

# HB2718



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2718

by Rep. Robyn Gabel

### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-4

from Ch. 23, par. 5-4

Amends the Illinois Public Aid Code. Makes a technical change in a Section concerning the amount and nature of medical assistance.

LRB101 08907 KTG 53997 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 5-4 as follows:

6 (305 ILCS 5/5-4) (from Ch. 23, par. 5-4)

7 Sec. 5-4. Amount and nature of medical assistance.

8 (a) The ~~The~~ amount and nature of medical assistance shall  
9 be determined in accordance with the standards, rules, and  
10 regulations of the Department of Healthcare and Family  
11 Services, with due regard to the requirements and conditions in  
12 each case, including contributions available from legally  
13 responsible relatives. However, the amount and nature of such  
14 medical assistance shall not be affected by the payment of any  
15 grant under the Senior Citizens and Persons with Disabilities  
16 Property Tax Relief Act or any distributions or items of income  
17 described under subparagraph (X) of paragraph (2) of subsection  
18 (a) of Section 203 of the Illinois Income Tax Act. The amount  
19 and nature of medical assistance shall not be affected by the  
20 receipt of donations or benefits from fundraisers in cases of  
21 serious illness, as long as neither the person nor members of  
22 the person's family have actual control over the donations or  
23 benefits or the disbursement of the donations or benefits.

1           In determining the income and resources available to the  
2 institutionalized spouse and to the community spouse, the  
3 Department of Healthcare and Family Services shall follow the  
4 procedures established by federal law. If an institutionalized  
5 spouse or community spouse refuses to comply with the  
6 requirements of Title XIX of the federal Social Security Act  
7 and the regulations duly promulgated thereunder by failing to  
8 provide the total value of assets, including income and  
9 resources, to the extent either the institutionalized spouse or  
10 community spouse has an ownership interest in them pursuant to  
11 42 U.S.C. 1396r-5, such refusal may result in the  
12 institutionalized spouse being denied eligibility and  
13 continuing to remain ineligible for the medical assistance  
14 program based on failure to cooperate.

15           Subject to federal approval, the community spouse resource  
16 allowance shall be established and maintained at the higher of  
17 \$109,560 or the minimum level permitted pursuant to Section  
18 1924(f)(2) of the Social Security Act, as now or hereafter  
19 amended, or an amount set after a fair hearing, whichever is  
20 greater. The monthly maintenance allowance for the community  
21 spouse shall be established and maintained at the higher of  
22 \$2,739 per month or the minimum level permitted pursuant to  
23 Section 1924(d)(3) of the Social Security Act, as now or  
24 hereafter amended, or an amount set after a fair hearing,  
25 whichever is greater. Subject to the approval of the Secretary  
26 of the United States Department of Health and Human Services,

1 the provisions of this Section shall be extended to persons who  
2 but for the provision of home or community-based services under  
3 Section 4.02 of the Illinois Act on the Aging, would require  
4 the level of care provided in an institution, as is provided  
5 for in federal law.

6 (b) Spousal support for institutionalized spouses  
7 receiving medical assistance.

8 (i) The Department may seek support for an  
9 institutionalized spouse, who has assigned his or her right  
10 of support from his or her spouse to the State, from the  
11 resources and income available to the community spouse.

12 (ii) The Department may bring an action in the circuit  
13 court to establish support orders or itself establish  
14 administrative support orders by any means and procedures  
15 authorized in this Code, as applicable, except that the  
16 standard and regulations for determining ability to  
17 support in Section 10-3 shall not limit the amount of  
18 support that may be ordered.

19 (iii) Proceedings may be initiated to obtain support,  
20 or for the recovery of aid granted during the period such  
21 support was not provided, or both, for the obtainment of  
22 support and the recovery of the aid provided. Proceedings  
23 for the recovery of aid may be taken separately or they may  
24 be consolidated with actions to obtain support. Such  
25 proceedings may be brought in the name of the person or  
26 persons requiring support or may be brought in the name of

1 the Department, as the case requires.

2 (iv) The orders for the payment of moneys for the  
3 support of the person shall be just and equitable and may  
4 direct payment thereof for such period or periods of time  
5 as the circumstances require, including support for a  
6 period before the date the order for support is entered. In  
7 no event shall the orders reduce the community spouse  
8 resource allowance below the level established in  
9 subsection (a) of this Section or an amount set after a  
10 fair hearing, whichever is greater, or reduce the monthly  
11 maintenance allowance for the community spouse below the  
12 level permitted pursuant to subsection (a) of this Section.

13 (Source: P.A. 98-104, eff. 7-22-13; 99-143, eff. 7-27-15.)