

**SB0643**



**101ST GENERAL ASSEMBLY**

**State of Illinois**

**2019 and 2020**

**SB0643**

Introduced 1/31/2019, by Sen. John J. Cullerton

**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.

LRB101 04387 KTG 49395 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 20. Beginning January 1, 2018, persons who are  
15 foreign-born victims of human trafficking, torture, or  
16 other serious crimes as defined in Section 2-19 of this  
17 Code and their derivative family members if such persons:  
18 (i) reside in Illinois; (ii) are not eligible under any of  
19 the preceding paragraphs; (iii) meet the income guidelines  
20 of subparagraph (a) of paragraph 2; and (iv) meet the  
21 nonfinancial eligibility requirements of Sections 16-2,  
22 16-3, and 16-5 of this Code. The Department may extend  
23 medical assistance for persons who are foreign-born  
24 victims of human trafficking, torture, or other serious  
25 crimes whose medical assistance would be terminated  
26 pursuant to subsection (b) of Section 16-5 if the

1 Department determines that the person, during the year of  
2 initial eligibility (1) experienced a health crisis, (2)  
3 has been unable, after reasonable attempts, to obtain  
4 necessary information from a third party, or (3) has other  
5 extenuating circumstances that prevented the person from  
6 completing his or her application for status. The  
7 Department may adopt any rules necessary to implement the  
8 provisions of this paragraph.

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

18 The eligibility of any such person for medical assistance  
19 under this Article is not affected by the payment of any grant  
20 under the Senior Citizens and Persons with Disabilities  
21 Property Tax Relief Act or any distributions or items of income  
22 described under subparagraph (X) of paragraph (2) of subsection  
23 (a) of Section 203 of the Illinois Income Tax Act.

24 The Department shall by rule establish the amounts of  
25 assets to be disregarded in determining eligibility for medical  
26 assistance, which shall at a minimum equal the amounts to be

1 disregarded under the Federal Supplemental Security Income  
2 Program. The amount of assets of a single person to be  
3 disregarded shall not be less than \$2,000, and the amount of  
4 assets of a married couple to be disregarded shall not be less  
5 than \$3,000.

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

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

17 Notwithstanding any other provision of this Code, if the  
18 United States Supreme Court holds Title II, Subtitle A, Section  
19 2001(a) of Public Law 111-148 to be unconstitutional, or if a  
20 holding of Public Law 111-148 makes Medicaid eligibility  
21 allowed under Section 2001(a) inoperable, the State or a unit  
22 of local government shall be prohibited from enrolling  
23 individuals in the Medical Assistance Program as the result of  
24 federal approval of a State Medicaid waiver on or after the  
25 effective date of this amendatory Act of the 97th General  
26 Assembly, and any individuals enrolled in the Medical



1 Assistance Program pursuant to eligibility permitted as a  
2 result of such a State Medicaid waiver shall become immediately  
3 ineligible.

4 Notwithstanding any other provision of this Code, if an Act  
5 of Congress that becomes a Public Law eliminates Section  
6 2001(a) of Public Law 111-148, the State or a unit of local  
7 government shall be prohibited from enrolling individuals in  
8 the Medical Assistance Program as the result of federal  
9 approval of a State Medicaid waiver on or after the effective  
10 date of this amendatory Act of the 97th General Assembly, and  
11 any individuals enrolled in the Medical Assistance Program  
12 pursuant to eligibility permitted as a result of such a State  
13 Medicaid waiver shall become immediately ineligible.

14 Effective October 1, 2013, the determination of  
15 eligibility of persons who qualify under paragraphs 5, 6, 8,  
16 15, 17, and 18 of this Section shall comply with the  
17 requirements of 42 U.S.C. 1396a(e)(14) and applicable federal  
18 regulations.

19 The Department of Healthcare and Family Services, the  
20 Department of Human Services, and the Illinois health insurance  
21 marketplace shall work cooperatively to assist persons who  
22 would otherwise lose health benefits as a result of changes  
23 made under this amendatory Act of the 98th General Assembly to  
24 transition to other health insurance coverage.

25 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;  
26 99-143, eff. 7-27-15; 99-870, eff. 8-22-16.)