



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2991

Introduced 2/3/2010, by Sen. Carole Pankau

SYNOPSIS AS INTRODUCED:

215 ILCS 106/20
215 ILCS 106/40
215 ILCS 170/20
305 ILCS 5/8A-6

from Ch. 23, par. 8A-6

Amends the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, and the Illinois Public Aid Code. In connection with eligibility for the KidCare and Covering ALL KIDS programs, sets an asset limit of \$10,000, excluding the value of the child's residence and the value of a vehicle (other than a recreational vehicle) used for transportation. Makes changes concerning the reporting of changes in income and other circumstances that affect eligibility, and provides that a failure to report is a Class A misdemeanor with a maximum fine of \$10,000 under the public assistance fraud provisions of the Illinois Public Aid Code; also provides for repayment of an amount equal to benefits that were wrongly received. Requires the Department of Healthcare and Family Services to adopt rules within 60 days. Makes the reporting, penalty, and rulemaking provisions also applicable to the FamilyCare program under the Children's Health Insurance Program Act. Effective immediately.

LRB096 20078 KTG 35599 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning health.

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

4 Section 5. The Children's Health Insurance Program Act is
5 amended by changing Sections 20 and 40 as follows:

6 (215 ILCS 106/20)

7 Sec. 20. Eligibility.

8 (a) To be eligible for this Program, a person must be a
9 person who has a child eligible under this Act and who is
10 eligible under a waiver of federal requirements pursuant to an
11 application made pursuant to subdivision (a)(1) of Section 40
12 of this Act or who is a child who:

13 (1) is a child who is not eligible for medical
14 assistance;

15 (2) is a child whose annual household income, as
16 determined by the Department, is above 133% of the federal
17 poverty level and at or below 200% of the federal poverty
18 level;

19 (2.5) is a child whose household assets do not exceed
20 \$10,000, excluding (i) the value of the residence in which
21 the child lives and (ii) the value of a vehicle used by the
22 household for transportation purposes; for purposes of
23 this paragraph (2.5), "vehicle" does not include a

1 recreational vehicle as defined in the Campground
2 Licensing and Recreational Area Act;

3 (3) is a resident of the State of Illinois; and

4 (4) is a child who is either a United States citizen or
5 included in one of the following categories of
6 non-citizens:

7 (A) unmarried dependent children of either a
8 United States Veteran honorably discharged or a person
9 on active military duty;

10 (B) refugees under Section 207 of the Immigration
11 and Nationality Act;

12 (C) asylees under Section 208 of the Immigration
13 and Nationality Act;

14 (D) persons for whom deportation has been withheld
15 under Section 243(h) of the Immigration and
16 Nationality Act;

17 (E) persons granted conditional entry under
18 Section 203(a)(7) of the Immigration and Nationality
19 Act as in effect prior to April 1, 1980;

20 (F) persons lawfully admitted for permanent
21 residence under the Immigration and Nationality Act;
22 and

23 (G) parolees, for at least one year, under Section
24 212(d)(5) of the Immigration and Nationality Act.

25 Those children who are in the categories set forth in
26 subdivisions (4)(F) and (4)(G) of this subsection, who enter

1 the United States on or after August 22, 1996, shall not be
2 eligible for 5 years beginning on the date the child entered
3 the United States.

4 (b) A child who is determined to be eligible for assistance
5 may remain eligible for 12 months, provided the child maintains
6 his or her residence in the State, has not yet attained 19
7 years of age, and is not excluded pursuant to subsection (c). A
8 child who has been determined to be eligible for assistance
9 must reapply or otherwise establish eligibility at least
10 annually. An eligible child shall be required, ~~as determined by~~
11 ~~the Department by rule,~~ to report ~~promptly~~ those changes in
12 income and other circumstances that affect eligibility within
13 30 days after the occurrence of the change. A failure to report
14 such a change to the Department within 30 days, without good
15 cause, is punishable as provided in Section 8A-6 of the
16 Illinois Public Aid Code. The eligibility of a child may be
17 redetermined based on the information reported or may be
18 terminated based on the failure to report or failure to report
19 accurately. A child's responsible relative or caretaker may
20 also be held liable to the Department for any payments made by
21 the Department on such child's behalf that were inappropriate.
22 An applicant shall be provided with notice of these
23 obligations.

24 (c) A child shall not be eligible for coverage under this
25 Program if:

26 (1) the premium required pursuant to Section 30 of this

1 Act has not been paid. If the required premiums are not
2 paid the liability of the Program shall be limited to
3 benefits incurred under the Program for the time period for
4 which premiums had been paid. If the required monthly
5 premium is not paid, the child shall be ineligible for
6 re-enrollment for a minimum period of 3 months.
7 Re-enrollment shall be completed prior to the next covered
8 medical visit and the first month's required premium shall
9 be paid in advance of the next covered medical visit. The
10 Department shall promulgate rules regarding grace periods,
11 notice requirements, and hearing procedures pursuant to
12 this subsection;

13 (2) the child is an inmate of a public institution or a
14 patient in an institution for mental diseases; or

15 (3) the child is a member of a family that is eligible
16 for health benefits covered under the State of Illinois
17 health benefits plan on the basis of a member's employment
18 with a public agency.

19 (d) Within 60 days after the effective date of this
20 amendatory Act of the 96th General Assembly, the Department
21 shall adopt rules to implement the changes made by this
22 amendatory Act of the 96th General Assembly. The Department may
23 adopt rules necessary to implement these changes through the
24 use of emergency rulemaking in accordance with Section 5-45 of
25 the Illinois Administrative Procedure Act. For purposes of that
26 Act, the General Assembly finds that the adoption of rules to

1 implement these changes is deemed an emergency and necessary
2 for the public interest, safety, and welfare.

3 (Source: P.A. 92-597, eff. 6-28-02; 93-63, eff. 6-30-03.)

4 (215 ILCS 106/40)

5 Sec. 40. Waivers.

6 (a) The Department shall request any necessary waivers of
7 federal requirements in order to allow receipt of federal
8 funding for:

9 (1) the coverage of families with eligible children
10 under this Act; and

11 (2) the coverage of children who would otherwise be
12 eligible under this Act, but who have health insurance.

13 (b) The failure of the responsible federal agency to
14 approve a waiver for children who would otherwise be eligible
15 under this Act but who have health insurance shall not prevent
16 the implementation of any Section of this Act provided that
17 there are sufficient appropriated funds.

18 (c) Eligibility of a person under an approved waiver due to
19 the relationship with a child pursuant to Article V of the
20 Illinois Public Aid Code or this Act shall be limited to such a
21 person whose countable income is determined by the Department
22 to be at or below such income eligibility standard as the
23 Department by rule shall establish. The income level
24 established by the Department shall not be below 90% of the
25 federal poverty level. Such persons who are determined to be

1 eligible must reapply, or otherwise establish eligibility, at
2 least annually. An eligible person shall be required,~~as~~
3 ~~determined by the Department by rule,~~ to report promptly those
4 changes in income and other circumstances that affect
5 eligibility to the Department within 30 days after the
6 occurrence of the change. A failure to report such a change to
7 the Department within 30 days, without good cause, is
8 punishable as provided in Section 8A-6 of the Illinois Public
9 Aid Code. The eligibility of a person may be redetermined based
10 on the information reported or may be terminated based on the
11 failure to report or failure to report accurately. A person may
12 also be held liable to the Department for any payments made by
13 the Department on such person's behalf that were inappropriate.
14 An applicant shall be provided with notice of these
15 obligations.

16 (d) Within 60 days after the effective date of this
17 amendatory Act of the 96th General Assembly, the Department
18 shall adopt rules to implement the changes made by this
19 amendatory Act of the 96th General Assembly. The Department may
20 adopt rules necessary to implement these changes through the
21 use of emergency rulemaking in accordance with Section 5-45 of
22 the Illinois Administrative Procedure Act. For purposes of that
23 Act, the General Assembly finds that the adoption of rules to
24 implement these changes is deemed an emergency and necessary
25 for the public interest, safety, and welfare.

26 (Source: P.A. 96-328, eff. 8-11-09.)

1 Section 10. The Covering ALL KIDS Health Insurance Act is
2 amended by changing Section 20 as follows:

3 (215 ILCS 170/20)

4 (Section scheduled to be repealed on July 1, 2011)

5 Sec. 20. Eligibility.

6 (a) To be eligible for the Program, a person must be a
7 child:

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

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

12 (3) either (i) who has been without health insurance
13 coverage for a period set forth by the Department in rules,
14 but not less than 6 months during the first month of
15 operation of the Program, 7 months during the second month
16 of operation, 8 months during the third month of operation,
17 9 months during the fourth month of operation, 10 months
18 during the fifth month of operation, 11 months during the
19 sixth month of operation, and 12 months thereafter, (ii)
20 whose parent has lost employment that made available
21 affordable dependent health insurance coverage, until such
22 time as affordable employer-sponsored dependent health
23 insurance coverage is again available for the child as set
24 forth by the Department in rules, (iii) who is a newborn

1 whose responsible relative does not have available
2 affordable private or employer-sponsored health insurance,
3 or (iv) who, within one year of applying for coverage under
4 this Act, lost medical benefits under the Illinois Public
5 Aid Code or the Children's Health Insurance Program Act;
6 and-

7 (4) whose household assets do not exceed \$10,000,
8 excluding (i) the value of the residence in which the child
9 lives and (ii) the value of a vehicle used by the household
10 for transportation purposes; for purposes of this
11 paragraph (4), "vehicle" does not include a recreational
12 vehicle as defined in the Campground Licensing and
13 Recreational Area Act.

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

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

1 Insurance Portability and Accountability Act (HIPAA).

2 (b) The Department shall monitor the availability and
3 retention of employer-sponsored dependent health insurance
4 coverage and shall modify the period described in subdivision
5 (a)(3) if necessary to promote retention of private or
6 employer-sponsored health insurance and timely access to
7 healthcare services, but at no time shall the period described
8 in subdivision (a)(3) be less than 6 months.

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

14 (d) A child who is determined to be eligible for the
15 Program shall remain eligible for 12 months, provided that the
16 child maintains his or her residence in this State, has not yet
17 attained 19 years of age, and is not excluded under subsection
18 (e). A child who has been determined to be eligible for the
19 Program must reapply or otherwise establish eligibility at
20 least annually. An eligible child shall be required to report
21 those changes in income and other circumstances that affect
22 eligibility within 30 days after the occurrence of the change.
23 A failure to report such a change to the Department within 30
24 days, without good cause, is punishable as provided in Section
25 8A-6 of the Illinois Public Aid Code. The eligibility of a
26 child may be redetermined based on the information reported or

1 may be terminated based on the failure to report or failure to
2 report accurately. A child's responsible relative or caretaker
3 may also be held liable to the Department for any payments made
4 by the Department on the child's behalf that were
5 inappropriate. An applicant shall be provided with notice of
6 these obligations.

7 (e) A child is not eligible for coverage under the Program
8 if:

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

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

21 (f) The Department shall adopt eligibility rules,
22 including, but not limited to: rules regarding annual renewals
23 of eligibility for the Program; rules providing for
24 re-enrollment, grace periods, notice requirements, and hearing
25 procedures under subdivision (e) (1) of this Section; and rules
26 regarding what constitutes availability and affordability of

1 private or employer-sponsored health insurance, with
2 consideration of such factors as the percentage of income
3 needed to purchase children or family health insurance, the
4 availability of employer subsidies, and other relevant
5 factors.

6 Within 60 days after the effective date of this amendatory
7 Act of the 96th General Assembly, the Department shall adopt
8 rules to implement the changes made by this amendatory Act of
9 the 96th General Assembly. The Department may adopt rules
10 necessary to implement these changes through the use of
11 emergency rulemaking in accordance with Section 5-45 of the
12 Illinois Administrative Procedure Act. For purposes of that
13 Act, the General Assembly finds that the adoption of rules to
14 implement these changes is deemed an emergency and necessary
15 for the public interest, safety, and welfare.

16 (Source: P.A. 94-693, eff. 7-1-06.)

17 Section 15. The Illinois Public Aid Code is amended by
18 changing Section 8A-6 as follows:

19 (305 ILCS 5/8A-6) (from Ch. 23, par. 8A-6)

20 Sec. 8A-6. Classification of violations.

21 (a) Any person, firm, corporation, association, agency,
22 institution or other legal entity that has been found by a
23 court to have engaged in an act, practice or course of conduct
24 declared unlawful under Sections 8A-2 through 8A-5 or Section

1 8A-13 or 8A-14 where:

2 (1) the total amount of money involved in the
3 violation, including the monetary value of federal food
4 stamps and the value of commodities, is less than \$150,
5 shall be guilty of a Class A misdemeanor;

6 (2) the total amount of money involved in the
7 violation, including the monetary value of federal food
8 stamps and the value of commodities, is \$150 or more but
9 less than \$1,000, shall be guilty of a Class 4 felony;

10 (3) the total amount of money involved in the
11 violation, including the monetary value of federal food
12 stamps and the value of commodities, is \$1,000 or more but
13 less than \$5,000, shall be guilty of a Class 3 felony;

14 (4) the total amount of money involved in the
15 violation, including the monetary value of federal food
16 stamps and the value of commodities, is \$5,000 or more but
17 less than \$10,000, shall be guilty of a Class 2 felony; or

18 (5) the total amount of money involved in the
19 violation, including the monetary value of federal food
20 stamps and the value of commodities, is \$10,000 or more,
21 shall be guilty of a Class 1 felony and, notwithstanding
22 the provisions of Section 8A-8 except for Subsection (c) of
23 Section 8A-8, shall be ineligible for financial aid under
24 this Article for a period of two years following conviction
25 or until the total amount of money, including the value of
26 federal food stamps, is repaid, whichever first occurs.

1 (b) Any person, firm, corporation, association, agency,
2 institution or other legal entity that commits a subsequent
3 violation of any of the provisions of Sections 8A-2 through
4 8A-5 and:

5 (1) the total amount of money involved in the
6 subsequent violation, including the monetary value of
7 federal food stamps and the value of commodities, is less
8 than \$150, shall be guilty of a Class 4 felony;

9 (2) the total amount of money involved in the
10 subsequent violation, including the monetary value of
11 federal food stamps and the value of commodities, is \$150
12 or more but less than \$1,000, shall be guilty of a Class 3
13 felony;

14 (3) the total amount of money involved in the
15 subsequent violation, including the monetary value of
16 federal food stamps and the value of commodities, is \$1,000
17 or more but less than \$5,000, shall be guilty of a Class 2
18 felony;

19 (4) the total amount of money involved in the
20 subsequent violation, including the monetary value of
21 federal food stamps and the value of commodities, is \$5,000
22 or more but less than \$10,000, shall be guilty of a Class 1
23 felony.

24 (c) For purposes of determining the classification of
25 offense under this Section, all of the money received as a
26 result of the unlawful act, practice or course of conduct can

1 be accumulated.

2 (d) A failure to report a change in income or other
3 circumstances to the Department of Healthcare and Family
4 Services within 30 days as required under subsection (b) of
5 Section 20 or subsection (c) of Section 40 of the Children's
6 Health Insurance Program Act, or subsection (d) of Section 20
7 of the Covering ALL KIDS Health Insurance Act, without good
8 cause, is a Class A misdemeanor for which a fine not to exceed
9 \$10,000 may be imposed. In addition, if a person receives
10 benefits under Section 20 or 40 of the Children's Health
11 Insurance Program Act or Section 20 of the Covering ALL KIDS
12 Health Insurance Act to which he or she was not entitled
13 because of the person's failure, without good cause, to report
14 a change in income or other circumstances that would have
15 rendered the person ineligible for those benefits, the person
16 must repay to the Department of Healthcare and Family Services
17 the amount of benefits wrongly received.

18 (Source: P.A. 90-538, eff. 12-1-97.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.