

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 adding Section 24-104.2 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 State Employees Deferred
13 Compensation Plan established under Section 24-104 of this Code
14 shall, for purposes of that participation, be deemed an
15 "employee" as defined in this Section.

16 As used in this Article, "health care provider" means a
17 dentist, physician, optometrist, pharmacist, or podiatrist
18 that participates and receives compensation as a provider under
19 the Illinois Public Aid Code, the Children's Health Insurance
20 Act, or the Covering ALL KIDS Health Insurance Act.

21 As used in this Article, "compensation" includes
22 compensation received in a lump sum for accumulated unused
23 vacation, personal leave or sick leave, with the exception of

1 health care providers. "Compensation" with respect to health
2 care providers is defined under the Illinois Public Aid Code,
3 the Children's Health Insurance Act, or the Covering ALL KIDS
4 Health Insurance Act.

5 Where applicable, in ~~in~~ no event shall the total of the
6 amount of deferred compensation of an employee set aside in
7 relation to a particular year under the Illinois State
8 Employees Deferred Compensation Plan and the employee's
9 nondeferred compensation for that year exceed the total annual
10 salary or compensation under the existing salary schedule or
11 classification plan applicable to such employee in such year;
12 except that any compensation received in a lump sum for
13 accumulated unused vacation, personal leave or sick leave shall
14 not be included in the calculation of such totals.

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

16 (40 ILCS 5/24-104.2 new)

17 Sec. 24-104.2. Health care providers; tax-exempt status.
18 Health care providers may participate in the Illinois State
19 Employees Deferred Compensation Plan to the extent that the
20 health care providers' participation does not interfere with
21 the Plan's tax-exempt status under the Internal Revenue Code.

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

1 (215 ILCS 106/31 new)

2 Sec. 31. Health care provider participation in State
3 Employees Deferred Compensation Plan. Notwithstanding any
4 other provision of law, a health care provider who participates
5 under the Program may elect, in lieu of receiving direct
6 payment for services provided under the Program, to participate
7 in the State Employees Deferred Compensation Plan adopted under
8 Article 24 of the Illinois Pension Code. A health care provider
9 who 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 participation in State
17 Employees Deferred Compensation Plan. Notwithstanding any
18 other provision of law, a health care provider who participates
19 under the Program may elect, in lieu of receiving direct
20 payment for services provided under the Program, to participate
21 in the State Employees Deferred Compensation Plan adopted under
22 Article 24 of the Illinois Pension Code. A health care provider
23 who elects to participate in the plan does not have a cause of
24 action against the State for any damages allegedly suffered by

1 the provider as a result of any delay by the State in crediting
2 the amount of any contribution to the provider's plan account.

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

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

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

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

26 Notwithstanding any other provision of this Section, a

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

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

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

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

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

25 The Illinois Department, by rule, may distinguish and
26 classify the medical services to be provided only in accordance

1 with the classes of persons designated in Section 5-2.

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

9 The Illinois Department shall authorize the provision of,
10 and shall authorize payment for, screening by low-dose
11 mammography for the presence of occult breast cancer for women
12 35 years of age or older who are eligible for medical
13 assistance under this Article, as follows:

14 (A) A baseline mammogram for women 35 to 39 years of
15 age.

16 (B) An annual mammogram for women 40 years of age or
17 older.

18 (C) A mammogram at the age and intervals considered
19 medically necessary by the woman's health care provider for
20 women under 40 years of age and having a family history of
21 breast cancer, prior personal history of breast cancer,
22 positive genetic testing, or other risk factors.

23 (D) A comprehensive ultrasound screening of an entire
24 breast or breasts if a mammogram demonstrates
25 heterogeneous or dense breast tissue, when medically
26 necessary as determined by a physician licensed to practice

1 medicine in all of its branches.

2 All screenings shall include a physical breast exam,
3 instruction on self-examination and information regarding the
4 frequency of self-examination and its value as a preventative
5 tool. For purposes of this Section, "low-dose mammography"
6 means the x-ray examination of the breast using equipment
7 dedicated specifically for mammography, including the x-ray
8 tube, filter, compression device, and image receptor, with an
9 average radiation exposure delivery of less than one rad per
10 breast for 2 views of an average size breast. The term also
11 includes digital mammography.

12 On and after July 1, 2008, screening and diagnostic
13 mammography shall be reimbursed at the same rate as the
14 Medicare program's rates, including the increased
15 reimbursement for digital mammography.

16 The Department shall convene an expert panel including
17 representatives of hospitals, free-standing mammography
18 facilities, and doctors, including radiologists, to establish
19 quality standards. Based on these quality standards, the
20 Department shall provide for bonus payments to mammography
21 facilities meeting the standards for screening and diagnosis.
22 The bonus payments shall be at least 15% higher than the
23 Medicare rates for mammography.

24 Subject to federal approval, the Department shall
25 establish a rate methodology for mammography at federally
26 qualified health centers and other encounter-rate clinics.

1 These clinics or centers may also collaborate with other
2 hospital-based mammography facilities.

3 The Department shall establish a methodology to remind
4 women who are age-appropriate for screening mammography, but
5 who have not received a mammogram within the previous 18
6 months, of the importance and benefit of screening mammography.

7 The Department shall establish a performance goal for
8 primary care providers with respect to their female patients
9 over age 40 receiving an annual mammogram. This performance
10 goal shall be used to provide additional reimbursement in the
11 form of a quality performance bonus to primary care providers
12 who meet that goal.

13 The Department shall devise a means of case-managing or
14 patient navigation for beneficiaries diagnosed with breast
15 cancer. This program shall initially operate as a pilot program
16 in areas of the State with the highest incidence of mortality
17 related to breast cancer. At least one pilot program site shall
18 be in the metropolitan Chicago area and at least one site shall
19 be outside the metropolitan Chicago area. An evaluation of the
20 pilot program shall be carried out measuring health outcomes
21 and cost of care for those served by the pilot program compared
22 to similarly situated patients who are not served by the pilot
23 program.

24 Any medical or health care provider shall immediately
25 recommend, to any pregnant woman who is being provided prenatal
26 services and is suspected of drug abuse or is addicted as

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

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

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

26 Neither the Department of Healthcare and Family Services

1 nor the Department of Human Services shall sanction the
2 recipient solely on the basis of her substance abuse.

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

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

22 The Illinois Department may develop and contract with
23 Partnerships of medical providers to arrange medical services
24 for persons eligible under Section 5-2 of this Code.
25 Implementation of this Section may be by demonstration projects
26 in certain geographic areas. The Partnership shall be

1 represented by a sponsor organization. The Department, by rule,
2 shall develop qualifications for sponsors of Partnerships.
3 Nothing in this Section shall be construed to require that the
4 sponsor organization be a medical organization.

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

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

20 (2) The Department may elect to consider and negotiate
21 financial incentives to encourage the development of
22 Partnerships and the efficient delivery of medical care.

23 (3) Persons receiving medical services through
24 Partnerships may receive medical and case management
25 services above the level usually offered through the
26 medical assistance program.

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

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

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

22 The Illinois Department shall require health care
23 providers to maintain records that document the medical care
24 and services provided to recipients of Medical Assistance under
25 this Article. The Illinois Department shall require health care
26 providers to make available, when authorized by the patient, in

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

1 list on a quarterly basis, except that the acquisition costs of
2 all prescription drugs shall be updated no less frequently than
3 every 30 days as required by Section 5-5.12.

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

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

19 The Illinois Department may require that all dispensers of
20 medical services desiring to participate in the medical
21 assistance program established under this Article disclose,
22 under such terms and conditions as the Illinois Department may
23 by rule establish, all inquiries from clients and attorneys
24 regarding medical bills paid by the Illinois Department, which
25 inquiries could indicate potential existence of claims or liens
26 for the Illinois Department.

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

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

23 The Department shall execute, relative to the nursing home
24 prescreening project, written inter-agency agreements with the
25 Department of Human Services and the Department on Aging, to
26 effect the following: (i) intake procedures and common

1 eligibility criteria for those persons who are receiving
2 non-institutional services; and (ii) the establishment and
3 development of non-institutional services in areas of the State
4 where they are not currently available or are undeveloped.

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

12 The Illinois Department shall report annually to the
13 General Assembly, no later than the second Friday in April of
14 1979 and each year thereafter, in regard to:

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

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

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

21 (d) efforts at utilization review and control by the
22 Illinois Department.

23 The period covered by each report shall be the 3 years
24 ending on the June 30 prior to the report. The report shall
25 include suggested legislation for consideration by the General
26 Assembly. The filing of one copy of the report with the

1 Speaker, one copy with the Minority Leader and one copy with
2 the Clerk of the House of Representatives, one copy with the
3 President, one copy with the Minority Leader and one copy with
4 the Secretary of the Senate, one copy with the Legislative
5 Research Unit, and such additional copies with the State
6 Government Report Distribution Center for the General Assembly
7 as is required under paragraph (t) of Section 7 of the State
8 Library Act shall be deemed sufficient to comply with this
9 Section.

10 Rulemaking authority to implement this amendatory Act of
11 the 95th General Assembly, if any, is conditioned on the rules
12 being adopted in accordance with all provisions of the Illinois
13 Administrative Procedure Act and all rules and procedures of
14 the Joint Committee on Administrative Rules; any purported rule
15 not so adopted, for whatever reason, is unauthorized.

16 (Source: P.A. 95-331, eff. 8-21-07; 95-520, eff. 8-28-07;
17 95-1045, eff. 3-27-09.)

18 Section 99. Effective date. This Act takes effect July 1,
19 2010.