

SB3703



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3703

Introduced 2/14/2020, by Sen. Omar Aquino

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-2

from Ch. 23, par. 5-2

Amends the Medical Assistance Article of the Illinois Public Aid Code. Provides that beginning January 1, 2021, persons aged 19 and older who are eligible for medical assistance but for their immigration status, and who have income at or below 133% of the federal poverty level plus 5% for the applicable family size as determined under applicable federal law and regulations. Provides that persons eligible for medical assistance under the amendatory Act shall receive coverage identical to the coverage for the Health Benefits Service Package as that term is defined under the Code.

LRB101 19609 KTG 69089 b

FISCAL NOTE ACT
MAY APPLY

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 following classes of persons in respect to whom a
10 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) Beginning January 1, 2020, women during
22 pregnancy and during the 12-month period beginning on the
23 last day of the pregnancy, together with their infants,
24 whose income is at or below 200% of the federal poverty
25 level. Until September 30, 2019, or sooner if the
26 maintenance of effort requirements under the Patient

1 Protection and Affordable Care Act are eliminated or may be
2 waived before then, women during pregnancy and during the
3 12-month period beginning on the last day of the pregnancy,
4 whose countable monthly income, after the deduction of
5 costs incurred for medical care and for other types of
6 remedial care as specified in administrative rule, is equal
7 to or less than the Medical Assistance-No Grant(C)
8 (MANG(C)) Income Standard in effect on April 1, 2013 as set
9 forth in administrative rule.

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

17 (c) The Illinois Department may conduct a
18 demonstration in at least one county that will provide
19 medical assistance to pregnant women, together with their
20 infants and children up to one year of age, where the
21 income eligibility standard is set up to 185% of the
22 nonfarm income official poverty line, as defined by the
23 federal Office of Management and Budget. The Illinois
24 Department shall seek and obtain necessary authorization
25 provided under federal law to implement such a
26 demonstration. Such demonstration may establish resource

1 standards that are not more restrictive than those
2 established under Article IV of this Code.

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

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

19 7. (Blank).

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

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

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

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

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

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

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

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

1 Act.

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

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

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

19 (b) exempt retirement accounts that the person
20 cannot access without penalty before the age of 59 1/2,
21 and medical savings accounts established pursuant to
22 26 U.S.C. 220;

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

26 (d) continue to apply subparagraphs (b) and (c) in

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

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

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

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

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

1 effective date of this amendatory Act of the 92nd General
2 Assembly.

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

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

26 14. Subject to the availability of funds for this

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

22 15. Family Care Eligibility.

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

1 eligible under this paragraph 15.

2 (b) Eligibility shall be reviewed annually.

3 (c) (Blank).

4 (d) (Blank).

5 (e) (Blank).

6 (f) (Blank).

7 (g) (Blank).

8 (h) (Blank).

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

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

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

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

1 consistent with the terms of the approved waiver, the
2 Illinois Department, may by rule:

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

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

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

12 18. Beginning January 1, 2014, persons aged 19 or
13 older, but younger than 65, who are not otherwise eligible
14 for medical assistance under this Section 5-2, who qualify
15 for medical assistance pursuant to 42 U.S.C.
16 1396a(a)(10)(A)(i)(VIII) and applicable federal
17 regulations, and who have income at or below 133% of the
18 federal poverty level plus 5% for the applicable family
19 size as determined pursuant to 42 U.S.C. 1396a(e)(14) and
20 applicable federal regulations. Persons eligible for
21 medical assistance under this paragraph 18 shall receive
22 coverage for the Health Benefits Service Package as that
23 term is defined in subsection (m) of Section 5-1.1 of this
24 Code. If Illinois' federal medical assistance percentage
25 (FMAP) is reduced below 90% for persons eligible for
26 medical assistance under this paragraph 18, eligibility

1 under this paragraph 18 shall cease no later than the end
2 of the third month following the month in which the
3 reduction in FMAP takes effect.

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

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

1 pursuant to subsection (b) of Section 16-5 if the
2 Department determines that the person, during the year of
3 initial eligibility (1) experienced a health crisis, (2)
4 has been unable, after reasonable attempts, to obtain
5 necessary information from a third party, or (3) has other
6 extenuating circumstances that prevented the person from
7 completing his or her application for status. The
8 Department may adopt any rules necessary to implement the
9 provisions of this paragraph.

10 21. Beginning January 1, 2021, persons aged 19 and
11 older who are eligible for medical assistance under this
12 Section but for their immigration status, and who have
13 income at or below 133% of the federal poverty level plus
14 5% for the applicable family size as determined under 42
15 U.S.C. 1396a(e)(14) and applicable federal regulations.
16 Persons eligible for medical assistance under this
17 paragraph 21 shall receive coverage identical to the
18 coverage for the Health Benefits Service Package as that
19 term is defined in subsection (m) of Section 5-1.1 of this
20 Code.

21 In implementing the provisions of Public Act 96-20, the
22 Department is authorized to adopt only those rules necessary,
23 including emergency rules. Nothing in Public Act 96-20 permits
24 the Department to adopt rules or issue a decision that expands
25 eligibility for the FamilyCare Program to a person whose income
26 exceeds 185% of the Federal Poverty Level as determined from

1 time to time by the U.S. Department of Health and Human
2 Services, unless the Department is provided with express
3 statutory authority.

4 The eligibility of any such person for medical assistance
5 under this Article is not affected by the payment of any grant
6 under the Senior Citizens and Persons with Disabilities
7 Property Tax Relief Act or any distributions or items of income
8 described under subparagraph (X) of paragraph (2) of subsection
9 (a) of Section 203 of the Illinois Income Tax Act.

10 The Department shall by rule establish the amounts of
11 assets to be disregarded in determining eligibility for medical
12 assistance, which shall at a minimum equal the amounts to be
13 disregarded under the Federal Supplemental Security Income
14 Program. The amount of assets of a single person to be
15 disregarded shall not be less than \$2,000, and the amount of
16 assets of a married couple to be disregarded shall not be less
17 than \$3,000.

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

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

1 donations or benefits or the disbursement of the donations or
2 benefits.

3 Notwithstanding any other provision of this Code, if the
4 United States Supreme Court holds Title II, Subtitle A, Section
5 2001(a) of Public Law 111-148 to be unconstitutional, or if a
6 holding of Public Law 111-148 makes Medicaid eligibility
7 allowed under Section 2001(a) inoperable, the State or a unit
8 of local government shall be prohibited from enrolling
9 individuals in the Medical Assistance Program as the result of
10 federal approval of a State Medicaid waiver on or after the
11 effective date of this amendatory Act of the 97th General
12 Assembly, and any individuals enrolled in the Medical
13 Assistance Program pursuant to eligibility permitted as a
14 result of such a State Medicaid waiver shall become immediately
15 ineligible.

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

26 Effective October 1, 2013, the determination of

1 eligibility of persons who qualify under paragraphs 5, 6, 8,
2 15, 17, and 18 of this Section shall comply with the
3 requirements of 42 U.S.C. 1396a(e)(14) and applicable federal
4 regulations.

5 The Department of Healthcare and Family Services, the
6 Department of Human Services, and the Illinois health insurance
7 marketplace shall work cooperatively to assist persons who
8 would otherwise lose health benefits as a result of changes
9 made under this amendatory Act of the 98th General Assembly to
10 transition to other health insurance coverage.

11 (Source: P.A. 101-10, eff. 6-5-19.)