



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB1657

Introduced 2/8/2023, by Sen. Javier L. Cervantes

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/9A-11

from Ch. 23, par. 9A-11

Amends the Illinois Public Aid Code. In provisions concerning the child care assistance program, requires the Department of Human Services to establish a semimonthly payment schedule for child care providers that have a purchase of service contract with the Department or a subcontractor of the Department. Provides that under the payment schedule, a child care provider shall receive payment on the 1st and 16th of each month for any child care services provided to a family approved for child care assistance. Provides that if payment is not made by the scheduled payment date, a child care provider may submit a written request for payment in a form and manner prescribed by the Department for the amount owed plus the amount of any financial losses or costs the child care provider incurred due to the nonpayment. Provides that a child care provider must submit the request-for-payment form to the Department within 3 months after the date of the nonpayment. Provides that any request-for-payment form submitted after the 3-month period shall not be processed for payment. Requires the Department to oversee the implementation of the semimonthly payment schedule and to receive and process all request-for-payment forms submitted by child care providers. Provides that nothing in the amendatory Act shall be construed to apply to monthly co-payments owed by a family under the child care assistance program.

LRB103 28505 KTG 54886 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 9A-11 as follows:

6 (305 ILCS 5/9A-11) (from Ch. 23, par. 9A-11)

7 Sec. 9A-11. Child care.

8 (a) The General Assembly recognizes that families with  
9 children need child care in order to work. Child care is  
10 expensive and families with low incomes, including those who  
11 are transitioning from welfare to work, often struggle to pay  
12 the costs of day care. The General Assembly understands the  
13 importance of helping low-income working families become and  
14 remain self-sufficient. The General Assembly also believes  
15 that it is the responsibility of families to share in the costs  
16 of child care. It is also the preference of the General  
17 Assembly that all working poor families should be treated  
18 equally, regardless of their welfare status.

19 (b) To the extent resources permit, the Illinois  
20 Department shall provide child care services to parents or  
21 other relatives as defined by rule who are working or  
22 participating in employment or Department approved education  
23 or training programs. At a minimum, the Illinois Department

1 shall cover the following categories of families:

2 (1) recipients of TANF under Article IV participating  
3 in work and training activities as specified in the  
4 personal plan for employment and self-sufficiency;

5 (2) families transitioning from TANF to work;

6 (3) families at risk of becoming recipients of TANF;

7 (4) families with special needs as defined by rule;

8 (5) working families with very low incomes as defined  
9 by rule;

10 (6) families that are not recipients of TANF and that  
11 need child care assistance to participate in education and  
12 training activities;

13 (7) youth in care, as defined in Section 4d of the  
14 Children and Family Services Act, who are parents,  
15 regardless of income or whether they are working or  
16 participating in Department-approved employment or  
17 education or training programs. Any family that receives  
18 child care assistance in accordance with this paragraph  
19 shall receive one additional 12-month child care  
20 eligibility period after the parenting youth in care's  
21 case with the Department of Children and Family Services  
22 is closed, regardless of income or whether the parenting  
23 youth in care is working or participating in  
24 Department-approved employment or education or training  
25 programs;

26 (8) families receiving Extended Family Support Program

1 services from the Department of Children and Family  
2 Services, regardless of income or whether they are working  
3 or participating in Department-approved employment or  
4 education or training programs; and

5 (9) families with children under the age of 5 who have  
6 an open intact family services case with the Department of  
7 Children and Family Services. Any family that receives  
8 child care assistance in accordance with this paragraph  
9 shall remain eligible for child care assistance 6 months  
10 after the child's intact family services case is closed,  
11 regardless of whether the child's parents or other  
12 relatives as defined by rule are working or participating  
13 in Department approved employment or education or training  
14 programs. The Department of Human Services, in  
15 consultation with the Department of Children and Family  
16 Services, shall adopt rules to protect the privacy of  
17 families who are the subject of an open intact family  
18 services case when such families enroll in child care  
19 services. Additional rules shall be adopted to offer  
20 children who have an open intact family services case the  
21 opportunity to receive an Early Intervention screening and  
22 other services that their families may be eligible for as  
23 provided by the Department of Human Services.

24 Beginning October 1, 2023, and every October 1 thereafter,  
25 the Department of Children and Family Services shall report to  
26 the General Assembly on the number of children who received

1 child care via vouchers paid for by the Department of Children  
2 and Family Services during the preceding fiscal year. The  
3 report shall include the ages of children who received child  
4 care, the type of child care they received, and the number of  
5 months they received child care.

6 The Department shall specify by rule the conditions of  
7 eligibility, the application process, and the types, amounts,  
8 and duration of services. Eligibility for child care benefits  
9 and the amount of child care provided may vary based on family  
10 size, income, and other factors as specified by rule.

11 The Department shall update the Child Care Assistance  
12 Program Eligibility Calculator posted on its website to  
13 include a question on whether a family is applying for child  
14 care assistance for the first time or is applying for a  
15 redetermination of eligibility.

16 A family's eligibility for child care services shall be  
17 redetermined no sooner than 12 months following the initial  
18 determination or most recent redetermination. During the  
19 12-month periods, the family shall remain eligible for child  
20 care services regardless of (i) a change in family income,  
21 unless family income exceeds 85% of State median income, or  
22 (ii) a temporary change in the ongoing status of the parents or  
23 other relatives, as defined by rule, as working or attending a  
24 job training or educational program.

25 In determining income eligibility for child care benefits,  
26 the Department annually, at the beginning of each fiscal year,

1 shall establish, by rule, one income threshold for each family  
2 size, in relation to percentage of State median income for a  
3 family of that size, that makes families with incomes below  
4 the specified threshold eligible for assistance and families  
5 with incomes above the specified threshold ineligible for  
6 assistance. Through and including fiscal year 2007, the  
7 specified threshold must be no less than 50% of the  
8 then-current State median income for each family size.  
9 Beginning in fiscal year 2008, the specified threshold must be  
10 no less than 185% of the then-current federal poverty level  
11 for each family size. Notwithstanding any other provision of  
12 law or administrative rule to the contrary, beginning in  
13 fiscal year 2019, the specified threshold for working families  
14 with very low incomes as defined by rule must be no less than  
15 185% of the then-current federal poverty level for each family  
16 size. Notwithstanding any other provision of law or  
17 administrative rule to the contrary, beginning in State fiscal  
18 year 2022, the specified income threshold shall be no less  
19 than 200% of the then-current federal poverty level for each  
20 family size.

21 In determining eligibility for assistance, the Department  
22 shall not give preference to any category of recipients or  
23 give preference to individuals based on their receipt of  
24 benefits under this Code.

25 Nothing in this Section shall be construed as conferring  
26 entitlement status to eligible families.

1           The Illinois Department is authorized to lower income  
2 eligibility ceilings, raise parent co-payments, create waiting  
3 lists, or take such other actions during a fiscal year as are  
4 necessary to ensure that child care benefits paid under this  
5 Article do not exceed the amounts appropriated for those child  
6 care benefits. These changes may be accomplished by emergency  
7 rule under Section 5-45 of the Illinois Administrative  
8 Procedure Act, except that the limitation on the number of  
9 emergency rules that may be adopted in a 24-month period shall  
10 not apply.

11           The Illinois Department may contract with other State  
12 agencies or child care organizations for the administration of  
13 child care services.

14           (c) Payment shall be made for child care that otherwise  
15 meets the requirements of this Section and applicable  
16 standards of State and local law and regulation, including any  
17 requirements the Illinois Department promulgates by rule in  
18 addition to the licensure requirements promulgated by the  
19 Department of Children and Family Services and Fire Prevention  
20 and Safety requirements promulgated by the Office of the State  
21 Fire Marshal, and is provided in any of the following:

22           (1) a child care center which is licensed or exempt  
23 from licensure pursuant to Section 2.09 of the Child Care  
24 Act of 1969;

25           (2) a licensed child care home or home exempt from  
26 licensing;

1 (3) a licensed group child care home;

2 (4) other types of child care, including child care  
3 provided by relatives or persons living in the same home  
4 as the child, as determined by the Illinois Department by  
5 rule.

6 (c-5) Solely for the purposes of coverage under the  
7 Illinois Public Labor Relations Act, child and day care home  
8 providers, including licensed and license exempt,  
9 participating in the Department's child care assistance  
10 program shall be considered to be public employees and the  
11 State of Illinois shall be considered to be their employer as  
12 of January 1, 2006 (the effective date of Public Act 94-320),  
13 but not before. The State shall engage in collective  
14 bargaining with an exclusive representative of child and day  
15 care home providers participating in the child care assistance  
16 program concerning their terms and conditions of employment  
17 that are within the State's control. Nothing in this  
18 subsection shall be understood to limit the right of families  
19 receiving services defined in this Section to select child and  
20 day care home providers or supervise them within the limits of  
21 this Section. The State shall not be considered to be the  
22 employer of child and day care home providers for any purposes  
23 not specifically provided in Public Act 94-320, including, but  
24 not limited to, purposes of vicarious liability in tort and  
25 purposes of statutory retirement or health insurance benefits.  
26 Child and day care home providers shall not be covered by the



1 State Employees Group Insurance Act of 1971.

2 In according child and day care home providers and their  
3 selected representative rights under the Illinois Public Labor  
4 Relations Act, the State intends that the State action  
5 exemption to application of federal and State antitrust laws  
6 be fully available to the extent that their activities are  
7 authorized by Public Act 94-320.

8 (d) The Illinois Department shall establish, by rule, a  
9 co-payment scale that provides for cost sharing by families  
10 that receive child care services, including parents whose only  
11 income is from assistance under this Code. The co-payment  
12 shall be based on family income and family size and may be  
13 based on other factors as appropriate. Co-payments may be  
14 waived for families whose incomes are at or below the federal  
15 poverty level.

16 (d-5) The Illinois Department, in consultation with its  
17 Child Care and Development Advisory Council, shall develop a  
18 plan to revise the child care assistance program's co-payment  
19 scale. The plan shall be completed no later than February 1,  
20 2008, and shall include:

21 (1) findings as to the percentage of income that the  
22 average American family spends on child care and the  
23 relative amounts that low-income families and the average  
24 American family spend on other necessities of life;

25 (2) recommendations for revising the child care  
26 co-payment scale to assure that families receiving child

1 care services from the Department are paying no more than  
2 they can reasonably afford;

3 (3) recommendations for revising the child care  
4 co-payment scale to provide at-risk children with complete  
5 access to Preschool for All and Head Start; and

6 (4) recommendations for changes in child care program  
7 policies that affect the affordability of child care.

8 (e) (Blank).

9 (f) The Illinois Department shall, by rule, set rates to  
10 be paid for the various types of child care. Child care may be  
11 provided through one of the following methods:

12 (1) arranging the child care through eligible  
13 providers by use of purchase of service contracts or  
14 vouchers;

15 (2) arranging with other agencies and community  
16 volunteer groups for non-reimbursed child care;

17 (3) (blank); or

18 (4) adopting such other arrangements as the Department  
19 determines appropriate.

20 (f-1) Within 30 days after June 4, 2018 (the effective  
21 date of Public Act 100-587), the Department of Human Services  
22 shall establish rates for child care providers that are no  
23 less than the rates in effect on January 1, 2018 increased by  
24 4.26%.

25 (f-5) (Blank).

26 (g) Families eligible for assistance under this Section

1 shall be given the following options:

2 (1) receiving a child care certificate issued by the  
3 Department or a subcontractor of the Department that may  
4 be used by the parents as payment for child care and  
5 development services only; or

6 (2) if space is available, enrolling the child with a  
7 child care provider that has a purchase of service  
8 contract with the Department or a subcontractor of the  
9 Department for the provision of child care and development  
10 services. The Department may identify particular priority  
11 populations for whom they may request special  
12 consideration by a provider with purchase of service  
13 contracts, provided that the providers shall be permitted  
14 to maintain a balance of clients in terms of household  
15 incomes and families and children with special needs, as  
16 defined by rule.

17 (h) Notwithstanding any other law or rule to the contrary,  
18 the Department shall establish a semimonthly payment schedule  
19 for child care providers that have a purchase of service  
20 contract with the Department or a subcontractor of the  
21 Department. Under the payment schedule, a child care provider  
22 shall receive payment on the 1st and 16th of each month for any  
23 child care services provided to a family approved for child  
24 care assistance in accordance with this Section. If payment is  
25 not made by the scheduled payment date, a child care provider  
26 may submit a written request for payment in a form and manner

1 prescribed by the Department for the amount owed plus the  
2 amount of any financial losses or costs the child care  
3 provider incurred due to the nonpayment. A child care provider  
4 must submit the request-for-payment form to the Department  
5 within 3 months after the date of the nonpayment. Any  
6 request-for-payment form submitted after the 3-month period  
7 shall not be processed for payment. The Department shall  
8 oversee the implementation of the semimonthly payment schedule  
9 and shall receive and process all request-for-payment forms  
10 submitted by child care providers in accordance with this  
11 subsection. Nothing in this subsection shall be construed to  
12 apply to monthly co-payments owed by a family under the child  
13 care assistance program.

14 (Source: P.A. 101-81, eff. 7-12-19; 101-657, eff. 3-23-21;  
15 102-491, eff. 8-20-21; 102-813, eff. 5-13-22; 102-926, eff.  
16 5-27-22.)