

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 Sections 5-2.05 and 12-4.36 as follows:

6 (305 ILCS 5/5-2.05)

7 Sec. 5-2.05. Children with disabilities ~~Disabled children.~~

8 (a) The Department of Healthcare and Family Services, in
9 conjunction with the Department of Human Services, Public Aid
10 may offer, to children with developmental disabilities or
11 children with severe mental illness or severe emotional
12 disorders ~~and severely mentally ill or emotionally disturbed~~
13 ~~children~~ who otherwise would not qualify for medical assistance
14 under this Article due to family income, home-based and
15 community-based services instead of institutional placement,
16 as allowed under paragraph 7 of Section 5-2.

17 (b) The Department of Healthcare and Family Services ~~Public~~
18 ~~Aid~~, in conjunction with the Department of Human Services and
19 the Division of Specialized Care for Children, University of
20 Illinois-Chicago, shall submit a bi-annual ~~also~~ report to the
21 Governor and the General Assembly no later than January 1 of
22 every even-numbered year beginning in 2008, 2004 regarding the
23 status of existing services offered under paragraph 7 of

1 Section 5-2. This report shall include, but not be limited to,
2 the following information:

3 ~~(1) The number of persons eligible for these services.~~

4 ~~(2) The number of persons who applied for these~~
5 ~~services.~~

6 (1) ~~(3)~~ The number of persons who currently receive
7 these services.

8 (2) ~~(4)~~ The nature, scope, and cost of services
9 ~~provided under paragraph 7 of Section 5-2.~~

10 (3) ~~(5)~~ The comparative cost of providing those
11 services in a hospital, skilled nursing facility, or
12 intermediate care facility.

13 (4) ~~(6)~~ The funding sources for the provision of
14 services, including federal financial participation.

15 (5) ~~(7)~~ The qualifications, skills, and availability
16 of caregivers for children receiving services.

17 (6) The number of children who have aged out of the
18 services offered under paragraph 7 of Section 5-2 during
19 the 2 years immediately preceding the report.

20 The report shall also include information regarding the
21 extent to which the existing programs could provide coverage
22 for children with developmental disabilities or children with
23 severe mental illness or severe emotional disorders ~~mentally~~
24 ~~disabled children~~ who are currently being provided services in
25 an institution who could otherwise be served in a
26 less-restrictive, community-based setting for the same or a

1 lower cost. The report may be submitted as part of the report
2 required by subsection (e) of Section 12-4.36 of this Code
3 during the existence of the pilot program authorized by that
4 Section.

5 (Source: P.A. 93-599, eff. 8-26-03; revised 12-15-05.)

6 (305 ILCS 5/12-4.36)

7 Sec. 12-4.36. Pilot program for persons who are medically
8 fragile and technology-dependent.

9 (a) Subject to appropriations for the first fiscal year of
10 the pilot program beginning July 1, 2006, the Department of
11 Human Services, in cooperation with the Department of
12 Healthcare and Family Services, shall adopt rules to initiate a
13 3-year pilot program to (i) test a standardized assessment tool
14 for persons who are medically fragile and technology-dependent
15 who may be provided home and community-based services to meet
16 their medical needs rather than be provided care in an
17 institution not solely because of a severe mental or
18 developmental impairment and (ii) provide appropriate home and
19 community-based medical services for such persons as provided
20 in subsection (c) of this Section. The Department of Human
21 Services may administer the pilot program until June 30, 2010
22 ~~2009~~ if the General Assembly annually appropriates funds for
23 this purpose.

24 (b) Notwithstanding any other provisions of this Code, the
25 rules implementing the pilot program shall provide for

1 criteria, standards, procedures, and reimbursement for
2 services that are not otherwise being provided in scope,
3 duration, or amount through any other program administered by
4 any Department of Human Services or any other agency of the
5 State for these medically fragile, technology-dependent
6 persons. At a minimum, the rules shall include the following:

7 (1) A requirement that a pilot program participant be
8 eligible for medical assistance under this Code, a citizen
9 of the United States, or an individual who is lawfully
10 residing permanently in the United States, and a resident
11 of Illinois.

12 (2) A requirement that a standardized assessment for
13 medically fragile, technology-dependent persons will
14 establish the level of care and the service-cost maximums.

15 (3) A requirement for a determination by a physician
16 licensed to practice medicine in all its branches (i) that,
17 except for the provision of home and community-based care,
18 these individuals would require the level of care provided
19 in an institutional setting and (ii) that the necessary
20 level of care can be provided safely in the home and
21 community through the provision of medical support
22 services.

23 (4) A requirement that the services provided be
24 medically necessary and appropriate for the level of
25 functioning of the persons who are participating in the
26 pilot program.

1 (5) Provisions for care coordination and family
2 support services that will enable the person to receive
3 services in the most integrated setting possible
4 appropriate to his or her medical condition and level of
5 functioning.

6 (6) The frequency of assessment and plan-of-care
7 reviews.

8 (7) The family or guardian's active participation as
9 care givers in meeting the individual's medical needs.

10 (8) The estimated cost to the State for in-home care,
11 as compared to the institutional level of care appropriate
12 to the individual's medical needs, may not exceed 100% of
13 the institutional care as indicated by the standardized
14 assessment tool.

15 (9) When determining the hours of medically necessary
16 support services needed to maintain the individual at home,
17 consideration shall be given to the availability of other
18 services, including direct care provided by the
19 individual's family or guardian that can reasonably be
20 expected to meet the medical needs of the individual.

21 (c) During the pilot program, an individual who has
22 received services pursuant to paragraph 7 of Section 5-2 of
23 this Code, but who no longer receives ~~receive~~ such services
24 because he or she has reached the age of 21, may be provided
25 additional services pursuant to rule if the Department of Human
26 Services, Division of Rehabilitation Services, determines from

1 completion of the assessment tool for that individual that the
2 exceptional care rate established by the Department of
3 Healthcare and Family Services under Section 5-5.8a of this
4 Code is not sufficient to cover the medical needs of the
5 individual under the home and community-based services (HCBS)
6 waivers for persons with disabilities.

7 (d) The Department of Human Services is authorized to lower
8 the payment levels established under this Section or take such
9 other actions, including, without limitation, cessation of
10 enrollment, reduction of available medical services, and
11 changing standards for eligibility, that are deemed necessary
12 by the Department during a State fiscal year to ensure that
13 payments under this Section do not exceed available funds.
14 These changes may be accomplished by emergency rulemaking under
15 Section 5-45 of the Illinois Administrative Procedure Act,
16 except that the limitation on the number of emergency rules
17 that may be adopted in a 24-month period shall not apply.

18 (e) The Department of Human Services must make an annual
19 report to the Governor and the General Assembly with respect to
20 the persons eligible for medical assistance under this pilot
21 program. The report must cover the State fiscal year ending on
22 June 30 of the preceding year. The first report is due by
23 January 1, 2008. The report must include the following
24 information for the fiscal year covered by the report:

25 (1) The number of persons who were evaluated through
26 the assessment tool under this pilot program.

1 (2) The number of persons who received services not
2 available under the home and community-based services
3 (HCBS) waivers for persons with disabilities under this
4 pilot program.

5 (3) The number of persons whose services were reduced
6 under this pilot program.

7 (4) The nature, scope, and cost of services provided
8 under this pilot program.

9 (5) The comparative costs of providing those services
10 in other institutions.

11 (6) The Department's progress in establishing an
12 objective, standardized assessment tool for the HCBS
13 waiver that assesses the medical needs of medically
14 fragile, technology-dependent adults.

15 (7) Recommendations for the funding needed to expand
16 this pilot program to all medically fragile,
17 technology-dependent individuals in HCBS waivers.

18 (8) Participant experience survey information for
19 persons with disabilities who are participating in this
20 pilot program and for persons with disabilities who are not
21 participating in this pilot program but who are currently
22 receiving services under the home and community-based
23 services (HCBS) waiver and who have received services under
24 paragraph 7 of Section 5-2 of this Code.

25 (Source: P.A. 94-838, eff. 6-6-06.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.