

# HB0751



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB0751

Introduced 01/31/11, by Rep. Michael J. Madigan

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-2

from Ch. 23, par. 5-2

Amends the Illinois Public Aid Code. Makes a technical change in a Section concerning the classes of persons eligible for Medicaid.

LRB097 03579 KTG 43616 b

A BILL FOR

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 Section 5-2 as follows:

6 (305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

7 Sec. 5-2. Classes of Persons Eligible. Medical assistance  
8 under this Article shall be available to any of the ~~the~~  
9 following classes of persons in respect to whom a plan for  
10 coverage has been submitted to the Governor by the Illinois  
11 Department and approved by him:

12 1. Recipients of basic maintenance grants under  
13 Articles III and IV.

14 2. Persons otherwise eligible for basic maintenance  
15 under Articles III and IV, excluding any eligibility  
16 requirements that are inconsistent with any federal law or  
17 federal regulation, as interpreted by the U.S. Department  
18 of Health and Human Services, but who fail to qualify  
19 thereunder on the basis of need or who qualify but are not  
20 receiving basic maintenance under Article IV, and who have  
21 insufficient income and resources to meet the costs of  
22 necessary medical care, including but not limited to the  
23 following:

1           (a) All persons otherwise eligible for basic  
2 maintenance under Article III but who fail to qualify  
3 under that Article on the basis of need and who meet  
4 either of the following requirements:

5           (i) their income, as determined by the  
6 Illinois Department in accordance with any federal  
7 requirements, is equal to or less than 70% in  
8 fiscal year 2001, equal to or less than 85% in  
9 fiscal year 2002 and until a date to be determined  
10 by the Department by rule, and equal to or less  
11 than 100% beginning on the date determined by the  
12 Department by rule, of the nonfarm income official  
13 poverty line, as defined by the federal Office of  
14 Management and Budget and revised annually in  
15 accordance with Section 673(2) of the Omnibus  
16 Budget Reconciliation Act of 1981, applicable to  
17 families of the same size; or

18           (ii) their income, after the deduction of  
19 costs incurred for medical care and for other types  
20 of remedial care, is equal to or less than 70% in  
21 fiscal year 2001, equal to or less than 85% in  
22 fiscal year 2002 and until a date to be determined  
23 by the Department by rule, and equal to or less  
24 than 100% beginning on the date determined by the  
25 Department by rule, of the nonfarm income official  
26 poverty line, as defined in item (i) of this

1           subparagraph (a).

2           (b) All persons who, excluding any eligibility  
3 requirements that are inconsistent with any federal  
4 law or federal regulation, as interpreted by the U.S.  
5 Department of Health and Human Services, would be  
6 determined eligible for such basic maintenance under  
7 Article IV by disregarding the maximum earned income  
8 permitted by federal law.

9           3. Persons who would otherwise qualify for Aid to the  
10 Medically Indigent under Article VII.

11           4. Persons not eligible under any of the preceding  
12 paragraphs who fall sick, are injured, or die, not having  
13 sufficient money, property or other resources to meet the  
14 costs of necessary medical care or funeral and burial  
15 expenses.

16           5.(a) Women during pregnancy, after the fact of  
17 pregnancy has been determined by medical diagnosis, and  
18 during the 60-day period beginning on the last day of the  
19 pregnancy, together with their infants and children born  
20 after September 30, 1983, whose income and resources are  
21 insufficient to meet the costs of necessary medical care to  
22 the maximum extent possible under Title XIX of the Federal  
23 Social Security Act.

24           (b) The Illinois Department and the Governor shall  
25 provide a plan for coverage of the persons eligible under  
26 paragraph 5(a) by April 1, 1990. Such plan shall provide

1 ambulatory prenatal care to pregnant women during a  
2 presumptive eligibility period and establish an income  
3 eligibility standard that is equal to 133% of the nonfarm  
4 income official poverty line, as defined by the federal  
5 Office of Management and Budget and revised annually in  
6 accordance with Section 673(2) of the Omnibus Budget  
7 Reconciliation Act of 1981, applicable to families of the  
8 same size, provided that costs incurred for medical care  
9 are not taken into account in determining such income  
10 eligibility.

11 (c) The Illinois Department may conduct a  
12 demonstration in at least one county that will provide  
13 medical assistance to pregnant women, together with their  
14 infants and children up to one year of age, where the  
15 income eligibility standard is set up to 185% of the  
16 nonfarm income official poverty line, as defined by the  
17 federal Office of Management and Budget. The Illinois  
18 Department shall seek and obtain necessary authorization  
19 provided under federal law to implement such a  
20 demonstration. Such demonstration may establish resource  
21 standards that are not more restrictive than those  
22 established under Article IV of this Code.

23 6. Persons under the age of 18 who fail to qualify as  
24 dependent under Article IV and who have insufficient income  
25 and resources to meet the costs of necessary medical care  
26 to the maximum extent permitted under Title XIX of the

1 Federal Social Security Act.

2 7. Persons who are under 21 years of age and would  
3 qualify as disabled as defined under the Federal  
4 Supplemental Security Income Program, provided medical  
5 service for such persons would be eligible for Federal  
6 Financial Participation, and provided the Illinois  
7 Department determines that:

8 (a) the person requires a level of care provided by  
9 a hospital, skilled nursing facility, or intermediate  
10 care facility, as determined by a physician licensed to  
11 practice medicine in all its branches;

12 (b) it is appropriate to provide such care outside  
13 of an institution, as determined by a physician  
14 licensed to practice medicine in all its branches;

15 (c) the estimated amount which would be expended  
16 for care outside the institution is not greater than  
17 the estimated amount which would be expended in an  
18 institution.

19 8. Persons who become ineligible for basic maintenance  
20 assistance under Article IV of this Code in programs  
21 administered by the Illinois Department due to employment  
22 earnings and persons in assistance units comprised of  
23 adults and children who become ineligible for basic  
24 maintenance assistance under Article VI of this Code due to  
25 employment earnings. The plan for coverage for this class  
26 of persons shall:

1 (a) extend the medical assistance coverage for up  
2 to 12 months following termination of basic  
3 maintenance assistance; and

4 (b) offer persons who have initially received 6  
5 months of the coverage provided in paragraph (a) above,  
6 the option of receiving an additional 6 months of  
7 coverage, subject to the following:

8 (i) such coverage shall be pursuant to  
9 provisions of the federal Social Security Act;

10 (ii) such coverage shall include all services  
11 covered while the person was eligible for basic  
12 maintenance assistance;

13 (iii) no premium shall be charged for such  
14 coverage; and

15 (iv) such coverage shall be suspended in the  
16 event of a person's failure without good cause to  
17 file in a timely fashion reports required for this  
18 coverage under the Social Security Act and  
19 coverage shall be reinstated upon the filing of  
20 such reports if the person remains otherwise  
21 eligible.

22 9. Persons with acquired immunodeficiency syndrome  
23 (AIDS) or with AIDS-related conditions with respect to whom  
24 there has been a determination that but for home or  
25 community-based services such individuals would require  
26 the level of care provided in an inpatient hospital,

1 skilled nursing facility or intermediate care facility the  
2 cost of which is reimbursed under this Article. Assistance  
3 shall be provided to such persons to the maximum extent  
4 permitted under Title XIX of the Federal Social Security  
5 Act.

6 10. Participants in the long-term care insurance  
7 partnership program established under the Illinois  
8 Long-Term Care Partnership Program Act who meet the  
9 qualifications for protection of resources described in  
10 Section 15 of that Act.

11 11. Persons with disabilities who are employed and  
12 eligible for Medicaid, pursuant to Section  
13 1902(a)(10)(A)(ii)(xv) of the Social Security Act, and,  
14 subject to federal approval, persons with a medically  
15 improved disability who are employed and eligible for  
16 Medicaid pursuant to Section 1902(a)(10)(A)(ii)(xvi) of  
17 the Social Security Act, as provided by the Illinois  
18 Department by rule. In establishing eligibility standards  
19 under this paragraph 11, the Department shall, subject to  
20 federal approval:

21 (a) set the income eligibility standard at not  
22 lower than 350% of the federal poverty level;

23 (b) exempt retirement accounts that the person  
24 cannot access without penalty before the age of 59 1/2,  
25 and medical savings accounts established pursuant to  
26 U.S.C. 220;



1 (c) allow non-exempt assets up to \$25,000 as to  
2 those assets accumulated during periods of eligibility  
3 under this paragraph 11; and

4 (d) continue to apply subparagraphs (b) and (c) in  
5 determining the eligibility of the person under this  
6 Article even if the person loses eligibility under this  
7 paragraph 11.

8 12. Subject to federal approval, persons who are  
9 eligible for medical assistance coverage under applicable  
10 provisions of the federal Social Security Act and the  
11 federal Breast and Cervical Cancer Prevention and  
12 Treatment Act of 2000. Those eligible persons are defined  
13 to include, but not be limited to, the following persons:

14 (1) persons who have been screened for breast or  
15 cervical cancer under the U.S. Centers for Disease  
16 Control and Prevention Breast and Cervical Cancer  
17 Program established under Title XV of the federal  
18 Public Health Services Act in accordance with the  
19 requirements of Section 1504 of that Act as  
20 administered by the Illinois Department of Public  
21 Health; and

22 (2) persons whose screenings under the above  
23 program were funded in whole or in part by funds  
24 appropriated to the Illinois Department of Public  
25 Health for breast or cervical cancer screening.

26 "Medical assistance" under this paragraph 12 shall be

1 identical to the benefits provided under the State's  
2 approved plan under Title XIX of the Social Security Act.  
3 The Department must request federal approval of the  
4 coverage under this paragraph 12 within 30 days after the  
5 effective date of this amendatory Act of the 92nd General  
6 Assembly.

7 In addition to the persons who are eligible for medical  
8 assistance pursuant to subparagraphs (1) and (2) of this  
9 paragraph 12, and to be paid from funds appropriated to the  
10 Department for its medical programs, any uninsured person  
11 as defined by the Department in rules residing in Illinois  
12 who is younger than 65 years of age, who has been screened  
13 for breast and cervical cancer in accordance with standards  
14 and procedures adopted by the Department of Public Health  
15 for screening, and who is referred to the Department by the  
16 Department of Public Health as being in need of treatment  
17 for breast or cervical cancer is eligible for medical  
18 assistance benefits that are consistent with the benefits  
19 provided to those persons described in subparagraphs (1)  
20 and (2). Medical assistance coverage for the persons who  
21 are eligible under the preceding sentence is not dependent  
22 on federal approval, but federal moneys may be used to pay  
23 for services provided under that coverage upon federal  
24 approval.

25 13. Subject to appropriation and to federal approval,  
26 persons living with HIV/AIDS who are not otherwise eligible

1 under this Article and who qualify for services covered  
2 under Section 5-5.04 as provided by the Illinois Department  
3 by rule.

4 14. Subject to the availability of funds for this  
5 purpose, the Department may provide coverage under this  
6 Article to persons who reside in Illinois who are not  
7 eligible under any of the preceding paragraphs and who meet  
8 the income guidelines of paragraph 2(a) of this Section and  
9 (i) have an application for asylum pending before the  
10 federal Department of Homeland Security or on appeal before  
11 a court of competent jurisdiction and are represented  
12 either by counsel or by an advocate accredited by the  
13 federal Department of Homeland Security and employed by a  
14 not-for-profit organization in regard to that application  
15 or appeal, or (ii) are receiving services through a  
16 federally funded torture treatment center. Medical  
17 coverage under this paragraph 14 may be provided for up to  
18 24 continuous months from the initial eligibility date so  
19 long as an individual continues to satisfy the criteria of  
20 this paragraph 14. If an individual has an appeal pending  
21 regarding an application for asylum before the Department  
22 of Homeland Security, eligibility under this paragraph 14  
23 may be extended until a final decision is rendered on the  
24 appeal. The Department may adopt rules governing the  
25 implementation of this paragraph 14.

26 15. Family Care Eligibility.

1 (a) A caretaker relative who is 19 years of age or  
2 older when countable income is at or below 185% of the  
3 Federal Poverty Level Guidelines, as published  
4 annually in the Federal Register, for the appropriate  
5 family size. A person may not spend down to become  
6 eligible under this paragraph 15.

7 (b) Eligibility shall be reviewed annually.

8 (c) Caretaker relatives enrolled under this  
9 paragraph 15 in families with countable income above  
10 150% and at or below 185% of the Federal Poverty Level  
11 Guidelines shall be counted as family members and pay  
12 premiums as established under the Children's Health  
13 Insurance Program Act.

14 (d) Premiums shall be billed by and payable to the  
15 Department or its authorized agent, on a monthly basis.

16 (e) The premium due date is the last day of the  
17 month preceding the month of coverage.

18 (f) Individuals shall have a grace period through  
19 30 days of coverage to pay the premium.

20 (g) Failure to pay the full monthly premium by the  
21 last day of the grace period shall result in  
22 termination of coverage.

23 (h) Partial premium payments shall not be  
24 refunded.

25 (i) Following termination of an individual's  
26 coverage under this paragraph 15, the following action

1 is required before the individual can be re-enrolled:

2 (1) A new application must be completed and the  
3 individual must be determined otherwise eligible.

4 (2) There must be full payment of premiums due  
5 under this Code, the Children's Health Insurance  
6 Program Act, the Covering ALL KIDS Health  
7 Insurance Act, or any other healthcare program  
8 administered by the Department for periods in  
9 which a premium was owed and not paid for the  
10 individual.

11 (3) The first month's premium must be paid if  
12 there was an unpaid premium on the date the  
13 individual's previous coverage was canceled.

14 The Department is authorized to implement the  
15 provisions of this amendatory Act of the 95th General  
16 Assembly by adopting the medical assistance rules in effect  
17 as of October 1, 2007, at 89 Ill. Admin. Code 125, and at  
18 89 Ill. Admin. Code 120.32 along with only those changes  
19 necessary to conform to federal Medicaid requirements,  
20 federal laws, and federal regulations, including but not  
21 limited to Section 1931 of the Social Security Act (42  
22 U.S.C. Sec. 1396u-1), as interpreted by the U.S. Department  
23 of Health and Human Services, and the countable income  
24 eligibility standard authorized by this paragraph 15. The  
25 Department may not otherwise adopt any rule to implement  
26 this increase except as authorized by law, to meet the

1 eligibility standards authorized by the federal government  
2 in the Medicaid State Plan or the Title XXI Plan, or to  
3 meet an order from the federal government or any court.

4 16. Subject to appropriation, uninsured persons who  
5 are not otherwise eligible under this Section who have been  
6 certified and referred by the Department of Public Health  
7 as having been screened and found to need diagnostic  
8 evaluation or treatment, or both diagnostic evaluation and  
9 treatment, for prostate or testicular cancer. For the  
10 purposes of this paragraph 16, uninsured persons are those  
11 who do not have creditable coverage, as defined under the  
12 Health Insurance Portability and Accountability Act, or  
13 have otherwise exhausted any insurance benefits they may  
14 have had, for prostate or testicular cancer diagnostic  
15 evaluation or treatment, or both diagnostic evaluation and  
16 treatment. To be eligible, a person must furnish a Social  
17 Security number. A person's assets are exempt from  
18 consideration in determining eligibility under this  
19 paragraph 16. Such persons shall be eligible for medical  
20 assistance under this paragraph 16 for so long as they need  
21 treatment for the cancer. A person shall be considered to  
22 need treatment if, in the opinion of the person's treating  
23 physician, the person requires therapy directed toward  
24 cure or palliation of prostate or testicular cancer,  
25 including recurrent metastatic cancer that is a known or  
26 presumed complication of prostate or testicular cancer and

1 complications resulting from the treatment modalities  
2 themselves. Persons who require only routine monitoring  
3 services are not considered to need treatment. "Medical  
4 assistance" under this paragraph 16 shall be identical to  
5 the benefits provided under the State's approved plan under  
6 Title XIX of the Social Security Act. Notwithstanding any  
7 other provision of law, the Department (i) does not have a  
8 claim against the estate of a deceased recipient of  
9 services under this paragraph 16 and (ii) does not have a  
10 lien against any homestead property or other legal or  
11 equitable real property interest owned by a recipient of  
12 services under this paragraph 16.

13 In implementing the provisions of Public Act 96-20, the  
14 Department is authorized to adopt only those rules necessary,  
15 including emergency rules. Nothing in Public Act 96-20 permits  
16 the Department to adopt rules or issue a decision that expands  
17 eligibility for the FamilyCare Program to a person whose income  
18 exceeds 185% of the Federal Poverty Level as determined from  
19 time to time by the U.S. Department of Health and Human  
20 Services, unless the Department is provided with express  
21 statutory authority.

22 The Illinois Department and the Governor shall provide a  
23 plan for coverage of the persons eligible under paragraph 7 as  
24 soon as possible after July 1, 1984.

25 The eligibility of any such person for medical assistance  
26 under this Article is not affected by the payment of any grant

1 under the Senior Citizens and Disabled Persons Property Tax  
2 Relief and Pharmaceutical Assistance Act or any distributions  
3 or items of income described under subparagraph (X) of  
4 paragraph (2) of subsection (a) of Section 203 of the Illinois  
5 Income Tax Act. The Department shall by rule establish the  
6 amounts of assets to be disregarded in determining eligibility  
7 for medical assistance, which shall at a minimum equal the  
8 amounts to be disregarded under the Federal Supplemental  
9 Security Income Program. The amount of assets of a single  
10 person to be disregarded shall not be less than \$2,000, and the  
11 amount of assets of a married couple to be disregarded shall  
12 not be less than \$3,000.

13 To the extent permitted under federal law, any person found  
14 guilty of a second violation of Article VIII A shall be  
15 ineligible for medical assistance under this Article, as  
16 provided in Section 8A-8.

17 The eligibility of any person for medical assistance under  
18 this Article shall not be affected by the receipt by the person  
19 of donations or benefits from fundraisers held for the person  
20 in cases of serious illness, as long as neither the person nor  
21 members of the person's family have actual control over the  
22 donations or benefits or the disbursement of the donations or  
23 benefits.

24 (Source: P.A. 95-546, eff. 8-29-07; 95-1055, eff. 4-10-09;  
25 96-20, eff. 6-30-09; 96-181, eff. 8-10-09; 96-328, eff.  
26 8-11-09; 96-567, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1123,



1 eff. 1-1-11; 96-1270, eff. 7-26-10; revised 9-16-10.)