



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3062

Introduced 1/5/2022, by Sen. Mike Simmons

#### 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 on January 1, 2024, the Department of Healthcare and Family Services shall raise the income eligibility standard for all of its medical assistance programs to include persons whose income is equal to or less than 276% of the federal poverty level (or any higher percentage determined by the Department) plus 5% for the applicable family size as determined under federal law and applicable federal regulations. Provides that persons eligible for medical assistance under the amendatory Act shall receive coverage identical to the coverage provided to persons eligible for each medical assistance program under the income eligibility requirements in effect on December 31, 2023. Permits the Department to adopt rules for the implementation of the amendatory Act. Provides that the amendatory Act does not apply to programs in which the income eligibility standard is higher than the standard created by the amendatory Act.

LRB102 22925 KTG 32079 b

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 following  
9 classes of persons in respect to whom a plan for coverage has  
10 been submitted to the Governor by the Illinois Department and  
11 approved by him. If changes made in this Section 5-2 require  
12 federal approval, they shall not take effect until such  
13 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,  
20 as 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

1 not 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  
12 types of remedial care, is equal to or less than  
13 100% of 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, individuals 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  
2 be waived before then, individuals during pregnancy and  
3 during the 12-month period beginning on the last day of  
4 the pregnancy, whose countable monthly income, after the  
5 deduction of costs incurred for medical care and for other  
6 types of remedial care as specified in administrative  
7 rule, is equal to or less than the Medical Assistance-No  
8 Grant(C) (MANG(C)) Income Standard in effect on April 1,  
9 2013 as set forth in administrative rule.

10 (b) The plan for coverage shall provide ambulatory  
11 prenatal care to pregnant individuals 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 individuals together with  
20 their 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) Subject to federal approval, children younger  
4 than age 19 when countable income is at or below 313% of  
5 the federal poverty level, as determined by the Department  
6 and in accordance with all applicable federal  
7 requirements. The Department is authorized to adopt  
8 emergency rules to implement the changes made to this  
9 paragraph by Public Act 102-43 ~~this amendatory Act of the~~  
10 ~~102nd General Assembly~~. Until September 30, 2019, or  
11 sooner if the maintenance of effort requirements under the  
12 Patient Protection and Affordable Care Act are eliminated  
13 or may be waived before then, children younger than age 19  
14 whose countable monthly income, after the deduction of  
15 costs incurred for medical care and for other types of  
16 remedial care as specified in administrative rule, is  
17 equal to or less than the Medical Assistance-No Grant(C)  
18 (MANG(C)) Income Standard in effect on April 1, 2013 as  
19 set forth in administrative rule.

20 (b) Children and youth who are under temporary custody  
21 or guardianship of the Department of Children and Family  
22 Services or who receive financial assistance in support of  
23 an adoption or guardianship placement from the Department  
24 of Children and Family Services.

25 7. (Blank).

26 8. As required under federal law, persons who are

1 eligible for Transitional Medical Assistance as a result  
2 of an increase in earnings or child or spousal support  
3 received. The plan for coverage for this class of persons  
4 shall:

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

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

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

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

15 (iii) no premium shall be charged for such  
16 coverage; and

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

24 9. Persons with acquired immunodeficiency syndrome  
25 (AIDS) or with AIDS-related conditions with respect to  
26 whom there has been a determination that but for home or

1 community-based services such individuals would require  
2 the level of care provided in an inpatient hospital,  
3 skilled nursing facility or intermediate care facility the  
4 cost of which is reimbursed under this Article. Assistance  
5 shall be provided to such persons to the maximum extent  
6 permitted under Title XIX of the Federal Social Security  
7 Act.

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

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

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

25 (b) exempt retirement accounts that the person  
26 cannot access without penalty before the age of 59

1           1/2, and medical savings accounts established pursuant  
2           to 26 U.S.C. 220;

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

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

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

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

24               (2) persons whose screenings under the above  
25               program were funded in whole or in part by funds  
26               appropriated to the Illinois Department of Public



1 Health for breast or cervical cancer screening.

2 "Medical assistance" under this paragraph 12 shall be  
3 identical to the benefits provided under the State's  
4 approved plan under Title XIX of the Social Security Act.  
5 The Department must request federal approval of the  
6 coverage under this paragraph 12 within 30 days after July  
7 3, 2001 (the effective date of Public Act 92-47).

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

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

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

1           may adopt rules governing the implementation of this  
2           paragraph 14.

3           15. Family Care Eligibility.

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

9           (b) Eligibility shall be reviewed annually.

10          (c) (Blank).

11          (d) (Blank).

12          (e) (Blank).

13          (f) (Blank).

14          (g) (Blank).

15          (h) (Blank).

16          (i) Following termination of an individual's  
17          coverage under this paragraph 15, the individual must  
18          be determined eligible before the person can be  
19          re-enrolled.

20          16. Subject to appropriation, uninsured persons who  
21          are not otherwise eligible under this Section who have  
22          been certified and referred by the Department of Public  
23          Health as having been screened and found to need  
24          diagnostic evaluation or treatment, or both diagnostic  
25          evaluation and treatment, for prostate or testicular  
26          cancer. For the purposes of this paragraph 16, uninsured

1 persons are those who do not have creditable coverage, as  
2 defined under the Health Insurance Portability and  
3 Accountability Act, or have otherwise exhausted any  
4 insurance benefits they may have had, for prostate or  
5 testicular cancer diagnostic evaluation or treatment, or  
6 both diagnostic evaluation and treatment. To be eligible,  
7 a person must furnish a Social Security number. A person's  
8 assets are exempt from consideration in determining  
9 eligibility under this paragraph 16. Such persons shall be  
10 eligible for medical assistance under this paragraph 16  
11 for so long as they need treatment for the cancer. A person  
12 shall be considered to need treatment if, in the opinion  
13 of the person's treating physician, the person requires  
14 therapy directed toward cure or palliation of prostate or  
15 testicular cancer, including recurrent metastatic cancer  
16 that is a known or presumed complication of prostate or  
17 testicular cancer and complications resulting from the  
18 treatment modalities themselves. Persons who require only  
19 routine monitoring services are not considered to need  
20 treatment. "Medical assistance" under this paragraph 16  
21 shall be identical to the benefits provided under the  
22 State's approved plan under Title XIX of the Social  
23 Security Act. Notwithstanding any other provision of law,  
24 the Department (i) does not have a claim against the  
25 estate of a deceased recipient of services under this  
26 paragraph 16 and (ii) does not have a lien against any

1 homestead property or other legal or equitable real  
2 property interest owned by a recipient of services under  
3 this paragraph 16.

4 17. Persons who, pursuant to a waiver approved by the  
5 Secretary of the U.S. Department of Health and Human  
6 Services, are eligible for medical assistance under Title  
7 XIX or XXI of the federal Social Security Act.  
8 Notwithstanding any other provision of this Code and  
9 consistent with the terms of the approved waiver, the  
10 Illinois Department, may by rule:

11 (a) Limit the geographic areas in which the waiver  
12 program operates.

13 (b) Determine the scope, quantity, duration, and  
14 quality, and the rate and method of reimbursement, of  
15 the medical services to be provided, which may differ  
16 from those for other classes of persons eligible for  
17 assistance under this Article.

18 (c) Restrict the persons' freedom in choice of  
19 providers.

20 18. Beginning January 1, 2014, persons aged 19 or  
21 older, but younger than 65, who are not otherwise eligible  
22 for medical assistance under this Section 5-2, who qualify  
23 for medical assistance pursuant to 42 U.S.C.  
24 1396a(a)(10)(A)(i)(VIII) and applicable federal  
25 regulations, and who have income at or below 133% of the  
26 federal poverty level plus 5% for the applicable family

1 size as determined pursuant to 42 U.S.C. 1396a(e)(14) and  
2 applicable federal regulations. Persons eligible for  
3 medical assistance under this paragraph 18 shall receive  
4 coverage for the Health Benefits Service Package as that  
5 term is defined in subsection (m) of Section 5-1.1 of this  
6 Code. If Illinois' federal medical assistance percentage  
7 (FMAP) is reduced below 90% for persons eligible for  
8 medical assistance under this paragraph 18, eligibility  
9 under this paragraph 18 shall cease no later than the end  
10 of the third month following the month in which the  
11 reduction in FMAP takes effect.

12 19. Beginning January 1, 2014, as required under 42  
13 U.S.C. 1396a(a)(10)(A)(i)(IX), persons older than age 18  
14 and younger than age 26 who are not otherwise eligible for  
15 medical assistance under paragraphs (1) through (17) of  
16 this Section who (i) were in foster care under the  
17 responsibility of the State on the date of attaining age  
18 18 or on the date of attaining age 21 when a court has  
19 continued wardship for good cause as provided in Section  
20 2-31 of the Juvenile Court Act of 1987 and (ii) received  
21 medical assistance under the Illinois Title XIX State Plan  
22 or waiver of such plan while in foster care.

23 20. Beginning January 1, 2018, persons who are  
24 foreign-born victims of human trafficking, torture, or  
25 other serious crimes as defined in Section 2-19 of this  
26 Code and their derivative family members if such persons:

1 (i) reside in Illinois; (ii) are not eligible under any of  
2 the preceding paragraphs; (iii) meet the income guidelines  
3 of subparagraph (a) of paragraph 2; and (iv) meet the  
4 nonfinancial eligibility requirements of Sections 16-2,  
5 16-3, and 16-5 of this Code. The Department may extend  
6 medical assistance for persons who are foreign-born  
7 victims of human trafficking, torture, or other serious  
8 crimes whose medical assistance would be terminated  
9 pursuant to subsection (b) of Section 16-5 if the  
10 Department determines that the person, during the year of  
11 initial eligibility (1) experienced a health crisis, (2)  
12 has been unable, after reasonable attempts, to obtain  
13 necessary information from a third party, or (3) has other  
14 extenuating circumstances that prevented the person from  
15 completing his or her application for status. The  
16 Department may adopt any rules necessary to implement the  
17 provisions of this paragraph.

18 21. Persons who are not otherwise eligible for medical  
19 assistance under this Section who may qualify for medical  
20 assistance pursuant to 42 U.S.C.  
21 1396a(a)(10)(A)(ii)(XXIII) and 42 U.S.C. 1396(ss) for the  
22 duration of any federal or State declared emergency due to  
23 COVID-19. Medical assistance to persons eligible for  
24 medical assistance solely pursuant to this paragraph 21  
25 shall be limited to any in vitro diagnostic product (and  
26 the administration of such product) described in 42 U.S.C.

1 1396d(a)(3)(B) on or after March 18, 2020, any visit  
2 described in 42 U.S.C. 1396o(a)(2)(G), or any other  
3 medical assistance that may be federally authorized for  
4 this class of persons. The Department may also cover  
5 treatment of COVID-19 for this class of persons, or any  
6 similar category of uninsured individuals, to the extent  
7 authorized under a federally approved 1115 Waiver or other  
8 federal authority. Notwithstanding the provisions of  
9 Section 1-11 of this Code, due to the nature of the  
10 COVID-19 public health emergency, the Department may cover  
11 and provide the medical assistance described in this  
12 paragraph 21 to noncitizens who would otherwise meet the  
13 eligibility requirements for the class of persons  
14 described in this paragraph 21 for the duration of the  
15 State emergency period.

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

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 Persons with Disabilities  
2 Property Tax Relief Act or any distributions or items of  
3 income described under subparagraph (X) of paragraph (2) of  
4 subsection (a) of Section 203 of the Illinois Income Tax Act.

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

13 To the extent permitted under federal law, any person  
14 found 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 Notwithstanding any other provision of this Code, if the  
25 United States Supreme Court holds Title II, Subtitle A,  
26 Section 2001(a) of Public Law 111-148 to be unconstitutional,

1 or if a holding of Public Law 111-148 makes Medicaid  
2 eligibility allowed under Section 2001(a) inoperable, the  
3 State or a unit of local government shall be prohibited from  
4 enrolling individuals in the Medical Assistance Program as the  
5 result of federal approval of a State Medicaid waiver on or  
6 after June 14, 2012 (the effective date of Public Act 97-687),  
7 and any individuals enrolled in the Medical Assistance Program  
8 pursuant to eligibility permitted as a result of such a State  
9 Medicaid waiver shall become immediately ineligible.

10 Notwithstanding any other provision of this Code, if an  
11 Act of Congress that becomes a Public Law eliminates Section  
12 2001(a) of Public Law 111-148, the State or a unit of local  
13 government shall be prohibited from enrolling individuals in  
14 the Medical Assistance Program as the result of federal  
15 approval of a State Medicaid waiver on or after June 14, 2012  
16 (the effective date of Public Act 97-687), and any individuals  
17 enrolled in the Medical Assistance Program pursuant to  
18 eligibility permitted as a result of such a State Medicaid  
19 waiver shall become immediately ineligible.

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

25 The Department of Healthcare and Family Services, the  
26 Department of Human Services, and the Illinois health

1 insurance marketplace shall work cooperatively to assist  
2 persons who would otherwise lose health benefits as a result  
3 of changes made under Public Act 98-104 to transition to other  
4 health insurance coverage.

5 Notwithstanding any provision of this Section, beginning  
6 on January 1, 2024, the Department shall raise the income  
7 eligibility standard for all of its medical assistance  
8 programs to include persons whose income is equal to or less  
9 than 276% of the federal poverty level (or any higher  
10 percentage determined by the Department) plus 5% for the  
11 applicable family size as determined under 42 U.S.C.  
12 1396a(e)(14) and applicable federal regulations. Persons  
13 eligible for medical assistance under this amendatory Act of  
14 the 102nd General Assembly shall receive coverage identical to  
15 the coverage provided to persons eligible for each medical  
16 assistance program under the income eligibility requirements  
17 in effect on December 31, 2023. The Department may adopt rules  
18 for the implementation of this amendatory Act of the 102nd  
19 General Assembly. This amendatory Act of the 102nd General  
20 Assembly does not apply to programs in which the income  
21 eligibility standard is higher than the standard created by  
22 this amendatory Act of the 102nd General Assembly.

23 (Source: P.A. 101-10, eff. 6-5-19; 101-649, eff. 7-7-20;  
24 102-43, eff. 7-6-21; 102-558, eff. 8-20-21; 102-665, eff.  
25 10-8-21; revised 11-18-21.)