



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1516

by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-4

from Ch. 23, par. 5-4

Amends provisions of the Medical Assistance Article of the Illinois Public Aid Code stating that the refusal of an institutionalized spouse or community spouse to comply with federal requirements by failing to provide the total value of assets, including income and resources, to the extent either the institutionalized spouse or community spouse has an ownership interest in them, may result in the institutionalized spouse being denied eligibility and continuing to remain ineligible for the medical assistance program based on failure to cooperate. Adds language providing that advising the institutionalized spouse or community spouse of the consequences of refusal is also a requirement for a denial of eligibility. Effective immediately.

LRB098 04000 KTG 34020 b

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 5-4 as follows:

6 (305 ILCS 5/5-4) (from Ch. 23, par. 5-4)

7 Sec. 5-4. Amount and nature of medical assistance.

8 (a) The amount and nature of medical assistance shall be
9 determined in accordance with the standards, rules, and
10 regulations of the Department of Healthcare and Family
11 Services, with due regard to the requirements and conditions in
12 each case, including contributions available from legally
13 responsible relatives. However, the amount and nature of such
14 medical assistance shall not be affected by the payment of any
15 grant under the Senior Citizens and Disabled Persons Property
16 Tax Relief Act or any distributions or items of income
17 described under subparagraph (X) of paragraph (2) of subsection
18 (a) of Section 203 of the Illinois Income Tax Act. The amount
19 and nature of medical assistance shall not be affected by the
20 receipt of donations or benefits from fundraisers in cases of
21 serious illness, as long as neither the person nor members of
22 the person's family have actual control over the donations or
23 benefits or the disbursement of the donations or benefits.

1 In determining the income and resources available to the
2 institutionalized spouse and to the community spouse, the
3 Department of Healthcare and Family Services shall follow the
4 procedures established by federal law. If an institutionalized
5 spouse or community spouse refuses to comply with the
6 requirements of Title XIX of the federal Social Security Act
7 and the regulations duly promulgated thereunder by failing to
8 provide the total value of assets, including income and
9 resources, to the extent either the institutionalized spouse or
10 community spouse has an ownership interest in them pursuant to
11 42 U.S.C. 1396r-5, after being advised of the consequences of
12 refusal, such refusal may result in the institutionalized
13 spouse being denied eligibility and continuing to remain
14 ineligible for the medical assistance program based on failure
15 to cooperate.

16 Subject to federal approval, the community spouse resource
17 allowance shall be established and maintained at the higher of
18 \$109,560 or the minimum level permitted pursuant to Section
19 1924(f)(2) of the Social Security Act, as now or hereafter
20 amended, or an amount set after a fair hearing, whichever is
21 greater. The monthly maintenance allowance for the community
22 spouse shall be established and maintained at the higher of
23 \$2,739 per month or the minimum level permitted pursuant to
24 Section 1924(d)(3)(C) of the Social Security Act, as now or
25 hereafter amended, or an amount set after a fair hearing,
26 whichever is greater. Subject to the approval of the Secretary

1 of the United States Department of Health and Human Services,
2 the provisions of this Section shall be extended to persons who
3 but for the provision of home or community-based services under
4 Section 4.02 of the Illinois Act on the Aging, would require
5 the level of care provided in an institution, as is provided
6 for in federal law.

7 (b) Spousal support for institutionalized spouses
8 receiving medical assistance.

9 (i) The Department may seek support for an
10 institutionalized spouse, who has assigned his or her right
11 of support from his or her spouse to the State, from the
12 resources and income available to the community spouse.

13 (ii) The Department may bring an action in the circuit
14 court to establish support orders or itself establish
15 administrative support orders by any means and procedures
16 authorized in this Code, as applicable, except that the
17 standard and regulations for determining ability to
18 support in Section 10-3 shall not limit the amount of
19 support that may be ordered.

20 (iii) Proceedings may be initiated to obtain support,
21 or for the recovery of aid granted during the period such
22 support was not provided, or both, for the obtainment of
23 support and the recovery of the aid provided. Proceedings
24 for the recovery of aid may be taken separately or they may
25 be consolidated with actions to obtain support. Such
26 proceedings may be brought in the name of the person or

1 persons requiring support or may be brought in the name of
2 the Department, as the case requires.

3 (iv) The orders for the payment of moneys for the
4 support of the person shall be just and equitable and may
5 direct payment thereof for such period or periods of time
6 as the circumstances require, including support for a
7 period before the date the order for support is entered. In
8 no event shall the orders reduce the community spouse
9 resource allowance below the level established in
10 subsection (a) of this Section or an amount set after a
11 fair hearing, whichever is greater, or reduce the monthly
12 maintenance allowance for the community spouse below the
13 level permitted pursuant to subsection (a) of this Section.
14 (Source: P.A. 97-689, eff. 6-14-12.)

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