



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1041

Introduced 1/12/2023, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-2

from Ch. 23, par. 5-2

Amends the Medical Assistance Article of the Illinois Public Aid Code. Extends medical assistance coverage to all women of childbearing age regardless of income level. Requires a hospital licensed under the Hospital Licensing Act or organized under the University of Illinois Hospital Act to complete and submit an application for medical assistance on behalf of every uninsured woman of childbearing age who is admitted to the hospital for inpatient or outpatient services. Provides that upon receipt of an application for medical assistance for a woman of childbearing age, the Department of Human Services shall as soon as practicable enroll the woman into the medical assistance program. Grants the Department of Healthcare and Family Services and the Department of Human Services rulemaking authority to implement the amendatory Act. Requires the Department of Healthcare and Family Services to apply for any federal waivers or State Plan amendments, if required, to implement the amendatory Act. Provides that implementation is contingent on federal approval. Effective immediately.

LRB103 04703 KTG 49712 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 5-2 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. If changes made in this Section 5-2 require
12 federal approval, they shall not take effect until such
13 approval has been received:

14 1. Recipients of basic maintenance grants under
15 Articles III and IV.

16 2. Beginning January 1, 2014, persons otherwise
17 eligible for basic maintenance under Article III,
18 excluding any eligibility requirements that are
19 inconsistent with any federal law or federal regulation,
20 as interpreted by the U.S. Department of Health and Human
21 Services, but who fail to qualify thereunder on the basis
22 of need, and who have insufficient income and resources to
23 meet the costs of necessary medical care, including, but

1 not limited to, the following:

2 (a) All persons otherwise eligible for basic
3 maintenance under Article III but who fail to qualify
4 under that Article on the basis of need and who meet
5 either of the following requirements:

6 (i) their income, as determined by the
7 Illinois Department in accordance with any federal
8 requirements, is equal to or less than 100% of the
9 federal poverty level; or

10 (ii) their income, after the deduction of
11 costs incurred for medical care and for other
12 types of remedial care, is equal to or less than
13 100% of the federal poverty level.

14 (b) (Blank).

15 3. (Blank).

16 4. Persons not eligible under any of the preceding
17 paragraphs who fall sick, are injured, or die, not having
18 sufficient money, property or other resources to meet the
19 costs of necessary medical care or funeral and burial
20 expenses.

21 5.(a) Beginning January 1, 2020, individuals during
22 pregnancy and during the 12-month period beginning on the
23 last day of the pregnancy, together with their infants,
24 whose income is at or below 200% of the federal poverty
25 level. Until September 30, 2019, or sooner if the
26 maintenance of effort requirements under the Patient

1 Protection and Affordable Care Act are eliminated or may
2 be waived before then, individuals during pregnancy and
3 during the 12-month period beginning on the last day of
4 the pregnancy, whose countable monthly income, after the
5 deduction of costs incurred for medical care and for other
6 types of remedial care as specified in administrative
7 rule, is equal to or less than the Medical Assistance-No
8 Grant(C) (MANG(C)) Income Standard in effect on April 1,
9 2013 as set forth in administrative rule.

10 (b) The plan for coverage shall provide ambulatory
11 prenatal care to pregnant individuals during a presumptive
12 eligibility period and establish an income eligibility
13 standard that is equal to 200% of the federal poverty
14 level, provided that costs incurred for medical care are
15 not taken into account in determining such income
16 eligibility.

17 (c) The Illinois Department may conduct a
18 demonstration in at least one county that will provide
19 medical assistance to pregnant individuals together with
20 their infants and children up to one year of age, where the
21 income eligibility standard is set up to 185% of the
22 nonfarm income official poverty line, as defined by the
23 federal Office of Management and Budget. The Illinois
24 Department shall seek and obtain necessary authorization
25 provided under federal law to implement such a
26 demonstration. Such demonstration may establish resource

1 standards that are not more restrictive than those
2 established under Article IV of this Code.

3 6. (a) Subject to federal approval, children younger
4 than age 19 when countable income is at or below 313% of
5 the federal poverty level, as determined by the Department
6 and in accordance with all applicable federal
7 requirements. The Department is authorized to adopt
8 emergency rules to implement the changes made to this
9 paragraph by Public Act 102-43. Until September 30, 2019,
10 or sooner if the maintenance of effort requirements under
11 the Patient Protection and Affordable Care Act are
12 eliminated or may be waived before then, children younger
13 than age 19 whose countable monthly income, after the
14 deduction of costs incurred for medical care and for other
15 types of remedial care as specified in administrative
16 rule, is equal to or less than the Medical Assistance-No
17 Grant(C) (MANG(C)) Income Standard in effect on April 1,
18 2013 as set forth in administrative rule.

19 (b) Children and youth who are under temporary custody
20 or guardianship of the Department of Children and Family
21 Services or who receive financial assistance in support of
22 an adoption or guardianship placement from the Department
23 of Children and Family Services.

24 7. (Blank).

25 8. As required under federal law, persons who are
26 eligible for Transitional Medical Assistance as a result

1 of an increase in earnings or child or spousal support
2 received. The plan for coverage for this class of persons
3 shall:

4 (a) extend the medical assistance coverage to the
5 extent required by federal law; and

6 (b) offer persons who have initially received 6
7 months of the coverage provided in paragraph (a)
8 above, the option of receiving an additional 6 months
9 of coverage, subject to the following:

10 (i) such coverage shall be pursuant to
11 provisions of the federal Social Security Act;

12 (ii) such coverage shall include all services
13 covered under Illinois' State Medicaid Plan;

14 (iii) no premium shall be charged for such
15 coverage; and

16 (iv) such coverage shall be suspended in the
17 event of a person's failure without good cause to
18 file in a timely fashion reports required for this
19 coverage under the Social Security Act and
20 coverage shall be reinstated upon the filing of
21 such reports if the person remains otherwise
22 eligible.

23 9. Persons with acquired immunodeficiency syndrome
24 (AIDS) or with AIDS-related conditions with respect to
25 whom there has been a determination that but for home or
26 community-based services such individuals would require

1 the level of care provided in an inpatient hospital,
2 skilled nursing facility or intermediate care facility the
3 cost of which is reimbursed under this Article. Assistance
4 shall be provided to such persons to the maximum extent
5 permitted under Title XIX of the Federal Social Security
6 Act.

7 10. Participants in the long-term care insurance
8 partnership program established under the Illinois
9 Long-Term Care Partnership Program Act who meet the
10 qualifications for protection of resources described in
11 Section 15 of that Act.

12 11. Persons with disabilities who are employed and
13 eligible for Medicaid, pursuant to Section
14 1902(a)(10)(A)(ii)(xv) of the Social Security Act, and,
15 subject to federal approval, persons with a medically
16 improved disability who are employed and eligible for
17 Medicaid pursuant to Section 1902(a)(10)(A)(ii)(xvi) of
18 the Social Security Act, as provided by the Illinois
19 Department by rule. In establishing eligibility standards
20 under this paragraph 11, the Department shall, subject to
21 federal approval:

22 (a) set the income eligibility standard at not
23 lower than 350% of the federal poverty level;

24 (b) exempt retirement accounts that the person
25 cannot access without penalty before the age of 59
26 1/2, and medical savings accounts established pursuant

1 to 26 U.S.C. 220;

2 (c) allow non-exempt assets up to \$25,000 as to
3 those assets accumulated during periods of eligibility
4 under this paragraph 11; and

5 (d) continue to apply subparagraphs (b) and (c) in
6 determining the eligibility of the person under this
7 Article even if the person loses eligibility under
8 this paragraph 11.

9 12. Subject to federal approval, persons who are
10 eligible for medical assistance coverage under applicable
11 provisions of the federal Social Security Act and the
12 federal Breast and Cervical Cancer Prevention and
13 Treatment Act of 2000. Those eligible persons are defined
14 to include, but not be limited to, the following persons:

15 (1) persons who have been screened for breast or
16 cervical cancer under the U.S. Centers for Disease
17 Control and Prevention Breast and Cervical Cancer
18 Program established under Title XV of the federal
19 Public Health Service Act in accordance with the
20 requirements of Section 1504 of that Act as
21 administered by the Illinois Department of Public
22 Health; and

23 (2) persons whose screenings under the above
24 program were funded in whole or in part by funds
25 appropriated to the Illinois Department of Public
26 Health for breast or cervical cancer screening.

1 "Medical assistance" under this paragraph 12 shall be
2 identical to the benefits provided under the State's
3 approved plan under Title XIX of the Social Security Act.
4 The Department must request federal approval of the
5 coverage under this paragraph 12 within 30 days after July
6 3, 2001 (the effective date of Public Act 92-47).

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

26 13. Subject to appropriation and to federal approval,

1 persons living with HIV/AIDS who are not otherwise
2 eligible under this Article and who qualify for services
3 covered under Section 5-5.04 as provided by the Illinois
4 Department by rule.

5 14. Subject to the availability of funds for this
6 purpose, the Department may provide coverage under this
7 Article to persons who reside in Illinois who are not
8 eligible under any of the preceding paragraphs and who
9 meet the income guidelines of paragraph 2(a) of this
10 Section and (i) have an application for asylum pending
11 before the federal Department of Homeland Security or on
12 appeal before a court of competent jurisdiction and are
13 represented either by counsel or by an advocate accredited
14 by the federal Department of Homeland Security and
15 employed by a not-for-profit organization in regard to
16 that application or appeal, or (ii) are receiving services
17 through a federally funded torture treatment center.
18 Medical coverage under this paragraph 14 may be provided
19 for up to 24 continuous months from the initial
20 eligibility date so long as an individual continues to
21 satisfy the criteria of this paragraph 14. If an
22 individual has an appeal pending regarding an application
23 for asylum before the Department of Homeland Security,
24 eligibility under this paragraph 14 may be extended until
25 a final decision is rendered on the appeal. The Department
26 may adopt rules governing the implementation of this

1 paragraph 14.

2 15. Family Care Eligibility.

3 (a) On and after July 1, 2012, a parent or other
4 caretaker relative who is 19 years of age or older when
5 countable income is at or below 133% of the federal
6 poverty level. A person may not spend down to become
7 eligible under this paragraph 15.

8 (b) Eligibility shall be reviewed annually.

9 (c) (Blank).

10 (d) (Blank).

11 (e) (Blank).

12 (f) (Blank).

13 (g) (Blank).

14 (h) (Blank).

15 (i) Following termination of an individual's
16 coverage under this paragraph 15, the individual must
17 be determined eligible before the person can be
18 re-enrolled.

19 16. Subject to appropriation, uninsured persons who
20 are not otherwise eligible under this Section who have
21 been certified and referred by the Department of Public
22 Health as having been screened and found to need
23 diagnostic evaluation or treatment, or both diagnostic
24 evaluation and treatment, for prostate or testicular
25 cancer. For the purposes of this paragraph 16, uninsured
26 persons are those who do not have creditable coverage, as

1 defined under the Health Insurance Portability and
2 Accountability Act, or have otherwise exhausted any
3 insurance benefits they may have had, for prostate or
4 testicular cancer diagnostic evaluation or treatment, or
5 both diagnostic evaluation and treatment. To be eligible,
6 a person must furnish a Social Security number. A person's
7 assets are exempt from consideration in determining
8 eligibility under this paragraph 16. Such persons shall be
9 eligible for medical assistance under this paragraph 16
10 for so long as they need treatment for the cancer. A person
11 shall be considered to need treatment if, in the opinion
12 of the person's treating physician, the person requires
13 therapy directed toward cure or palliation of prostate or
14 testicular cancer, including recurrent metastatic cancer
15 that is a known or presumed complication of prostate or
16 testicular cancer and complications resulting from the
17 treatment modalities themselves. Persons who require only
18 routine monitoring services are not considered to need
19 treatment. "Medical assistance" under this paragraph 16
20 shall be identical to the benefits provided under the
21 State's approved plan under Title XIX of the Social
22 Security Act. Notwithstanding any other provision of law,
23 the Department (i) does not have a claim against the
24 estate of a deceased recipient of services under this
25 paragraph 16 and (ii) does not have a lien against any
26 homestead property or other legal or equitable real

1 property interest owned by a recipient of services under
2 this paragraph 16.

3 17. Persons who, pursuant to a waiver approved by the
4 Secretary of the U.S. Department of Health and Human
5 Services, are eligible for medical assistance under Title
6 XIX or XXI of the federal Social Security Act.
7 Notwithstanding any other provision of this Code and
8 consistent with the terms of the approved waiver, the
9 Illinois Department, may by rule:

10 (a) Limit the geographic areas in which the waiver
11 program operates.

12 (b) Determine the scope, quantity, duration, and
13 quality, and the rate and method of reimbursement, of
14 the medical services to be provided, which may differ
15 from those for other classes of persons eligible for
16 assistance under this Article.

17 (c) Restrict the persons' freedom in choice of
18 providers.

19 18. Beginning January 1, 2014, persons aged 19 or
20 older, but younger than 65, who are not otherwise eligible
21 for medical assistance under this Section 5-2, who qualify
22 for medical assistance pursuant to 42 U.S.C.
23 1396a(a)(10)(A)(i)(VIII) and applicable federal
24 regulations, and who have income at or below 133% of the
25 federal poverty level plus 5% for the applicable family
26 size as determined pursuant to 42 U.S.C. 1396a(e)(14) and

1 applicable federal regulations. Persons eligible for
2 medical assistance under this paragraph 18 shall receive
3 coverage for the Health Benefits Service Package as that
4 term is defined in subsection (m) of Section 5-1.1 of this
5 Code. If Illinois' federal medical assistance percentage
6 (FMAP) is reduced below 90% for persons eligible for
7 medical assistance under this paragraph 18, eligibility
8 under this paragraph 18 shall cease no later than the end
9 of the third month following the month in which the
10 reduction in FMAP takes effect.

11 19. Beginning January 1, 2014, as required under 42
12 U.S.C. 1396a(a)(10)(A)(i)(IX), persons older than age 18
13 and younger than age 26 who are not otherwise eligible for
14 medical assistance under paragraphs (1) through (17) of
15 this Section who (i) were in foster care under the
16 responsibility of the State on the date of attaining age
17 18 or on the date of attaining age 21 when a court has
18 continued wardship for good cause as provided in Section
19 2-31 of the Juvenile Court Act of 1987 and (ii) received
20 medical assistance under the Illinois Title XIX State Plan
21 or waiver of such plan while in foster care.

22 20. Beginning January 1, 2018, persons who are
23 foreign-born victims of human trafficking, torture, or
24 other serious crimes as defined in Section 2-19 of this
25 Code and their derivative family members if such persons:
26 (i) reside in Illinois; (ii) are not eligible under any of

1 the preceding paragraphs; (iii) meet the income guidelines
2 of subparagraph (a) of paragraph 2; and (iv) meet the
3 nonfinancial eligibility requirements of Sections 16-2,
4 16-3, and 16-5 of this Code. The Department may extend
5 medical assistance for persons who are foreign-born
6 victims of human trafficking, torture, or other serious
7 crimes whose medical assistance would be terminated
8 pursuant to subsection (b) of Section 16-5 if the
9 Department determines that the person, during the year of
10 initial eligibility (1) experienced a health crisis, (2)
11 has been unable, after reasonable attempts, to obtain
12 necessary information from a third party, or (3) has other
13 extenuating circumstances that prevented the person from
14 completing his or her application for status. The
15 Department may adopt any rules necessary to implement the
16 provisions of this paragraph.

17 21. Persons who are not otherwise eligible for medical
18 assistance under this Section who may qualify for medical
19 assistance pursuant to 42 U.S.C.
20 1396a(a)(10)(A)(ii)(XXIII) and 42 U.S.C. 1396(ss) for the
21 duration of any federal or State declared emergency due to
22 COVID-19. Medical assistance to persons eligible for
23 medical assistance solely pursuant to this paragraph 21
24 shall be limited to any in vitro diagnostic product (and
25 the administration of such product) described in 42 U.S.C.
26 1396d(a)(3)(B) on or after March 18, 2020, any visit

1 described in 42 U.S.C. 1396o(a)(2)(G), or any other
2 medical assistance that may be federally authorized for
3 this class of persons. The Department may also cover
4 treatment of COVID-19 for this class of persons, or any
5 similar category of uninsured individuals, to the extent
6 authorized under a federally approved 1115 Waiver or other
7 federal authority. Notwithstanding the provisions of
8 Section 1-11 of this Code, due to the nature of the
9 COVID-19 public health emergency, the Department may cover
10 and provide the medical assistance described in this
11 paragraph 21 to noncitizens who would otherwise meet the
12 eligibility requirements for the class of persons
13 described in this paragraph 21 for the duration of the
14 State emergency period.

15 22. All women of childbearing age regardless of income
16 level. A hospital licensed under the Hospital Licensing
17 Act or organized under the University of Illinois Hospital
18 Act must complete and submit an application for medical
19 assistance on behalf of every uninsured woman of
20 childbearing age who is admitted to the hospital for
21 inpatient or outpatient services. Upon receipt of an
22 application for medical assistance for a woman of
23 childbearing age, the Department of Human Services shall
24 as soon as practicable enroll the woman into the medical
25 assistance program. The Department of Healthcare and
26 Family Services and the Department of Human Services may

1 adopt any rules necessary to implement this paragraph. The
2 Department of Healthcare and Family Services shall apply
3 for any federal waivers or State Plan amendments, if
4 required, to implement this paragraph. Implementation of
5 this paragraph is contingent on federal approval.

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

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 Persons with Disabilities
18 Property Tax Relief Act or any distributions or items of
19 income described under subparagraph (X) of paragraph (2) of
20 subsection (a) of Section 203 of the Illinois Income Tax Act.

21 The Department shall by rule establish the amounts of
22 assets to be disregarded in determining eligibility for
23 medical assistance, which shall at a minimum equal the amounts
24 to be disregarded under the Federal Supplemental Security
25 Income Program. The amount of assets of a single person to be
26 disregarded shall not be less than \$2,000, and the amount of

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

3 To the extent permitted under federal law, any person
4 found guilty of a second violation of Article VIIIA 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 Notwithstanding any other provision of this Code, if the
15 United States Supreme Court holds Title II, Subtitle A,
16 Section 2001(a) of Public Law 111-148 to be unconstitutional,
17 or if a holding of Public Law 111-148 makes Medicaid
18 eligibility allowed under Section 2001(a) inoperable, the
19 State or a unit of local government shall be prohibited from
20 enrolling individuals in the Medical Assistance Program as the
21 result of federal approval of a State Medicaid waiver on or
22 after June 14, 2012 (the effective date of Public Act 97-687),
23 and any individuals enrolled in the Medical Assistance Program
24 pursuant to eligibility permitted as a result of such a State
25 Medicaid waiver shall become immediately ineligible.

26 Notwithstanding any other provision of this Code, if an

1 Act of Congress that becomes a Public Law eliminates Section
2 2001(a) of Public Law 111-148, the State or a unit of local
3 government shall be prohibited from enrolling individuals in
4 the Medical Assistance Program as the result of federal
5 approval of a State Medicaid waiver on or after June 14, 2012
6 (the effective date of Public Act 97-687), and any individuals
7 enrolled in the Medical Assistance Program pursuant to
8 eligibility permitted as a result of such a State Medicaid
9 waiver shall become immediately ineligible.

10 Effective October 1, 2013, the determination of
11 eligibility of persons who qualify under paragraphs 5, 6, 8,
12 15, 17, and 18 of this Section shall comply with the
13 requirements of 42 U.S.C. 1396a(e)(14) and applicable federal
14 regulations.

15 The Department of Healthcare and Family Services, the
16 Department of Human Services, and the Illinois health
17 insurance marketplace shall work cooperatively to assist
18 persons who would otherwise lose health benefits as a result
19 of changes made under Public Act 98-104 to transition to other
20 health insurance coverage.

21 (Source: P.A. 101-10, eff. 6-5-19; 101-649, eff. 7-7-20;
22 102-43, eff. 7-6-21; 102-558, eff. 8-20-21; 102-665, eff.
23 10-8-21; 102-813, eff. 5-13-22.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.