

1 AN ACT concerning children.

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 5-5.23 as follows:

6 (305 ILCS 5/5-5.23)

7 (Text of Section after amendment by P.A. 101-461)

8 Sec. 5-5.23. Children's mental health services.

9 (a) The Department of Healthcare and Family Services, by
10 rule, shall require the screening and assessment of a child
11 prior to any Medicaid-funded admission to an inpatient hospital
12 for psychiatric services to be funded by Medicaid. The
13 screening and assessment shall include a determination of the
14 appropriateness and availability of out-patient support
15 services for necessary treatment. The Department, by rule,
16 shall establish methods and standards of payment for the
17 screening, assessment, and necessary alternative support
18 services.

19 (b) The Department of Healthcare and Family Services, to
20 the extent allowable under federal law, shall secure federal
21 financial participation for Individual Care Grant expenditures
22 made by the Department of Healthcare and Family Services for
23 the Medicaid optional service authorized under Section 1905(h)

1 of the federal Social Security Act, pursuant to the provisions
2 of Section 7.1 of the Mental Health and Developmental
3 Disabilities Administrative Act. The Department of Healthcare
4 and Family Services may exercise the authority under this
5 Section as is necessary to administer Individual Care Grants as
6 authorized under Section 7.1 of the Mental Health and
7 Developmental Disabilities Administrative Act.

8 (c) The Department of Healthcare and Family Services shall
9 work collaboratively with the Department of Children and Family
10 Services and the Division of Mental Health of the Department of
11 Human Services to implement subsections (a) and (b).

12 (d) On and after July 1, 2012, the Department shall reduce
13 any rate of reimbursement for services or other payments or
14 alter any methodologies authorized by this Code to reduce any
15 rate of reimbursement for services or other payments in
16 accordance with Section 5-5e.

17 (e) All rights, powers, duties, and responsibilities
18 currently exercised by the Department of Human Services related
19 to the Individual Care Grant program are transferred to the
20 Department of Healthcare and Family Services with the transfer
21 and transition of the Individual Care Grant program to the
22 Department of Healthcare and Family Services to be completed
23 and implemented within 6 months after the effective date of
24 this amendatory Act of the 99th General Assembly. For the
25 purposes of the Successor Agency Act, the Department of
26 Healthcare and Family Services is declared to be the successor

1 agency of the Department of Human Services, but only with
2 respect to the functions of the Department of Human Services
3 that are transferred to the Department of Healthcare and Family
4 Services under this amendatory Act of the 99th General
5 Assembly.

6 (1) Each act done by the Department of Healthcare and
7 Family Services in exercise of the transferred powers,
8 duties, rights, and responsibilities shall have the same
9 legal effect as if done by the Department of Human Services
10 or its offices.

11 (2) Any rules of the Department of Human Services that
12 relate to the functions and programs transferred by this
13 amendatory Act of the 99th General Assembly that are in
14 full force on the effective date of this amendatory Act of
15 the 99th General Assembly shall become the rules of the
16 Department of Healthcare and Family Services. All rules
17 transferred under this amendatory Act of the 99th General
18 Assembly are hereby amended such that the term "Department"
19 shall be defined as the Department of Healthcare and Family
20 Services and all references to the "Secretary" shall be
21 changed to the "Director of Healthcare and Family Services
22 or his or her designee". As soon as practicable hereafter,
23 the Department of Healthcare and Family Services shall
24 revise and clarify the rules to reflect the transfer of
25 rights, powers, duties, and responsibilities affected by
26 this amendatory Act of the 99th General Assembly, using the

1 procedures for recodification of rules available under the
2 Illinois Administrative Procedure Act, except that
3 existing title, part, and section numbering for the
4 affected rules may be retained. The Department of
5 Healthcare and Family Services, consistent with its
6 authority to do so as granted by this amendatory Act of the
7 99th General Assembly, shall propose and adopt any other
8 rules under the Illinois Administrative Procedure Act as
9 necessary to administer the Individual Care Grant program.
10 These rules may include, but are not limited to, the
11 application process and eligibility requirements for
12 recipients.

13 (3) All unexpended appropriations and balances and
14 other funds available for use in connection with any
15 functions of the Individual Care Grant program shall be
16 transferred for the use of the Department of Healthcare and
17 Family Services to operate the Individual Care Grant
18 program. Unexpended balances shall be expended only for the
19 purpose for which the appropriation was originally made.
20 The Department of Healthcare and Family Services shall
21 exercise all rights, powers, duties, and responsibilities
22 for operation of the Individual Care Grant program.

23 (4) Existing personnel and positions of the Department
24 of Human Services pertaining to the administration of the
25 Individual Care Grant program shall be transferred to the
26 Department of Healthcare and Family Services with the

1 transfer and transition of the Individual Care Grant
2 program to the Department of Healthcare and Family
3 Services. The status and rights of Department of Human
4 Services employees engaged in the performance of the
5 functions of the Individual Care Grant program shall not be
6 affected by this amendatory Act of the 99th General
7 Assembly. The rights of the employees, the State of
8 Illinois, and its agencies under the Personnel Code and
9 applicable collective bargaining agreements or under any
10 pension, retirement, or annuity plan shall not be affected
11 by this amendatory Act of the 99th General Assembly. All
12 transferred employees who are members of collective
13 bargaining units shall retain their seniority, continuous
14 service, salary, and accrued benefits.

15 (5) All books, records, papers, documents, property
16 (real and personal), contracts, and pending business
17 pertaining to the powers, duties, rights, and
18 responsibilities related to the functions of the
19 Individual Care Grant program, including, but not limited
20 to, material in electronic or magnetic format and necessary
21 computer hardware and software, shall be delivered to the
22 Department of Healthcare and Family Services; provided,
23 however, that the delivery of this information shall not
24 violate any applicable confidentiality constraints.

25 (6) Whenever reports or notices are now required to be
26 made or given or papers or documents furnished or served by

1 any person to or upon the Department of Human Services in
2 connection with any of the functions transferred by this
3 amendatory Act of the 99th General Assembly, the same shall
4 be made, given, furnished, or served in the same manner to
5 or upon the Department of Healthcare and Family Services.

6 (7) This amendatory Act of the 99th General Assembly
7 shall not affect any act done, ratified, or canceled or any
8 right occurring or established or any action or proceeding
9 had or commenced in an administrative, civil, or criminal
10 cause regarding the Department of Human Services before the
11 effective date of this amendatory Act of the 99th General
12 Assembly; and those actions or proceedings may be defended,
13 prosecuted, and continued by the Department of Human
14 Services.

15 (f) (Blank).

16 (g) Family Support Program. The Department of Healthcare
17 and Family Services shall restructure the Family Support
18 Program, formerly known as the Individual Care Grant program,
19 to enable early treatment of youth, emerging adults, and
20 transition-age adults with a serious mental illness or serious
21 emotional disturbance.

22 (1) As used in this subsection and in subsections (h)
23 through (s):

24 (A) "Youth" means a person under the age of 18.

25 (B) "Emerging adult" means a person who is 18
26 through 20 years of age.

1 (C) "Transition-age adult" means a person who is 21
2 through 25 years of age.

3 (2) The Department shall amend 89 Ill. Adm. Code 139 in
4 accordance with this Section and consistent with the
5 timelines outlined in this Section.

6 (3) Implementation of any amended requirements shall
7 be completed within 8 months of the adoption of any
8 amendment to 89 Ill. Adm. Code 139 that is consistent with
9 the provisions of this Section.

10 (4) To align the Family Support Program with the
11 Medicaid system of care, the services available to a youth,
12 emerging adult, or transition-age adult through the Family
13 Support Program shall include all Medicaid community-based
14 mental health treatment services and all Family Support
15 Program services included under 89 Ill. Adm. Code 139. No
16 person receiving services through the Family Support
17 Program or the Specialized Family Support Program shall
18 become a Medicaid enrollee unless Medicaid eligibility
19 criteria are met and the person is enrolled in Medicaid. No
20 part of this Section creates an entitlement to services
21 through the Family Support Program, the Specialized Family
22 Support Program, or the Medicaid program.

23 (5) The Family Support Program shall align with the
24 following system of care principles:

25 (A) Treatment and support services shall be based
26 on the results of an integrated behavioral health

1 assessment and treatment plan using an instrument
2 approved by the Department of Healthcare and Family
3 Services.

4 (B) Strong interagency collaboration between all
5 State agencies the parent or legal guardian is involved
6 with for services, including the Department of
7 Healthcare and Family Services, the Department of
8 Human Services, the Department of Children and Family
9 Services, the Department of Juvenile Justice, and the
10 Illinois State Board of Education.

11 (C) Individualized, strengths-based practices and
12 trauma-informed treatment approaches.

13 (D) For a youth, full participation of the parent
14 or legal guardian at all levels of treatment through a
15 process that is family-centered and youth-focused. The
16 process shall include consideration of the services
17 and supports the parent, legal guardian, or caregiver
18 requires for family stabilization, and shall connect
19 such person or persons to services based on available
20 insurance coverage.

21 (h) Eligibility for the Family Support Program.
22 Eligibility criteria established under 89 Ill. Adm. Code 139
23 for the Family Support Program shall include the following:

24 (1) Individuals applying to the program must be under
25 the age of 26.

26 (2) Requirements for parental or legal guardian

1 involvement are applicable to youth and to emerging adults
2 or transition-age adults who have a guardian appointed
3 under Article XIa of the Probate Act.

4 (3) Youth, emerging adults, and transition-age adults
5 are eligible for services under the Family Support Program
6 upon their third inpatient admission to a hospital or
7 similar treatment facility for the primary purpose of
8 psychiatric treatment within the most recent 12 months and
9 are hospitalized for the purpose of psychiatric treatment.

10 (4) School participation for emerging adults applying
11 for services under the Family Support Program may be waived
12 by request of the individual at the sole discretion of the
13 Department of Healthcare and Family Services.

14 (5) School participation is not applicable to
15 transition-age adults.

16 (i) Notification of Family Support Program and Specialized
17 Family Support Program services.

18 (1) Within 12 months after the effective date of this
19 amendatory Act of the 101st General Assembly, the
20 Department of Healthcare and Family Services, with
21 meaningful stakeholder input through a working group of
22 psychiatric hospitals, Family Support Program providers,
23 family support organizations, the Community and
24 Residential Services Authority, a statewide association
25 representing a majority of hospitals, a statewide
26 association representing physicians, and foster care

1 alumni advocates, shall establish a clear process by which
2 a youth's or emerging adult's parents, guardian, or
3 caregiver, or the emerging adult or transition-age adult,
4 is identified, notified, and educated about the Family
5 Support Program and the Specialized Family Support Program
6 upon a first psychiatric inpatient hospital admission, and
7 any following psychiatric inpatient admissions.
8 Notification and education may take place through a Family
9 Support Program coordinator, a mobile crisis response
10 provider, a Comprehensive Community Based Youth Services
11 provider, the Community and Residential Services
12 Authority, or any other designated provider or coordinator
13 identified by the Department of Healthcare and Family
14 Services. In developing this process, the Department of
15 Healthcare and Family Services and the working group shall
16 take into account the unique needs of emerging adults and
17 transition-age adults without parental involvement who are
18 eligible for services under the Family Support Program. The
19 Department of Healthcare and Family Services and the
20 working group shall ensure the appropriate provider or
21 coordinator is required to assist individuals and their
22 parents, guardians, or caregivers, as applicable, in the
23 completion of the application or referral process for the
24 Family Support Program or the Specialized Family Support
25 Program.

26 (2) Upon a youth's, emerging adult's or transition-age

1 adult's second psychiatric inpatient hospital admission,
2 prior to hospital discharge, the hospital must, if it is
3 aware of the patient's prior psychiatric inpatient
4 hospital admission, ensure that the youth's parents,
5 guardian, or caregiver, or the emerging adult or
6 transition-age adult, has ~~have~~ been notified of the Family
7 Support Program and the Specialized Family Support Program
8 ~~prior to hospital discharge~~.

9 (3) Psychiatric lockout as last resort.

10 (A) Prior to referring any youth to the Department
11 of Children and Family Services for the filing of a
12 petition in accordance with subparagraph (c) of
13 paragraph (1) of Section 2-4 of the Juvenile Court Act
14 of 1987 alleging that the youth is dependent because
15 the youth was left in a psychiatric hospital beyond
16 medical necessity, the hospital shall attempt to
17 contact ~~educate~~ the youth and the youth's parents,
18 guardian, or caregiver about the Family Support
19 Program and the Specialized Family Support Program and
20 shall assist with connections to the designated Family
21 Support Program coordinator in the service area by
22 providing educational materials developed by the
23 Department of Healthcare and Family Services. Once
24 this process has begun, any such youth shall be
25 considered a youth for whom an application for the
26 Family Support Program is pending with the Department

1 of Healthcare and Family Services or an active
2 application for the Family Support Program was being
3 reviewed by the Department for the purposes of
4 subsection (a) of Section 2-4b ~~subparagraph (b) of~~
5 ~~paragraph (1) of Section 2-4~~ of the Juvenile Court Act
6 of 1987, or for the purposes of subsection (a) of
7 Section 5-711 of the Juvenile Court Act of 1987.

8 (B) No state agency or hospital shall coach a
9 parent or guardian of a youth in a psychiatric hospital
10 inpatient unit to lock out or otherwise relinquish
11 custody of a youth to the Department of Children and
12 Family Services for the sole purpose of obtaining
13 necessary mental health treatment for the youth. In the
14 absence of abuse or neglect, a psychiatric lockout or
15 custody relinquishment to the Department of Children
16 and Family Services shall only be considered as the
17 option of last resort. Nothing in this Section shall
18 prohibit discussion of medical treatment options or a
19 referral to legal counsel.

20 (4) Development of new Family Support Program
21 services.

22 (A) Development of specialized therapeutic
23 residential treatment for youth and emerging adults
24 with high-acuity mental health conditions. Through a
25 working group led by the Department of Healthcare and
26 Family Services that includes the Department of

1 Children and Family Services and residential treatment
2 providers for youth and emerging adults, the
3 Department of Healthcare and Family Services, within
4 12 months after the effective date of this amendatory
5 Act of the 101st General Assembly, shall develop a plan
6 for the development of specialized therapeutic
7 residential treatment beds similar to a qualified
8 residential treatment program, as defined in the
9 federal Family First Prevention Services Act, for
10 youth in the Family Support Program with high-acuity
11 mental health needs. The Department of Healthcare and
12 Family Services and the Department of Children and
13 Family Services shall work together to maximize
14 federal funding through Medicaid and Title IV-E of the
15 Social Security Act in the development and
16 implementation of this plan.

17 (B) Using the Department of Children and Family
18 Services' beyond medical necessity data over the last 5
19 years and any other relevant, available data, the
20 Department of Healthcare and Family Services shall
21 assess the estimated number of these specialized
22 high-acuity residential treatment beds that are needed
23 in each region of the State based on the number of
24 youth remaining in psychiatric hospitals beyond
25 medical necessity and the number of youth placed
26 out-of-state who need this level of care. The

1 Department of Healthcare and Family Services shall
2 report the results of this assessment to the General
3 Assembly by no later than December 31, 2020.

4 (C) Development of an age-appropriate therapeutic
5 residential treatment model for emerging adults and
6 transition-age adults. Within 30 months after the
7 effective date of this amendatory Act of the 101st
8 General Assembly, the Department of Healthcare and
9 Family Services, in partnership with the Department of
10 Human Services' Division of Mental Health and with
11 significant and meaningful stakeholder input through a
12 working group of providers and other stakeholders,
13 shall develop a supportive housing model for emerging
14 adults and transition-age adults receiving services
15 through the Family Support Program who need
16 residential treatment and support to enable recovery.
17 Such a model shall be age-appropriate and shall allow
18 the residential component of the model to be in a
19 community-based setting combined with intensive
20 community-based mental health services.

21 (j) Workgroup to develop a plan for improving access to
22 substance use treatment. The Department of Healthcare and
23 Family Services and the Department of Human Services' Division
24 of Substance Use Prevention and Recovery shall co-lead a
25 working group that includes Family Support Program providers,
26 family support organizations, and other stakeholders over a

1 12-month period beginning in the first quarter of calendar year
2 2020 to develop a plan for increasing access to substance use
3 treatment services for youth, emerging adults, and
4 transition-age adults who are eligible for Family Support
5 Program services.

6 (k) Appropriation. Implementation of this Section shall be
7 limited by the State's annual appropriation to the Family
8 Support Program. Spending within the Family Support Program
9 appropriation shall be further limited for the new Family
10 Support Program services to be developed accordingly:

11 (1) Targeted use of specialized therapeutic
12 residential treatment for youth and emerging adults with
13 high-acuity mental health conditions through appropriation
14 limitation. No more than 12% of all annual Family Support
15 Program funds shall be spent on this level of care in any
16 given state fiscal year.

17 (2) Targeted use of residential treatment model
18 established for emerging adults and transition-age adults
19 through appropriation limitation. No more than one-quarter
20 of all annual Family Support Program funds shall be spent
21 on this level of care in any given state fiscal year.

22 (l) Exhausting third party insurance coverage first.

23 (A) A parent, legal guardian, emerging adult, or
24 transition-age adult with private insurance coverage shall
25 work with the Department of Healthcare and Family Services,
26 or its designee, to identify insurance coverage for any and

1 all benefits covered by their plan. If insurance
2 cost-sharing by any method for treatment is
3 cost-prohibitive for the parent, legal guardian, emerging
4 adult, or transition-age adult, Family Support Program
5 funds may be applied as a payer of last resort toward
6 insurance cost-sharing for purposes of using private
7 insurance coverage to the fullest extent for the
8 recommended treatment. If the Department, or its agent, has
9 a concern relating to the parent's, legal guardian's,
10 emerging adult's, or transition-age adult's insurer's
11 compliance with Illinois or federal insurance requirements
12 relating to the coverage of mental health or substance use
13 disorders, it shall refer all relevant information to the
14 applicable regulatory authority.

15 (B) The Department of Healthcare and Family Services
16 shall use Medicaid funds first for an individual who has
17 Medicaid coverage if the treatment or service recommended
18 using an integrated behavioral health assessment and
19 treatment plan (using the instrument approved by the
20 Department of Healthcare and Family Services) is covered by
21 Medicaid.

22 (C) If private or public insurance coverage does not
23 cover the needed treatment or service, Family Support
24 Program funds shall be used to cover the services offered
25 through the Family Support Program.

26 (m) Service authorization. A youth, emerging adult, or

1 transition-age adult enrolled in the Family Support Program or
2 the Specialized Family Support Program shall be eligible to
3 receive a mental health treatment service covered by the
4 applicable program if the medical necessity criteria
5 established by the Department of Healthcare and Family Services
6 are met.

7 (n) Streamlined application. The Department of Healthcare
8 and Family Services shall revise the Family Support Program
9 applications and the application process to reflect the changes
10 made to this Section by this amendatory Act of the 101st
11 General Assembly within 8 months after the adoption of any
12 amendments to 89 Ill. Adm. Code 139.

13 (o) Study of reimbursement policies during planned and
14 unplanned absences of youth and emerging adults in Family
15 Support Program residential treatment settings. The Department
16 of Healthcare and Family Services shall undertake a study of
17 those standards of the Department of Children and Family
18 Services and other states for reimbursement of residential
19 treatment during planned and unplanned absences to determine if
20 reimbursing residential providers for such unplanned absences
21 positively impacts the availability of residential treatment
22 for youth and emerging adults. The Department of Healthcare and
23 Family Services shall begin the study on July 1, 2019 and shall
24 report its findings and the results of the study to the General
25 Assembly, along with any recommendations for or against
26 adopting a similar policy, by December 31, 2020.

1 (p) Public awareness and educational campaign for all
2 relevant providers. The Department of Healthcare and Family
3 Services shall engage in a public awareness campaign to educate
4 hospitals with psychiatric units, crisis response providers
5 such as Screening, Assessment and Support Services providers
6 and Comprehensive Community Based Youth Services agencies,
7 schools, and other community institutions and providers across
8 Illinois on the changes made by this amendatory Act of the
9 101st General Assembly to the Family Support Program. The
10 Department of Healthcare and Family Services shall produce
11 written materials geared for the appropriate target audience,
12 develop webinars, and conduct outreach visits over a 12-month
13 period beginning after implementation of the changes made to
14 this Section by this amendatory Act of the 101st General
15 Assembly.

16 (q) Maximizing federal matching funds for the Family
17 Support Program and the Specialized Family Support Program. The
18 Department of Healthcare and Family Services, as the sole
19 Medicaid State agency, shall seek approval from the federal
20 Centers for Medicare and Medicaid Services within 12 months
21 after the effective date of this amendatory Act of the 101st
22 General Assembly to draw additional federal Medicaid matching
23 funds for individuals served under the Family Support Program
24 or the Specialized Family Support Program who are not covered
25 by the Department's medical assistance programs. The
26 Department of Children and Family Services, as the State agency

1 responsible for administering federal funds pursuant to Title
2 IV-E of the Social Security Act, shall submit a State Plan to
3 the federal government within 12 months after the effective
4 date of this amendatory Act of the 101st General Assembly to
5 maximize the use of federal Title IV-E prevention funds through
6 the federal Family First Prevention Services Act, to provide
7 mental health and substance use disorder treatment services and
8 supports, including, but not limited to, the provision of
9 short-term crisis and transition beds post-hospitalization for
10 youth who are at imminent risk of entering Illinois' youth
11 welfare system solely due to the inability to access mental
12 health or substance use treatment services.

13 (r) Outcomes and data reported annually to the General
14 Assembly. Beginning in 2021, the Department of Healthcare and
15 Family Services shall submit an annual report to the General
16 Assembly that includes the following information with respect
17 to the time period covered by the report:

18 (1) The number and ages of youth, emerging adults, and
19 transition-age adults who requested services under the
20 Family Support Program and the Specialized Family Support
21 Program and the services received.

22 (2) The number and ages of youth, emerging adults, and
23 transition-age adults who requested services under the
24 Specialized Family Support Program who were eligible for
25 services based on the number of hospitalizations.

26 (3) The number and ages of youth, emerging adults, and

1 transition-age adults who applied for Family Support
2 Program or Specialized Family Support Program services but
3 did not receive any services.

4 (s) Rulemaking authority. Unless a timeline is otherwise
5 specified in a subsection, if amendments to 89 Ill. Adm. Code
6 139 are needed for implementation of this Section, such
7 amendments shall be filed by the Department of Healthcare and
8 Family Services within one year after the effective date of
9 this amendatory Act of the 101st General Assembly.

10 (Source: P.A. 101-461, eff. 1-1-20.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.