



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0489

Introduced 2/4/2009, by Rep. Elizabeth Hernandez

SYNOPSIS AS INTRODUCED:

40 ILCS 5/24-102	from Ch. 108 1/2, par. 24-102
40 ILCS 5/24-104.5 new	
215 ILCS 106/31 new	
215 ILCS 170/41 new	
305 ILCS 5/5-5	from Ch. 23, par. 5-5

Amends the Illinois Pension Code, the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, and the Public Aid Code. Allows a medical or health care provider who participates under the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, or the Public Aid Code to elect, in lieu of receiving direct payment for goods or services provided, to participate in the health care provider deferred compensation plan. Requires the State Board of Investment to develop and establish and the Department of Central Management Services to administer a deferred compensation plan for health care providers under the same terms and conditions as the State Employee Deferred Compensation Plan. Provides that a medical or health care provider who elects to participate in the plan does not have a cause of action against the State for any damages allegedly suffered by the provider as a result of any delay by the State in crediting the amount of any contribution to the provider's plan account. Effective January 1, 2010.

LRB096 04643 AMC 14702 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning deferred compensation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Section 24-102 and by adding Section 24-104.5 as follows:

6 (40 ILCS 5/24-102) (from Ch. 108 1/2, par. 24-102)

7 Sec. 24-102. As used in this Article, "employee" means any
8 person, including a person elected, appointed or under
9 contract, receiving compensation from the State or a unit of
10 local government or school district for personal services
11 rendered, including salaried persons. A health care provider
12 who elects to participate in the health care provider deferred
13 compensation plan established under Section 24-104.5 of this
14 Code shall, for purposes of that participation, be deemed an
15 "employee" as defined in this Section.

16 As used in this Article, "compensation" includes
17 compensation received in a lump sum for accumulated unused
18 vacation, personal leave or sick leave.

19 In no event shall the total of the amount of deferred
20 compensation of an employee set aside in relation to a
21 particular year under the Illinois State Employees Deferred
22 Compensation Plan and the employee's nondeferred compensation
23 for that year exceed the total annual salary or compensation

1 under the existing salary schedule or classification plan
2 applicable to such employee in such year; except that any
3 compensation received in a lump sum for accumulated unused
4 vacation, personal leave or sick leave shall not be included in
5 the calculation of such totals.

6 (Source: P.A. 84-878.)

7 (40 ILCS 5/24-104.5 new)

8 Sec. 24-104.5. Health care provider deferred compensation
9 plan. The State Board of Investment shall develop and establish
10 and the Department of Central Management Services shall
11 administer a deferred compensation plan for health care
12 providers under the same terms and conditions as the State
13 Employee Deferred Compensation Plan established under this
14 Article.

15 Moneys from this plan may not be commingled with moneys
16 from the State employees deferred compensation plan.

17 For the purposes of this Section, "health care provider"
18 means a dentist, physician, optometrist, pharmacist, or
19 podiatrist that participates and receives compensation as a
20 provider under the Illinois Public Aid Code, the Children's
21 Health Insurance Act, or the Covering ALL KIDS Health Insurance
22 Act.

23 Section 10. The Children's Health Insurance Program Act is
24 amended by adding Section 31 as follows:

1 (215 ILCS 106/31 new)

2 Sec. 31. Health care provider deferred compensation plan.
3 Notwithstanding any other provision of law, a medical or health
4 care provider who participates under the Program may elect, in
5 lieu of receiving direct payment for goods or services provided
6 under the Program, to participate in the health care provider
7 deferred compensation plan adopted under Article 24 of the
8 Illinois Pension Code. A medical or health care provider who
9 elects to participate in the plan does not have a cause of
10 action against the State for any damages allegedly suffered by
11 the provider as a result of any delay by the State in crediting
12 the amount of any contribution to the provider's plan account.

13 Section 15. The Covering ALL KIDS Health Insurance Act is
14 amended by adding Section 41 as follows:

15 (215 ILCS 170/41 new)

16 Sec. 41. Health care provider deferred compensation plan.
17 Notwithstanding any other provision of law, a medical or health
18 care provider who participates under the Program may elect, in
19 lieu of receiving direct payment for goods or services provided
20 under the Program, to participate in the health care provider
21 deferred compensation plan adopted under Article 24 of the
22 Illinois Pension Code. A medical or health care provider who
23 elects to participate in the plan does not have a cause of

1 action against the State for any damages allegedly suffered by
2 the provider as a result of any delay by the State in crediting
3 the amount of any contribution to the provider's plan account.

4 Section 20. The Illinois Public Aid Code is amended by
5 changing Section 5-5 as follows:

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

7 Sec. 5-5. Medical services. The Illinois Department, by
8 rule, shall determine the quantity and quality of and the rate
9 of reimbursement for the medical assistance for which payment
10 will be authorized, and the medical services to be provided,
11 which may include all or part of the following: (1) inpatient
12 hospital services; (2) outpatient hospital services; (3) other
13 laboratory and X-ray services; (4) skilled nursing home
14 services; (5) physicians' services whether furnished in the
15 office, the patient's home, a hospital, a skilled nursing home,
16 or elsewhere; (6) medical care, or any other type of remedial
17 care furnished by licensed practitioners; (7) home health care
18 services; (8) private duty nursing service; (9) clinic
19 services; (10) dental services, including prevention and
20 treatment of periodontal disease and dental caries disease for
21 pregnant women; (11) physical therapy and related services;
22 (12) prescribed drugs, dentures, and prosthetic devices; and
23 eyeglasses prescribed by a physician skilled in the diseases of
24 the eye, or by an optometrist, whichever the person may select;

1 (13) other diagnostic, screening, preventive, and
2 rehabilitative services; (14) transportation and such other
3 expenses as may be necessary; (15) medical treatment of sexual
4 assault survivors, as defined in Section 1a of the Sexual
5 Assault Survivors Emergency Treatment Act, for injuries
6 sustained as a result of the sexual assault, including
7 examinations and laboratory tests to discover evidence which
8 may be used in criminal proceedings arising from the sexual
9 assault; (16) the diagnosis and treatment of sickle cell
10 anemia; and (17) any other medical care, and any other type of
11 remedial care recognized under the laws of this State, but not
12 including abortions, or induced miscarriages or premature
13 births, unless, in the opinion of a physician, such procedures
14 are necessary for the preservation of the life of the woman
15 seeking such treatment, or except an induced premature birth
16 intended to produce a live viable child and such procedure is
17 necessary for the health of the mother or her unborn child. The
18 Illinois Department, by rule, shall prohibit any physician from
19 providing medical assistance to anyone eligible therefor under
20 this Code where such physician has been found guilty of
21 performing an abortion procedure in a wilful and wanton manner
22 upon a woman who was not pregnant at the time such abortion
23 procedure was performed. The term "any other type of remedial
24 care" shall include nursing care and nursing home service for
25 persons who rely on treatment by spiritual means alone through
26 prayer for healing.

1 Notwithstanding any other provision of this Section, a
2 comprehensive tobacco use cessation program that includes
3 purchasing prescription drugs or prescription medical devices
4 approved by the Food and Drug administration shall be covered
5 under the medical assistance program under this Article for
6 persons who are otherwise eligible for assistance under this
7 Article.

8 Notwithstanding any other provision of this Code, the
9 Illinois Department may not require, as a condition of payment
10 for any laboratory test authorized under this Article, that a
11 physician's handwritten signature appear on the laboratory
12 test order form. The Illinois Department may, however, impose
13 other appropriate requirements regarding laboratory test order
14 documentation.

15 The Department of Healthcare and Family Services shall
16 provide the following services to persons eligible for
17 assistance under this Article who are participating in
18 education, training or employment programs operated by the
19 Department of Human Services as successor to the Department of
20 Public Aid:

21 (1) dental services, which shall include but not be
22 limited to prosthodontics; and

23 (2) eyeglasses prescribed by a physician skilled in the
24 diseases of the eye, or by an optometrist, whichever the
25 person may select.

26 The Illinois Department, by rule, may distinguish and

1 classify the medical services to be provided only in accordance
2 with the classes of persons designated in Section 5-2.

3 The Department of Healthcare and Family Services must
4 provide coverage and reimbursement for amino acid-based
5 elemental formulas, regardless of delivery method, for the
6 diagnosis and treatment of (i) eosinophilic disorders and (ii)
7 short bowel syndrome when the prescribing physician has issued
8 a written order stating that the amino acid-based elemental
9 formula is medically necessary.

10 The Illinois Department shall authorize the provision of,
11 and shall authorize payment for, screening by low-dose
12 mammography for the presence of occult breast cancer for women
13 35 years of age or older who are eligible for medical
14 assistance under this Article, as follows: a baseline mammogram
15 for women 35 to 39 years of age and an annual mammogram for
16 women 40 years of age or older. All screenings shall include a
17 physical breast exam, instruction on self-examination and
18 information regarding the frequency of self-examination and
19 its value as a preventative tool. As used in this Section,
20 "low-dose mammography" means the x-ray examination of the
21 breast using equipment dedicated specifically for mammography,
22 including the x-ray tube, filter, compression device, image
23 receptor, and cassettes, with an average radiation exposure
24 delivery of less than one rad mid-breast, with 2 views for each
25 breast.

26 Any medical or health care provider shall immediately

1 recommend, to any pregnant woman who is being provided prenatal
2 services and is suspected of drug abuse or is addicted as
3 defined in the Alcoholism and Other Drug Abuse and Dependency
4 Act, referral to a local substance abuse treatment provider
5 licensed by the Department of Human Services or to a licensed
6 hospital which provides substance abuse treatment services.
7 The Department of Healthcare and Family Services shall assure
8 coverage for the cost of treatment of the drug abuse or
9 addiction for pregnant recipients in accordance with the
10 Illinois Medicaid Program in conjunction with the Department of
11 Human Services.

12 All medical providers providing medical assistance to
13 pregnant women under this Code shall receive information from
14 the Department on the availability of services under the Drug
15 Free Families with a Future or any comparable program providing
16 case management services for addicted women, including
17 information on appropriate referrals for other social services
18 that may be needed by addicted women in addition to treatment
19 for addiction.

20 The Illinois Department, in cooperation with the
21 Departments of Human Services (as successor to the Department
22 of Alcoholism and Substance Abuse) and Public Health, through a
23 public awareness campaign, may provide information concerning
24 treatment for alcoholism and drug abuse and addiction, prenatal
25 health care, and other pertinent programs directed at reducing
26 the number of drug-affected infants born to recipients of

1 medical assistance.

2 Neither the Department of Healthcare and Family Services
3 nor the Department of Human Services shall sanction the
4 recipient solely on the basis of her substance abuse.

5 The Illinois Department shall establish such regulations
6 governing the dispensing of health services under this Article
7 as it shall deem appropriate. The Department should seek the
8 advice of formal professional advisory committees appointed by
9 the Director of the Illinois Department for the purpose of
10 providing regular advice on policy and administrative matters,
11 information dissemination and educational activities for
12 medical and health care providers, and consistency in
13 procedures to the Illinois Department.

14 Notwithstanding any other provision of law, a medical or
15 health care provider under the medical assistance program may
16 elect, in lieu of receiving direct payment for goods or
17 services provided under that program, to participate in the
18 health care provider deferred compensation plan adopted under
19 Article 24 of the Illinois Pension Code. A medical or health
20 care provider who elects to participate in the plan does not
21 have a cause of action against the State for any damages
22 allegedly suffered by the provider as a result of any delay by
23 the State in crediting the amount of any contribution to the
24 provider's plan account.

25 The Illinois Department may develop and contract with
26 Partnerships of medical providers to arrange medical services

1 for persons eligible under Section 5-2 of this Code.
2 Implementation of this Section may be by demonstration projects
3 in certain geographic areas. The Partnership shall be
4 represented by a sponsor organization. The Department, by rule,
5 shall develop qualifications for sponsors of Partnerships.
6 Nothing in this Section shall be construed to require that the
7 sponsor organization be a medical organization.

8 The sponsor must negotiate formal written contracts with
9 medical providers for physician services, inpatient and
10 outpatient hospital care, home health services, treatment for
11 alcoholism and substance abuse, and other services determined
12 necessary by the Illinois Department by rule for delivery by
13 Partnerships. Physician services must include prenatal and
14 obstetrical care. The Illinois Department shall reimburse
15 medical services delivered by Partnership providers to clients
16 in target areas according to provisions of this Article and the
17 Illinois Health Finance Reform Act, except that:

18 (1) Physicians participating in a Partnership and
19 providing certain services, which shall be determined by
20 the Illinois Department, to persons in areas covered by the
21 Partnership may receive an additional surcharge for such
22 services.

23 (2) The Department may elect to consider and negotiate
24 financial incentives to encourage the development of
25 Partnerships and the efficient delivery of medical care.

26 (3) Persons receiving medical services through

1 Partnerships may receive medical and case management
2 services above the level usually offered through the
3 medical assistance program.

4 Medical providers shall be required to meet certain
5 qualifications to participate in Partnerships to ensure the
6 delivery of high quality medical services. These
7 qualifications shall be determined by rule of the Illinois
8 Department and may be higher than qualifications for
9 participation in the medical assistance program. Partnership
10 sponsors may prescribe reasonable additional qualifications
11 for participation by medical providers, only with the prior
12 written approval of the Illinois Department.

13 Nothing in this Section shall limit the free choice of
14 practitioners, hospitals, and other providers of medical
15 services by clients. In order to ensure patient freedom of
16 choice, the Illinois Department shall immediately promulgate
17 all rules and take all other necessary actions so that provided
18 services may be accessed from therapeutically certified
19 optometrists to the full extent of the Illinois Optometric
20 Practice Act of 1987 without discriminating between service
21 providers.

22 The Department shall apply for a waiver from the United
23 States Health Care Financing Administration to allow for the
24 implementation of Partnerships under this Section.

25 The Illinois Department shall require health care
26 providers to maintain records that document the medical care

1 and services provided to recipients of Medical Assistance under
2 this Article. The Illinois Department shall require health care
3 providers to make available, when authorized by the patient, in
4 writing, the medical records in a timely fashion to other
5 health care providers who are treating or serving persons
6 eligible for Medical Assistance under this Article. All
7 dispensers of medical services shall be required to maintain
8 and retain business and professional records sufficient to
9 fully and accurately document the nature, scope, details and
10 receipt of the health care provided to persons eligible for
11 medical assistance under this Code, in accordance with
12 regulations promulgated by the Illinois Department. The rules
13 and regulations shall require that proof of the receipt of
14 prescription drugs, dentures, prosthetic devices and
15 eyeglasses by eligible persons under this Section accompany
16 each claim for reimbursement submitted by the dispenser of such
17 medical services. No such claims for reimbursement shall be
18 approved for payment by the Illinois Department without such
19 proof of receipt, unless the Illinois Department shall have put
20 into effect and shall be operating a system of post-payment
21 audit and review which shall, on a sampling basis, be deemed
22 adequate by the Illinois Department to assure that such drugs,
23 dentures, prosthetic devices and eyeglasses for which payment
24 is being made are actually being received by eligible
25 recipients. Within 90 days after the effective date of this
26 amendatory Act of 1984, the Illinois Department shall establish

1 a current list of acquisition costs for all prosthetic devices
2 and any other items recognized as medical equipment and
3 supplies reimbursable under this Article and shall update such
4 list on a quarterly basis, except that the acquisition costs of
5 all prescription drugs shall be updated no less frequently than
6 every 30 days as required by Section 5-5.12.

7 The rules and regulations of the Illinois Department shall
8 require that a written statement including the required opinion
9 of a physician shall accompany any claim for reimbursement for
10 abortions, or induced miscarriages or premature births. This
11 statement shall indicate what procedures were used in providing
12 such medical services.

13 The Illinois Department shall require all dispensers of
14 medical services, other than an individual practitioner or
15 group of practitioners, desiring to participate in the Medical
16 Assistance program established under this Article to disclose
17 all financial, beneficial, ownership, equity, surety or other
18 interests in any and all firms, corporations, partnerships,
19 associations, business enterprises, joint ventures, agencies,
20 institutions or other legal entities providing any form of
21 health care services in this State under this Article.

22 The Illinois Department may require that all dispensers of
23 medical services desiring to participate in the medical
24 assistance program established under this Article disclose,
25 under such terms and conditions as the Illinois Department may
26 by rule establish, all inquiries from clients and attorneys

1 regarding medical bills paid by the Illinois Department, which
2 inquiries could indicate potential existence of claims or liens
3 for the Illinois Department.

4 Enrollment of a vendor that provides non-emergency medical
5 transportation, defined by the Department by rule, shall be
6 conditional for 180 days. During that time, the Department of
7 Healthcare and Family Services may terminate the vendor's
8 eligibility to participate in the medical assistance program
9 without cause. That termination of eligibility is not subject
10 to the Department's hearing process.

11 The Illinois Department shall establish policies,
12 procedures, standards and criteria by rule for the acquisition,
13 repair and replacement of orthotic and prosthetic devices and
14 durable medical equipment. Such rules shall provide, but not be
15 limited to, the following services: (1) immediate repair or
16 replacement of such devices by recipients without medical
17 authorization; and (2) rental, lease, purchase or
18 lease-purchase of durable medical equipment in a
19 cost-effective manner, taking into consideration the
20 recipient's medical prognosis, the extent of the recipient's
21 needs, and the requirements and costs for maintaining such
22 equipment. Such rules shall enable a recipient to temporarily
23 acquire and use alternative or substitute devices or equipment
24 pending repairs or replacements of any device or equipment
25 previously authorized for such recipient by the Department.

26 The Department shall execute, relative to the nursing home

1 prescreening project, written inter-agency agreements with the
2 Department of Human Services and the Department on Aging, to
3 effect the following: (i) intake procedures and common
4 eligibility criteria for those persons who are receiving
5 non-institutional services; and (ii) the establishment and
6 development of non-institutional services in areas of the State
7 where they are not currently available or are undeveloped.

8 The Illinois Department shall develop and operate, in
9 cooperation with other State Departments and agencies and in
10 compliance with applicable federal laws and regulations,
11 appropriate and effective systems of health care evaluation and
12 programs for monitoring of utilization of health care services
13 and facilities, as it affects persons eligible for medical
14 assistance under this Code.

15 The Illinois Department shall report annually to the
16 General Assembly, no later than the second Friday in April of
17 1979 and each year thereafter, in regard to:

18 (a) actual statistics and trends in utilization of
19 medical services by public aid recipients;

20 (b) actual statistics and trends in the provision of
21 the various medical services by medical vendors;

22 (c) current rate structures and proposed changes in
23 those rate structures for the various medical vendors; and

24 (d) efforts at utilization review and control by the
25 Illinois Department.

26 The period covered by each report shall be the 3 years

1 ending on the June 30 prior to the report. The report shall
2 include suggested legislation for consideration by the General
3 Assembly. The filing of one copy of the report with the
4 Speaker, one copy with the Minority Leader and one copy with
5 the Clerk of the House of Representatives, one copy with the
6 President, one copy with the Minority Leader and one copy with
7 the Secretary of the Senate, one copy with the Legislative
8 Research Unit, and such additional copies with the State
9 Government Report Distribution Center for the General Assembly
10 as is required under paragraph (t) of Section 7 of the State
11 Library Act shall be deemed sufficient to comply with this
12 Section.

13 (Source: P.A. 95-331, eff. 8-21-07; 95-520, eff. 8-28-07.)

14 Section 99. Effective date. This Act takes effect January
15 1, 2010.