  
10 attorneys regarding medical bills paid by the Illinois  
11 Department, which inquiries could indicate potential  
12 existence of claims or liens for the Illinois Department.

13 The Illinois Department shall establish policies,  
14 procedures, standards and criteria by rule for the  
15 acquisition, repair and replacement of orthotic and  
16 prosthetic devices and durable medical equipment. Such rules  
17 shall provide, but not be limited to, the following services:  
18 (1) immediate repair or replacement of such devices by  
19 recipients without medical authorization; and (2) rental,  
20 lease, purchase or lease-purchase of durable medical  
21 equipment in a cost-effective manner, taking into  
22 consideration the recipient's medical prognosis, the extent  
23 of the recipient's needs, and the requirements and costs for  
24 maintaining such equipment. Such rules shall enable a  
25 recipient to temporarily acquire and use alternative or  
26 substitute devices or equipment pending repairs or  
27 replacements of any device or equipment previously authorized  
28 for such recipient by the Department. Rules under clause (2)  
29 above shall not provide for purchase or lease-purchase of  
30 durable medical equipment or supplies used for the purpose of  
31 oxygen delivery and respiratory care.

32 The Department shall execute, relative to the nursing  
33 home prescreening project, written inter-agency agreements  
34 with the Department of Human Services and the Department on

1 Aging, to effect the following: (i) intake procedures and  
2 common eligibility criteria for those persons who are  
3 receiving non-institutional services; and (ii) the  
4 establishment and development of non-institutional services  
5 in areas of the State where they are not currently available  
6 or are undeveloped.

7 The Illinois Department shall develop and operate, in  
8 cooperation with other State Departments and agencies and in  
9 compliance with applicable federal laws and regulations,  
10 appropriate and effective systems of health care evaluation  
11 and programs for monitoring of utilization of health care  
12 services and facilities, as it affects persons eligible for  
13 medical assistance under this Code. The Illinois Department  
14 shall report regularly the results of the operation of such  
15 systems and programs to the Citizens Assembly/Council on  
16 Public Aid to enable the Committee to ensure, from time to  
17 time, that these programs are effective and meaningful.

18 The Illinois Department shall report annually to the  
19 General Assembly, no later than the second Friday in April of  
20 1979 and each year thereafter, in regard to:

21 (a) actual statistics and trends in utilization of  
22 medical services by public aid recipients;

23 (b) actual statistics and trends in the provision  
24 of the various medical services by medical vendors;

25 (c) current rate structures and proposed changes in  
26 those rate structures for the various medical vendors;  
27 and

28 (d) efforts at utilization review and control by  
29 the Illinois Department.

30 The period covered by each report shall be the 3 years  
31 ending on the June 30 prior to the report. The report shall  
32 include suggested legislation for consideration by the  
33 General Assembly. The filing of one copy of the report with  
34 the Speaker, one copy with the Minority Leader and one copy

1 with the Clerk of the House of Representatives, one copy with  
2 the President, one copy with the Minority Leader and one copy  
3 with the Secretary of the Senate, one copy with the  
4 Legislative Research Unit, such additional copies with the  
5 State Government Report Distribution Center for the General  
6 Assembly as is required under paragraph (t) of Section 7 of  
7 the State Library Act and one copy with the Citizens  
8 Assembly/Council on Public Aid or its successor shall be  
9 deemed sufficient to comply with this Section.

10 (Source: P.A. 90-7, eff. 6-10-97; 90-14, eff. 7-1-97; 91-344,  
11 eff. 1-1-00; 91-462, eff. 8-6-99; 91-666, eff. 12-22-99;  
12 revised 1-6-00.) 4967

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