

1 AN ACT concerning State government.

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 Covering ALL KIDS Health Insurance Act.

6 Section 5. Legislative intent. The General Assembly finds
7 that, for the economic and social benefit of all residents of
8 the State, it is important to enable all children of this State
9 to access affordable health insurance that offers
10 comprehensive coverage and emphasizes preventive healthcare.
11 Many children in working families, including many families
12 whose family income ranges between \$40,000 and \$80,000, are
13 uninsured. Numerous studies, including the Institute of
14 Medicine's report, "Health Insurance Matters", demonstrate
15 that lack of insurance negatively affects health status. The
16 General Assembly further finds that access to healthcare is a
17 key component for children's healthy development and
18 successful education. The effects of lack of insurance also
19 negatively impact those who are insured because the cost of
20 paying for care to the uninsured is often shifted to those who
21 have insurance in the form of higher health insurance premiums.
22 A Families USA 2005 report indicates that family premiums in
23 Illinois are increased by \$1,059 due to cost-shifting from the
24 uninsured. It is, therefore, the intent of this legislation to
25 provide access to affordable health insurance to all uninsured
26 children in Illinois.

27 Section 10. Definitions. In this Act:

28 "Application agent" means an organization or individual,
29 such as a licensed health care provider, school, youth service
30 agency, employer, labor union, local chamber of commerce,
31 community-based organization, or other organization, approved

1 by the Department to assist in enrolling children in the
2 Program.

3 "Child" means a person under the age of 19.

4 "Department" means the Department of Healthcare and Family
5 Services.

6 "Medical assistance" means health care benefits provided
7 under Article V of the Illinois Public Aid Code.

8 "Program" means the Covering ALL KIDS Health Insurance
9 Program.

10 "Resident" means an individual (i) who is in the State for
11 other than a temporary or transitory purpose during the taxable
12 year or (ii) who is domiciled in this State but is absent from
13 the State for a temporary or transitory purpose during the
14 taxable year.

15 Section 15. Operation of Program. The Covering ALL KIDS
16 Health Insurance Program is created. The Program shall be
17 administered by the Department of Healthcare and Family
18 Services. The Department shall have the same powers and
19 authority to administer the Program as are provided to the
20 Department in connection with the Department's administration
21 of the Illinois Public Aid Code and the Children's Health
22 Insurance Program Act. The Department shall coordinate the
23 Program with the existing children's health programs operated
24 by the Department and other State agencies.

25 Section 20. Eligibility.

26 (a) To be eligible for the Program, a person must be a
27 child:

28 (1) who is a resident of the State of Illinois; and

29 (2) who is ineligible for medical assistance under the
30 Illinois Public Aid Code or benefits under the Children's
31 Health Insurance Program Act; and

32 (3) either (i) who has been without health insurance
33 coverage for a period set forth by the Department in rules,
34 but not less than 6 months during the first month of

1 operation of the Program, 7 months during the second month
2 of operation, 8 months during the third month of operation,
3 9 months during the fourth month of operation, 10 months
4 during the fifth month of operation, 11 months during the
5 sixth month of operation, and 12 months thereafter, (ii)
6 whose parent has lost employment that made available
7 affordable dependent health insurance coverage, until such
8 time as affordable employer-sponsored dependent health
9 insurance coverage is again available for the child as set
10 forth by the Department in rules, (iii) who is a newborn
11 whose responsible relative does not have available
12 affordable private or employer-sponsored health insurance,
13 or (iv) who, within one year of applying for coverage under
14 this Act, lost medical benefits under the Illinois Public
15 Aid Code or the Children's Health Insurance Program Act.

16 An entity that provides health insurance coverage (as
17 defined in Section 2 of the Comprehensive Health Insurance Plan
18 Act) to Illinois residents shall provide health insurance data
19 match to the Department of Healthcare and Family Services for
20 the purpose of determining eligibility for the Program under
21 this Act.

22 The Department of Healthcare and Family Services, in
23 collaboration with the Department of Financial and
24 Professional Regulation, Division of Insurance, shall adopt
25 rules governing the exchange of information under this Section.
26 The rules shall be consistent with all laws relating to the
27 confidentiality or privacy of personal information or medical
28 records, including provisions under the Federal Health
29 Insurance Portability and Accountability Act (HIPAA).

30 (b) The Department shall monitor the availability and
31 retention of employer-sponsored dependent health insurance
32 coverage and shall modify the period described in subdivision
33 (a) (3) if necessary to promote retention of private or
34 employer-sponsored health insurance and timely access to
35 healthcare services, but at no time shall the period described
36 in subdivision (a) (3) be less than 6 months.

1 (c) The Department, at its discretion, may take into
2 account the affordability of dependent health insurance when
3 determining whether employer-sponsored dependent health
4 insurance coverage is available upon reemployment of a child's
5 parent as provided in subdivision (a) (3).

6 (d) A child who is determined to be eligible for the
7 Program shall remain eligible for 12 months, provided that the
8 child maintains his or her residence in this State, has not yet
9 attained 19 years of age, and is not excluded under subsection
10 (e).

11 (e) A child is not eligible for coverage under the Program
12 if:

13 (1) the premium required under Section 40 has not been
14 timely paid; if the required premiums are not paid, the
15 liability of the Program shall be limited to benefits
16 incurred under the Program for the time period for which
17 premiums have been paid; if the required monthly premium is
18 not paid, the child is ineligible for re-enrollment for a
19 minimum period of 3 months; re-enrollment shall be
20 completed before the next covered medical visit, and the
21 first month's required premium shall be paid in advance of
22 the next covered medical visit; or

23 (2) the child is an inmate of a public institution or
24 an institution for mental diseases.

25 (f) The Department shall adopt eligibility rules,
26 including, but not limited to: rules regarding annual renewals
27 of eligibility for the Program; rules providing for
28 re-enrollment, grace periods, notice requirements, and hearing
29 procedures under subdivision (e) (1) of this Section; and rules
30 regarding what constitutes availability and affordability of
31 private or employer-sponsored health insurance, with
32 consideration of such factors as the percentage of income
33 needed to purchase children or family health insurance, the
34 availability of employer subsidies, and other relevant
35 factors.

1 Section 25. Enrollment in Program. The Department shall
2 develop procedures to allow application agents to assist in
3 enrolling children in the Program or other children's health
4 programs operated by the Department. At the Department's
5 discretion, technical assistance payments may be made
6 available for approved applications facilitated by an
7 application agent.

8 Section 30. Program outreach and marketing. The Department
9 may provide grants to application agents and other
10 community-based organizations to educate the public about the
11 availability of the Program. The Department shall adopt rules
12 regarding performance standards and outcomes measures expected
13 of organizations that are awarded grants under this Section,
14 including penalties for nonperformance of contract standards.

15 Section 35. Health care benefits for children.

16 (a) The Department shall purchase or provide health care
17 benefits for eligible children that are identical to the
18 benefits provided for children under the Illinois Children's
19 Health Insurance Program Act, except for non-emergency
20 transportation.

21 (b) As an alternative to the benefits set forth in
22 subsection (a), and when cost-effective, the Department may
23 offer families subsidies toward the cost of privately sponsored
24 health insurance, including employer-sponsored health
25 insurance.

26 (c) Notwithstanding clause (i) of subdivision (a)(3) of
27 Section 20, the Department may consider offering, as an
28 alternative to the benefits set forth in subsection (a),
29 partial coverage to children who are enrolled in a
30 high-deductible private health insurance plan.

31 (d) Notwithstanding clause (i) of subdivision (a)(3) of
32 Section 20, the Department may consider offering, as an
33 alternative to the benefits set forth in subsection (a), a
34 limited package of benefits to children in families who have

1 private or employer-sponsored health insurance that does not
2 cover certain benefits such as dental or vision benefits.

3 (e) The content and availability of benefits described in
4 subsections (b), (c), and (d), and the terms of eligibility for
5 those benefits, shall be at the Department's discretion and the
6 Department's determination of efficacy and cost-effectiveness
7 as a means of promoting retention of private or
8 employer-sponsored health insurance.

9 Section 40. Cost-sharing.

10 (a) Children enrolled in the Program under subsection (a)
11 of Section 35 are subject to the following cost-sharing
12 requirements:

13 (1) The Department, by rule, shall set forth
14 requirements concerning co-payments and coinsurance for
15 health care services and monthly premiums. This
16 cost-sharing shall be on a sliding scale based on family
17 income. The Department may periodically modify such
18 cost-sharing.

19 (2) Notwithstanding paragraph (1), there shall be no
20 co-payment required for well-baby or well-child health
21 care, including, but not limited to, age-appropriate
22 immunizations as required under State or federal law.

23 (b) Children enrolled in a privately sponsored health
24 insurance plan under subsection (b) of Section 35 are subject
25 to the cost-sharing provisions stated in the privately
26 sponsored health insurance plan.

27 (c) Notwithstanding any other provision of law, rates paid
28 by the Department shall not be used in any way to determine the
29 usual and customary or reasonable charge, which is the charge
30 for health care that is consistent with the average rate or
31 charge for similar services furnished by similar providers in a
32 certain geographic area.

33 Section 45. Study.

34 (a) The Department shall conduct a study that includes, but

1 is not limited to, the following:

2 (1) Establishing estimates, broken down by regions of
3 the State, of the number of children with and without
4 health insurance coverage; the number of children who are
5 eligible for Medicaid or the Children's Health Insurance
6 Program, and, of that number, the number who are enrolled
7 in Medicaid or the Children's Health Insurance Program; and
8 the number of children with access to dependent coverage
9 through an employer, and, of that number, the number who
10 are enrolled in dependent coverage through an employer.

11 (2) Surveying those families whose children have
12 access to employer-sponsored dependent coverage but who
13 decline such coverage as to the reasons for declining
14 coverage.

15 (3) Ascertaining, for the population of children
16 accessing employer-sponsored dependent coverage or who
17 have access to such coverage, the comprehensiveness of
18 dependent coverage available, the amount of cost-sharing
19 currently paid by the employees, and the cost-sharing
20 associated with such coverage.

21 (4) Measuring the health outcomes or other benefits for
22 children utilizing the Covering ALL KIDS Health Insurance
23 Program and analyzing the effects on utilization of
24 healthcare services for children after enrollment in the
25 Program compared to the preceding period of uninsured
26 status.

27 (b) The studies described in subsection (a) shall be
28 conducted in a manner that compares a time period preceding or
29 at the initiation of the program with a later period.

30 (c) The Department shall submit the preliminary results of
31 the study to the Governor and the General Assembly no later
32 than July 1, 2008 and shall submit the final results to the
33 Governor and the General Assembly no later than July 1, 2010.

34 Section 50. Consultation with stakeholders. The Department
35 shall present details regarding implementation of the Program

1 to the Medicaid Advisory Committee, and the Committee shall
2 serve as the forum for healthcare providers, advocates,
3 consumers, and other interested parties to advise the
4 Department with respect to the Program.

5 Section 55. Charge upon claims and causes of action; right
6 of subrogation; recoveries. Sections 11-22, 11-22a, 11-22b,
7 and 11-22c of the Illinois Public Aid Code apply to health care
8 benefits provided to children under this Act, as provided in
9 those Sections.

10 Section 60. Federal financial participation. The
11 Department shall request any necessary state plan amendments or
12 waivers of federal requirements in order to allow receipt of
13 federal funds for implementing any or all of the provisions of
14 the Program. The failure of the responsible federal agency to
15 approve a waiver or other State plan amendment shall not
16 prevent the implementation of any provision of this Act.

17 Section 65. Emergency rulemaking. The Department may adopt
18 rules necessary to establish and implement this Act through the
19 use of emergency rulemaking in accordance with Section 5-45 of
20 the Illinois Administrative Procedure Act. For the purposes of
21 that Act, the General Assembly finds that the adoption of rules
22 to implement this Act is deemed an emergency and necessary for
23 the public interest, safety, and welfare. This Section is
24 repealed on July 1, 2008.

25 Section 90. The Illinois Public Aid Code is amended by
26 changing Sections 11-22, 11-22a, 11-22b, and 11-22c as follows:

27 (305 ILCS 5/11-22) (from Ch. 23, par. 11-22)

28 Sec. 11-22. Charge upon claims and causes of action for
29 injuries. The Illinois Department shall have a charge upon all
30 claims, demands and causes of action for injuries to an
31 applicant for or recipient of (i) financial aid under Articles

1 III, IV, and V or (ii) health care benefits provided under the
2 Covering ALL KIDS Health Insurance Act for the total amount of
3 medical assistance provided the recipient from the time of
4 injury to the date of recovery upon such claim, demand or cause
5 of action. In addition, if the applicant or recipient was
6 employable, as defined by the Department, at the time of the
7 injury, the Department shall also have a charge upon any such
8 claims, demands and causes of action for the total amount of
9 aid provided to the recipient and his dependents, including all
10 cash assistance and medical assistance only to the extent
11 includable in the claimant's action, from the time of injury to
12 the date of recovery upon such claim, demand or cause of
13 action. Any definition of "employable" adopted by the
14 Department shall apply only to persons above the age of
15 compulsory school attendance.

16 If the injured person was employable at the time of the
17 injury and is provided aid under Articles III, IV, or V and any
18 dependent or member of his family is provided aid under Article
19 VI, or vice versa, both the Illinois Department and the local
20 governmental unit shall have a charge upon such claims, demands
21 and causes of action for the aid provided to the injured person
22 and any dependent member of his family, including all cash
23 assistance, medical assistance and food stamps, from the time
24 of the injury to the date of recovery.

25 "Recipient", as used herein, means (i) in the case of
26 financial aid provided under this Code, the grantee of record
27 and any persons whose needs are included in the financial aid
28 provided to the grantee of record or otherwise met by grants
29 under the appropriate Article of this Code for which such
30 person is eligible and (ii) in the case of health care benefits
31 provided under the Covering ALL KIDS Health Insurance Act, the
32 child to whom those benefits are provided.

33 In each case, the notice shall be served by certified mail
34 or registered mail, upon the party or parties against whom the
35 applicant or recipient has a claim, demand or cause of action.
36 The notice shall claim the charge and describe the interest the

1 Illinois Department, the local governmental unit, or the
2 county, has in the claim, demand, or cause of action. The
3 charge shall attach to any verdict or judgment entered and to
4 any money or property which may be recovered on account of such
5 claim, demand, cause of action or suit from and after the time
6 of the service of the notice.

7 On petition filed by the Illinois Department, or by the
8 local governmental unit or county if either is claiming a
9 charge, or by the recipient, or by the defendant, the court, on
10 written notice to all interested parties, may adjudicate the
11 rights of the parties and enforce the charge. The court may
12 approve the settlement of any claim, demand or cause of action
13 either before or after a verdict, and nothing in this Section
14 shall be construed as requiring the actual trial or final
15 adjudication of any claim, demand or cause of action upon which
16 the Illinois Department, the local governmental unit or county
17 has charge. The court may determine what portion of the
18 recovery shall be paid to the injured person and what portion
19 shall be paid to the Illinois Department, the local
20 governmental unit or county having a charge against the
21 recovery. In making this determination, the court shall conduct
22 an evidentiary hearing and shall consider competent evidence
23 pertaining to the following matters:

24 (1) the amount of the charge sought to be enforced
25 against the recovery when expressed as a percentage of the
26 gross amount of the recovery; the amount of the charge
27 sought to be enforced against the recovery when expressed
28 as a percentage of the amount obtained by subtracting from
29 the gross amount of the recovery the total attorney's fees
30 and other costs incurred by the recipient incident to the
31 recovery; and whether the Department, unit of local
32 government or county seeking to enforce the charge against
33 the recovery should as a matter of fairness and equity bear
34 its proportionate share of the fees and costs incurred to
35 generate the recovery from which the charge is sought to be
36 satisfied;

1 (2) the amount, if any, of the attorney's fees and
2 other costs incurred by the recipient incident to the
3 recovery and paid by the recipient up to the time of
4 recovery, and the amount of such fees and costs remaining
5 unpaid at the time of recovery;

6 (3) the total hospital, doctor and other medical
7 expenses incurred for care and treatment of the injury to
8 the date of recovery therefor, the portion of such expenses
9 theretofore paid by the recipient, by insurance provided by
10 the recipient, and by the Department, unit of local
11 government and county seeking to enforce a charge against
12 the recovery, and the amount of such previously incurred
13 expenses which remain unpaid at the time of recovery and by
14 whom such incurred, unpaid expenses are to be paid;

15 (4) whether the recovery represents less than
16 substantially full recompense for the injury and the
17 hospital, doctor and other medical expenses incurred to the
18 date of recovery for the care and treatment of the injury,
19 so that reduction of the charge sought to be enforced
20 against the recovery would not likely result in a double
21 recovery or unjust enrichment to the recipient;

22 (5) the age of the recipient and of persons dependent
23 for support upon the recipient, the nature and permanency
24 of the recipient's injuries as they affect not only the
25 future employability and education of the recipient but
26 also the reasonably necessary and foreseeable future
27 material, maintenance, medical, rehabilitative and
28 training needs of the recipient, the cost of such
29 reasonably necessary and foreseeable future needs, and the
30 resources available to meet such needs and pay such costs;

31 (6) the realistic ability of the recipient to repay in
32 whole or in part the charge sought to be enforced against
33 the recovery when judged in light of the factors enumerated
34 above.

35 The burden of producing evidence sufficient to support the
36 exercise by the court of its discretion to reduce the amount of

1 a proven charge sought to be enforced against the recovery
2 shall rest with the party seeking such reduction.

3 The court may reduce and apportion the Illinois
4 Department's lien proportionate to the recovery of the
5 claimant. The court may consider the nature and extent of the
6 injury, economic and noneconomic loss, settlement offers,
7 comparative negligence as it applies to the case at hand,
8 hospital costs, physician costs, and all other appropriate
9 costs. The Illinois Department shall pay its pro rata share of
10 the attorney fees based on the Illinois Department's lien as it
11 compares to the total settlement agreed upon. This Section
12 shall not affect the priority of an attorney's lien under the
13 Attorneys Lien Act. The charges of the Illinois Department
14 described in this Section, however, shall take priority over
15 all other liens and charges existing under the laws of the
16 State of Illinois with the exception of the attorney's lien
17 under said statute.

18 Whenever the Department or any unit of local government has
19 a statutory charge under this Section against a recovery for
20 damages incurred by a recipient because of its advancement of
21 any assistance, such charge shall not be satisfied out of any
22 recovery until the attorney's claim for fees is satisfied,
23 irrespective of whether or not an action based on recipient's
24 claim has been filed in court.

25 This Section shall be inapplicable to any claim, demand or
26 cause of action arising under (a) the Workers' Compensation Act
27 or the predecessor Workers' Compensation Act of June 28, 1913,
28 (b) the Workers' Occupational Diseases Act or the predecessor
29 Workers' Occupational Diseases Act of March 16, 1936; and (c)
30 the Wrongful Death Act.

31 (Source: P.A. 91-357, eff. 7-29-99; 92-111, eff. 1-1-02.)

32 (305 ILCS 5/11-22a) (from Ch. 23, par. 11-22a)

33 Sec. 11-22a. Right of Subrogation. To the extent of the
34 amount of (i) medical assistance provided by the Department to
35 or on behalf of a recipient under Article V or VI or (ii)

1 health care benefits provided for a child under the Covering
2 ALL KIDS Health Insurance Act, the Department shall be
3 subrogated to any right of recovery such recipient may have
4 under the terms of any private or public health care coverage
5 or casualty coverage, including coverage under the "Workers'
6 Compensation Act", approved July 9, 1951, as amended, or the
7 "Workers' Occupational Diseases Act", approved July 9, 1951, as
8 amended, without the necessity of assignment of claim or other
9 authorization to secure the right of recovery to the
10 Department. To enforce its subrogation right, the Department
11 may (i) intervene or join in an action or proceeding brought by
12 the recipient, his or her guardian, personal representative,
13 estate, dependents, or survivors against any person or public
14 or private entity that may be liable; (ii) institute and
15 prosecute legal proceedings against any person or public or
16 private entity that may be liable for the cost of such
17 services; or (iii) institute and prosecute legal proceedings,
18 to the extent necessary to reimburse the Illinois Department
19 for its costs, against any noncustodial parent who (A) is
20 required by court or administrative order to provide insurance
21 or other coverage of the cost of health care services for a
22 child eligible for medical assistance under this Code and (B)
23 has received payment from a third party for the costs of those
24 services but has not used the payments to reimburse either the
25 other parent or the guardian of the child or the provider of
26 the services.

27 (Source: P.A. 92-111, eff. 1-1-02.)

28 (305 ILCS 5/11-22b) (from Ch. 23, par. 11-22b)

29 Sec. 11-22b. Recoveries.

30 (a) As used in this Section:

31 (1) "Carrier" means any insurer, including any private
32 company, corporation, mutual association, trust fund,
33 reciprocal or interinsurance exchange authorized under the
34 laws of this State to insure persons against liability or
35 injuries caused to another and any insurer providing benefits

1 under a policy of bodily injury liability insurance covering
2 liability arising out of the ownership, maintenance or use of a
3 motor vehicle which provides uninsured motorist endorsement or
4 coverage.

5 (2) "Beneficiary" means any person or their dependents who
6 has received benefits or will be provided benefits under this
7 Code or under the Covering ALL KIDS Health Insurance Act
8 because of an injury for which another person may be liable. It
9 includes such beneficiary's guardian, conservator or other
10 personal representative, his estate or survivors.

11 (b) (1) When benefits are provided or will be provided to a
12 beneficiary under this Code or under the Covering ALL KIDS
13 Health Insurance Act because of an injury for which another
14 person is liable, or for which a carrier is liable in
15 accordance with the provisions of any policy of insurance
16 issued pursuant to the Illinois Insurance Code, the Illinois
17 Department shall have a right to recover from such person or
18 carrier the reasonable value of benefits so provided. The
19 Attorney General may, to enforce such right, institute and
20 prosecute legal proceedings against the third person or carrier
21 who may be liable for the injury in an appropriate court,
22 either in the name of the Illinois Department or in the name of
23 the injured person, his guardian, personal representative,
24 estate, or survivors.

25 (2) The Department may:

26 (A) compromise or settle and release any such claim for
27 benefits provided under this Code, or

28 (B) waive any such claims for benefits provided under
29 this Code, in whole or in part, for the convenience of the
30 Department or if the Department determines that collection
31 would result in undue hardship upon the person who suffered
32 the injury or, in a wrongful death action, upon the heirs
33 of the deceased.

34 (3) No action taken on behalf of the Department pursuant to
35 this Section or any judgment rendered in such action shall be a
36 bar to any action upon the claim or cause of action of the

1 beneficiary, his guardian, conservator, personal
2 representative, estate, dependents or survivors against the
3 third person who may be liable for the injury, or shall operate
4 to deny to the beneficiary the recovery for that portion of any
5 damages not covered hereunder.

6 (c) (1) When an action is brought by the Department
7 pursuant to subsection (b), it shall be commenced within the
8 period prescribed by Article XIII of the Code of Civil
9 Procedure.

10 However, the Department may not commence the action prior
11 to 5 months before the end of the applicable period prescribed
12 by Article XIII of the Code of Civil Procedure. Thirty days
13 prior to commencing an action, the Department shall notify the
14 beneficiary of the Department's intent to commence such an
15 action.

16 (2) The death of the beneficiary does not abate any right
17 of action established by subsection (b).

18 (3) When an action or claim is brought by persons entitled
19 to bring such actions or assert such claims against a third
20 person who may be liable for causing the death of a
21 beneficiary, any settlement, judgment or award obtained is
22 subject to the Department's claim for reimbursement of the
23 benefits provided to the beneficiary under this Code or under
24 the Covering ALL KIDS Health Insurance Act.

25 (4) When the action or claim is brought by the beneficiary
26 alone and the beneficiary incurs a personal liability to pay
27 attorney's fees and costs of litigation, the Department's claim
28 for reimbursement of the benefits provided to the beneficiary
29 shall be the full amount of benefits paid on behalf of the
30 beneficiary under this Code or under the Covering ALL KIDS
31 Health Insurance Act less a pro rata share which represents the
32 Department's reasonable share of attorney's fees paid by the
33 beneficiary and that portion of the cost of litigation expenses
34 determined by multiplying by the ratio of the full amount of
35 the expenditures of the full amount of the judgment, award or
36 settlement.

1 (d) (1) If either the beneficiary or the Department brings
2 an action or claim against such third party or carrier, the
3 beneficiary or the Department shall within 30 days of filing
4 the action give to the other written notice by personal service
5 or registered mail of the action or claim and of the name of
6 the court in which the action or claim is brought. Proof of
7 such notice shall be filed in such action or claim. If an
8 action or claim is brought by either the Department or the
9 beneficiary, the other may, at any time before trial on the
10 facts, become a party to such action or claim or shall
11 consolidate his action or claim with the other if brought
12 independently.

13 (2) If an action or claim is brought by the Department
14 pursuant to subsection (b)(1), written notice to the
15 beneficiary, guardian, personal representative, estate or
16 survivor given pursuant to this Section shall advise him of his
17 right to intervene in the proceeding, his right to obtain a
18 private attorney of his choice and the Department's right to
19 recover the reasonable value of the benefits provided.

20 (e) In the event of judgment or award in a suit or claim
21 against such third person or carrier:

22 (1) If the action or claim is prosecuted by the beneficiary
23 alone, the court shall first order paid from any judgment or
24 award the reasonable litigation expenses incurred in
25 preparation and prosecution of such action or claim, together
26 with reasonable attorney's fees, when an attorney has been
27 retained. After payment of such expenses and attorney's fees
28 the court shall, on the application of the Department, allow as
29 a first lien against the amount of such judgment or award the
30 amount of the Department's expenditures for the benefit of the
31 beneficiary under this Code or under the Covering ALL KIDS
32 Health Insurance Act, as provided in subsection (c)(4).

33 (2) If the action or claim is prosecuted both by the
34 beneficiary and the Department, the court shall first order
35 paid from any judgment or award the reasonable litigation
36 expenses incurred in preparation and prosecution of such action

1 or claim, together with reasonable attorney's fees for
2 plaintiffs attorneys based solely on the services rendered for
3 the benefit of the beneficiary. After payment of such expenses
4 and attorney's fees, the court shall apply out of the balance
5 of such judgment or award an amount sufficient to reimburse the
6 Department the full amount of benefits paid on behalf of the
7 beneficiary under this Code or under the Covering ALL KIDS
8 Health Insurance Act.

9 (f) The court shall, upon further application at any time
10 before the judgment or award is satisfied, allow as a further
11 lien the amount of any expenditures of the Department in
12 payment of additional benefits arising out of the same cause of
13 action or claim provided on behalf of the beneficiary under
14 this Code or under the Covering ALL KIDS Health Insurance Act,
15 when such benefits were provided or became payable subsequent
16 to the original order.

17 (g) No judgment, award, or settlement in any action or
18 claim by a beneficiary to recover damages for injuries, when
19 the Department has an interest, shall be satisfied without
20 first giving the Department notice and a reasonable opportunity
21 to perfect and satisfy its lien.

22 (h) When the Department has perfected a lien upon a
23 judgment or award in favor of a beneficiary against any third
24 party for an injury for which the beneficiary has received
25 benefits under this Code or under the Covering ALL KIDS Health
26 Insurance Act, the Department shall be entitled to a writ of
27 execution as lien claimant to enforce payment of said lien
28 against such third party with interest and other accruing costs
29 as in the case of other executions. In the event the amount of
30 such judgment or award so recovered has been paid to the
31 beneficiary, the Department shall be entitled to a writ of
32 execution against such beneficiary to the extent of the
33 Department's lien, with interest and other accruing costs as in
34 the case of other executions.

35 (i) Except as otherwise provided in this Section,
36 notwithstanding any other provision of law, the entire amount

1 of any settlement of the injured beneficiary's action or claim,
2 with or without suit, is subject to the Department's claim for
3 reimbursement of the benefits provided and any lien filed
4 pursuant thereto to the same extent and subject to the same
5 limitations as in Section 11-22 of this Code.

6 (Source: P.A. 92-651, eff. 7-11-02.)

7 (305 ILCS 5/11-22c) (from Ch. 23, par. 11-22c)

8 Sec. 11-22c. (a) As used in this Section, "recipient" means
9 any person receiving financial assistance under Article IV or
10 Article VI of this Code or receiving health care benefits under
11 the Covering ALL KIDS Health Insurance Act.

12 (b) If a recipient maintains any suit, charge or other
13 court or administrative action against an employer seeking back
14 pay for a period during which the recipient received financial
15 assistance under Article IV or Article VI of this Code or
16 health care benefits under the Covering ALL KIDS Health
17 Insurance Act, the recipient shall report such fact to the
18 Department. To the extent of the amount of assistance provided
19 to or on behalf of the recipient under Article IV or Article VI
20 or health care benefits provided under the Covering ALL KIDS
21 Health Insurance Act, the Department may by intervention or
22 otherwise without the necessity of assignment of claim, attach
23 a lien on the recovery of back wages equal to the amount of
24 assistance provided by the Department to the recipient under
25 Article IV or Article VI or under the Covering ALL KIDS Health
26 Insurance Act.

27 (Source: P.A. 86-497.)

28 Section 97. Severability. If any provision of this Act or
29 its application to any person or circumstance is held invalid,
30 the invalidity of that provision or application does not affect
31 other provisions or applications of this Act that can be given
32 effect without the invalid provision or application, and to
33 this end the provisions of this Act are severable.

1 Section 98. Repealer. This Act is repealed on July 1,
2 2011.

3 Section 99. Effective date. This Act takes effect July 1,
4 2006.