

HB0322



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0322

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.

LRB099 04805 KTG 24834 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.

8 Medical assistance under this Article shall be available to
9 any of the ~~the~~ following classes of persons in respect to whom
10 a plan for coverage has been submitted to the Governor by the
11 Illinois Department and approved by him. If changes made in
12 this Section 5-2 require federal approval, they shall not take
13 effect until such approval has been received:

14 1. Recipients of basic maintenance grants under
15 Articles III and IV.

16 2. Beginning January 1, 2014, persons otherwise
17 eligible for basic maintenance under Article III,
18 excluding any eligibility requirements that are
19 inconsistent with any federal law or federal regulation, as
20 interpreted by the U.S. Department of Health and Human
21 Services, but who fail to qualify thereunder on the basis
22 of need, and who have insufficient income and resources to
23 meet the costs of necessary medical care, including but not

1 limited to the following:

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

6 (i) their income, as determined by the
7 Illinois Department in accordance with any federal
8 requirements, is equal to or less than 100% of the
9 federal poverty level; or

10 (ii) their income, after the deduction of
11 costs incurred for medical care and for other types
12 of remedial care, is equal to or less than 100% of
13 the federal poverty level.

14 (b) (Blank).

15 3. (Blank).

16 4. Persons not eligible under any of the preceding
17 paragraphs who fall sick, are injured, or die, not having
18 sufficient money, property or other resources to meet the
19 costs of necessary medical care or funeral and burial
20 expenses.

21 5.(a) Women during pregnancy and during the 60-day
22 period beginning on the last day of the pregnancy, together
23 with their infants, whose income is at or below 200% of the
24 federal poverty level. Until September 30, 2019, or sooner
25 if the maintenance of effort requirements under the Patient
26 Protection and Affordable Care Act are eliminated or may be

1 waived before then, women during pregnancy and during the
2 60-day period beginning on the last day of the pregnancy,
3 whose countable monthly income, after the deduction of
4 costs incurred for medical care and for other types of
5 remedial care as specified in administrative rule, is equal
6 to or less than the Medical Assistance-No Grant(C)
7 (MANG(C)) Income Standard in effect on April 1, 2013 as set
8 forth in administrative rule.

9 (b) The plan for coverage shall provide ambulatory
10 prenatal care to pregnant women during a presumptive
11 eligibility period and establish an income eligibility
12 standard that is equal to 200% of the federal poverty
13 level, provided that costs incurred for medical care are
14 not taken into account in determining such income
15 eligibility.

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

1 established under Article IV of this Code.

2 6. (a) Children younger than age 19 when countable
3 income is at or below 133% of the federal poverty level.
4 Until September 30, 2019, or sooner if the maintenance of
5 effort requirements under the Patient Protection and
6 Affordable Care Act are eliminated or may be waived before
7 then, children younger than age 19 whose countable monthly
8 income, after the deduction of costs incurred for medical
9 care and for other types of remedial care as specified in
10 administrative rule, is equal to or less than the Medical
11 Assistance-No Grant(C) (MANG(C)) Income Standard in effect
12 on April 1, 2013 as set forth in administrative rule.

13 (b) Children and youth who are under temporary custody
14 or guardianship of the Department of Children and Family
15 Services or who receive financial assistance in support of
16 an adoption or guardianship placement from the Department
17 of Children and Family Services.

18 7. (Blank).

19 8. As required under federal law, persons who are
20 eligible for Transitional Medical Assistance as a result of
21 an increase in earnings or child or spousal support
22 received. The plan for coverage for this class of persons
23 shall:

24 (a) extend the medical assistance coverage to the
25 extent required by federal law; and

26 (b) offer persons who have initially received 6

1 months of the coverage provided in paragraph (a) above,
2 the option of receiving an additional 6 months of
3 coverage, subject to the following:

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

6 (ii) such coverage shall include all services
7 covered under Illinois' State Medicaid Plan;

8 (iii) no premium shall be charged for such
9 coverage; and

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

17 9. Persons with acquired immunodeficiency syndrome
18 (AIDS) or with AIDS-related conditions with respect to whom
19 there has been a determination that but for home or
20 community-based services such individuals would require
21 the level of care provided in an inpatient hospital,
22 skilled nursing facility or intermediate care facility the
23 cost of which is reimbursed under this Article. Assistance
24 shall be provided to such persons to the maximum extent
25 permitted under Title XIX of the Federal Social Security
26 Act.

1 10. Participants in the long-term care insurance
2 partnership program established under the Illinois
3 Long-Term Care Partnership Program Act who meet the
4 qualifications for protection of resources described in
5 Section 15 of that Act.

6 11. Persons with disabilities who are employed and
7 eligible for Medicaid, pursuant to Section
8 1902(a)(10)(A)(ii)(xv) of the Social Security Act, and,
9 subject to federal approval, persons with a medically
10 improved disability who are employed and eligible for
11 Medicaid pursuant to Section 1902(a)(10)(A)(ii)(xvi) of
12 the Social Security Act, as provided by the Illinois
13 Department by rule. In establishing eligibility standards
14 under this paragraph 11, the Department shall, subject to
15 federal approval:

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

18 (b) exempt retirement accounts that the person
19 cannot access without penalty before the age of 59 1/2,
20 and medical savings accounts established pursuant to
21 26 U.S.C. 220;

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

25 (d) continue to apply subparagraphs (b) and (c) in
26 determining the eligibility of the person under this

1 Article even if the person loses eligibility under this
2 paragraph 11.

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

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

17 (2) persons whose screenings under the above
18 program were funded in whole or in part by funds
19 appropriated to the Illinois Department of Public
20 Health for breast or cervical cancer screening.

21 "Medical assistance" under this paragraph 12 shall be
22 identical to the benefits provided under the State's
23 approved plan under Title XIX of the Social Security Act.
24 The Department must request federal approval of the
25 coverage under this paragraph 12 within 30 days after the
26 effective date of this amendatory Act of the 92nd General

1 Assembly.

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

20 13. Subject to appropriation and to federal approval,
21 persons living with HIV/AIDS who are not otherwise eligible
22 under this Article and who qualify for services covered
23 under Section 5-5.04 as provided by the Illinois Department
24 by rule.

25 14. Subject to the availability of funds for this
26 purpose, the Department may provide coverage under this

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

21 15. Family Care Eligibility.

22 (a) On and after July 1, 2012, a parent or other
23 caretaker relative who is 19 years of age or older when
24 countable income is at or below 133% of the federal
25 poverty level. A person may not spend down to become
26 eligible under this paragraph 15.

1 (b) Eligibility shall be reviewed annually.

2 (c) (Blank).

3 (d) (Blank).

4 (e) (Blank).

5 (f) (Blank).

6 (g) (Blank).

7 (h) (Blank).

8 (i) Following termination of an individual's
9 coverage under this paragraph 15, the individual must
10 be determined eligible before the person can be
11 re-enrolled.

12 16. Subject to appropriation, uninsured persons who
13 are not otherwise eligible under this Section who have been
14 certified and referred by the Department of Public Health
15 as having been screened and found to need diagnostic
16 evaluation or treatment, or both diagnostic evaluation and
17 treatment, for prostate or testicular cancer. For the
18 purposes of this paragraph 16, uninsured persons are those
19 who do not have creditable coverage, as defined under the
20 Health Insurance Portability and Accountability Act, or
21 have otherwise exhausted any insurance benefits they may
22 have had, for prostate or testicular cancer diagnostic
23 evaluation or treatment, or both diagnostic evaluation and
24 treatment. To be eligible, a person must furnish a Social
25 Security number. A person's assets are exempt from
26 consideration in determining eligibility under this

1 paragraph 16. Such persons shall be eligible for medical
2 assistance under this paragraph 16 for so long as they need
3 treatment for the cancer. A person shall be considered to
4 need treatment if, in the opinion of the person's treating
5 physician, the person requires therapy directed toward
6 cure or palliation of prostate or testicular cancer,
7 including recurrent metastatic cancer that is a known or
8 presumed complication of prostate or testicular cancer and
9 complications resulting from the treatment modalities
10 themselves. Persons who require only routine monitoring
11 services are not considered to need treatment. "Medical
12 assistance" under this paragraph 16 shall be identical to
13 the benefits provided under the State's approved plan under
14 Title XIX of the Social Security Act. Notwithstanding any
15 other provision of law, the Department (i) does not have a
16 claim against the estate of a deceased recipient of
17 services under this paragraph 16 and (ii) does not have a
18 lien against any homestead property or other legal or
19 equitable real property interest owned by a recipient of
20 services under this paragraph 16.

21 17. Persons who, pursuant to a waiver approved by the
22 Secretary of the U.S. Department of Health and Human
23 Services, are eligible for medical assistance under Title
24 XIX or XXI of the federal Social Security Act.
25 Notwithstanding any other provision of this Code and
26 consistent with the terms of the approved waiver, the

1 Illinois Department, may by rule:

2 (a) Limit the geographic areas in which the waiver
3 program operates.

4 (b) Determine the scope, quantity, duration, and
5 quality, and the rate and method of reimbursement, of
6 the medical services to be provided, which may differ
7 from those for other classes of persons eligible for
8 assistance under this Article.

9 (c) Restrict the persons' freedom in choice of
10 providers.

11 18. Beginning January 1, 2014, persons aged 19 or
12 older, but younger than 65, who are not otherwise eligible
13 for medical assistance under this Section 5-2, who qualify
14 for medical assistance pursuant to 42 U.S.C.
15 1396a(a)(10)(A)(i)(VIII) and applicable federal
16 regulations, and who have income at or below 133% of the
17 federal poverty level plus 5% for the applicable family
18 size as determined pursuant to 42 U.S.C. 1396a(e)(14) and
19 applicable federal regulations. Persons eligible for
20 medical assistance under this paragraph 18 shall receive
21 coverage for the Health Benefits Service Package as that
22 term is defined in subsection (m) of Section 5-1.1 of this
23 Code. If Illinois' federal medical assistance percentage
24 (FMAP) is reduced below 90% for persons eligible for
25 medical assistance under this paragraph 18, eligibility
26 under this paragraph 18 shall cease no later than the end

1 of the third month following the month in which the
2 reduction in FMAP takes effect.

3 19. Beginning January 1, 2014, as required under 42
4 U.S.C. 1396a(a)(10)(A)(i)(IX), persons older than age 18
5 and younger than age 26 who are not otherwise eligible for
6 medical assistance under paragraphs (1) through (17) of
7 this Section who (i) were in foster care under the
8 responsibility of the State on the date of attaining age 18
9 or on the date of attaining age 21 when a court has
10 continued wardship for good cause as provided in Section
11 2-31 of the Juvenile Court Act of 1987 and (ii) received
12 medical assistance under the Illinois Title XIX State Plan
13 or waiver of such plan while in foster care.

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

23 The eligibility of any such person for medical assistance
24 under this Article is not affected by the payment of any grant
25 under the Senior Citizens and Disabled Persons Property Tax
26 Relief Act or any distributions or items of income described

1 under subparagraph (X) of paragraph (2) of subsection (a) of
2 Section 203 of the Illinois Income Tax Act.

3 The Department shall by rule establish the amounts of
4 assets to be disregarded in determining eligibility for medical
5 assistance, which shall at a minimum equal the amounts to be
6 disregarded under the Federal Supplemental Security Income
7 Program. The amount of assets of a single person to be
8 disregarded shall not be less than \$2,000, and the amount of
9 assets of a married couple to be disregarded shall not be less
10 than \$3,000.

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

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

22 Notwithstanding any other provision of this Code, if the
23 United States Supreme Court holds Title II, Subtitle A, Section
24 2001(a) of Public Law 111-148 to be unconstitutional, or if a
25 holding of Public Law 111-148 makes Medicaid eligibility
26 allowed under Section 2001(a) inoperable, the State or a unit

1 of local government shall be prohibited from enrolling
2 individuals in the Medical Assistance Program as the result of
3 federal approval of a State Medicaid waiver on or after the
4 effective date of this amendatory Act of the 97th General
5 Assembly, and any individuals enrolled in the Medical
6 Assistance Program pursuant to eligibility permitted as a
7 result of such a State Medicaid waiver shall become immediately
8 ineligible.

9 Notwithstanding any other provision of this Code, if an Act
10 of Congress that becomes a Public Law eliminates Section
11 2001(a) of Public Law 111-148, the State or a unit of local
12 government shall be prohibited from enrolling individuals in
13 the Medical Assistance Program as the result of federal
14 approval of a State Medicaid waiver on or after the effective
15 date of this amendatory Act of the 97th General Assembly, and
16 any individuals enrolled in the Medical Assistance Program
17 pursuant to eligibility permitted as a result of such a State
18 Medicaid waiver shall become immediately ineligible.

19 Effective October 1, 2013, the determination of
20 eligibility of persons who qualify under paragraphs 5, 6, 8,
21 15, 17, and 18 of this Section shall comply with the
22 requirements of 42 U.S.C. 1396a(e)(14) and applicable federal
23 regulations.

24 The Department of Healthcare and Family Services, the
25 Department of Human Services, and the Illinois health insurance
26 marketplace shall work cooperatively to assist persons who

1 would otherwise lose health benefits as a result of changes
2 made under this amendatory Act of the 98th General Assembly to
3 transition to other health insurance coverage.

4 (Source: P.A. 97-48, eff. 6-28-11; 97-74, eff. 6-30-11; 97-333,
5 eff. 8-12-11; 97-687, eff. 6-14-12; 97-689, eff. 6-14-12;
6 97-813, eff. 7-13-12; 98-104, eff. 7-22-13; 98-463, eff.
7 8-16-13.)