

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 5-5 as follows:

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

7 Sec. 5-5. Medical services. The Illinois Department, by
8 rule, shall determine the quantity and quality of and the rate
9 of reimbursement for the medical assistance for which payment
10 will be authorized, and the medical services to be provided,
11 which may include all or part of the following: (1) inpatient
12 hospital services; (2) outpatient hospital services; (3) other
13 laboratory and X-ray services; (4) skilled nursing home
14 services; (5) physicians' services whether furnished in the
15 office, the patient's home, a hospital, a skilled nursing home,
16 or elsewhere; (6) medical care, or any other type of remedial
17 care furnished by licensed practitioners; (7) home health care
18 services; (8) private duty nursing service; (9) clinic
19 services; (10) dental services, including prevention and
20 treatment of periodontal disease and dental caries disease for
21 pregnant women, provided by an individual licensed to practice
22 dentistry or dental surgery; for purposes of this item (10),
23 "dental services" means diagnostic, preventive, or corrective

1 procedures provided by or under the supervision of a dentist in
2 the practice of his or her profession; (11) physical therapy
3 and related services; (12) prescribed drugs, dentures, and
4 prosthetic devices; and eyeglasses prescribed by a physician
5 skilled in the diseases of the eye, or by an optometrist,
6 whichever the person may select; (13) other diagnostic,
7 screening, preventive, and rehabilitative services; (14)
8 transportation and such other expenses as may be necessary;
9 (15) medical treatment of sexual assault survivors, as defined
10 in Section 1a of the Sexual Assault Survivors Emergency
11 Treatment Act, for injuries sustained as a result of the sexual
12 assault, including examinations and laboratory tests to
13 discover evidence which may be used in criminal proceedings
14 arising from the sexual assault; (16) the diagnosis and
15 treatment of sickle cell anemia; and (17) any other medical
16 care, and any other type of remedial care recognized under the
17 laws of this State, but not including abortions, or induced
18 miscarriages or premature births, unless, in the opinion of a
19 physician, such procedures are necessary for the preservation
20 of the life of the woman seeking such treatment, or except an
21 induced premature birth intended to produce a live viable child
22 and such procedure is necessary for the health of the mother or
23 her unborn child. The Illinois Department, by rule, shall
24 prohibit any physician from providing medical assistance to
25 anyone eligible therefor under this Code where such physician
26 has been found guilty of performing an abortion procedure in a

1 wilful and wanton manner upon a woman who was not pregnant at
2 the time such abortion procedure was performed. The term "any
3 other type of remedial care" shall include nursing care and
4 nursing home service for persons who rely on treatment by
5 spiritual means alone through prayer for healing.

6 Notwithstanding any other provision of this Section, a
7 comprehensive tobacco use cessation program that includes
8 purchasing prescription drugs or prescription medical devices
9 approved by the Food and Drug administration shall be covered
10 under the medical assistance program under this Article for
11 persons who are otherwise eligible for assistance under this
12 Article.

13 Notwithstanding any other provision of this Code, the
14 Illinois Department may not require, as a condition of payment
15 for any laboratory test authorized under this Article, that a
16 physician's handwritten signature appear on the laboratory
17 test order form. The Illinois Department may, however, impose
18 other appropriate requirements regarding laboratory test order
19 documentation.

20 The Department of Healthcare and Family Services shall
21 provide the following services to persons eligible for
22 assistance under this Article who are participating in
23 education, training or employment programs operated by the
24 Department of Human Services as successor to the Department of
25 Public Aid:

- 26 (1) dental services provided by or under the

1 ~~supervision of a dentist, which shall include but not be~~
2 ~~limited to prosthodontics; and~~

3 (2) eyeglasses prescribed by a physician skilled in the
4 diseases of the eye, or by an optometrist, whichever the
5 person may select.

6 The Illinois Department, by rule, may distinguish and
7 classify the medical services to be provided only in accordance
8 with the classes of persons designated in Section 5-2.

9 The Department of Healthcare and Family Services must
10 provide coverage and reimbursement for amino acid-based
11 elemental formulas, regardless of delivery method, for the
12 diagnosis and treatment of (i) eosinophilic disorders and (ii)
13 short bowel syndrome when the prescribing physician has issued
14 a written order stating that the amino acid-based elemental
15 formula is medically necessary.

16 The Illinois Department shall authorize the provision of,
17 and shall authorize payment for, screening by low-dose
18 mammography for the presence of occult breast cancer for women
19 35 years of age or older who are eligible for medical
20 assistance under this Article, as follows: a baseline mammogram
21 for women 35 to 39 years of age and an annual mammogram for
22 women 40 years of age or older. All screenings shall include a
23 physical breast exam, instruction on self-examination and
24 information regarding the frequency of self-examination and
25 its value as a preventative tool. As used in this Section,
26 "low-dose mammography" means the x-ray examination of the

1 breast using equipment dedicated specifically for mammography,
2 including the x-ray tube, filter, compression device, image
3 receptor, and cassettes, with an average radiation exposure
4 delivery of less than one rad mid-breast, with 2 views for each
5 breast.

6 Any medical or health care provider shall immediately
7 recommend, to any pregnant woman who is being provided prenatal
8 services and is suspected of drug abuse or is addicted as
9 defined in the Alcoholism and Other Drug Abuse and Dependency
10 Act, referral to a local substance abuse treatment provider
11 licensed by the Department of Human Services or to a licensed
12 hospital which provides substance abuse treatment services.
13 The Department of Healthcare and Family Services shall assure
14 coverage for the cost of treatment of the drug abuse or
15 addiction for pregnant recipients in accordance with the
16 Illinois Medicaid Program in conjunction with the Department of
17 Human Services.

18 All medical providers providing medical assistance to
19 pregnant women under this Code shall receive information from
20 the Department on the availability of services under the Drug
21 Free Families with a Future or any comparable program providing
22 case management services for addicted women, including
23 information on appropriate referrals for other social services
24 that may be needed by addicted women in addition to treatment
25 for addiction.

26 The Illinois Department, in cooperation with the

1 Departments of Human Services (as successor to the Department
2 of Alcoholism and Substance Abuse) and Public Health, through a
3 public awareness campaign, may provide information concerning
4 treatment for alcoholism and drug abuse and addiction, prenatal
5 health care, and other pertinent programs directed at reducing
6 the number of drug-affected infants born to recipients of
7 medical assistance.

8 Neither the Department of Healthcare and Family Services
9 nor the Department of Human Services shall sanction the
10 recipient solely on the basis of her substance abuse.

11 The Illinois Department shall establish such regulations
12 governing the dispensing of health services under this Article
13 as it shall deem appropriate. The Department should seek the
14 advice of formal professional advisory committees appointed by
15 the Director of the Illinois Department for the purpose of
16 providing regular advice on policy and administrative matters,
17 information dissemination and educational activities for
18 medical and health care providers, and consistency in
19 procedures to the Illinois Department.

20 The Illinois Department may develop and contract with
21 Partnerships of medical providers to arrange medical services
22 for persons eligible under Section 5-2 of this Code.
23 Implementation of this Section may be by demonstration projects
24 in certain geographic areas. The Partnership shall be
25 represented by a sponsor organization. The Department, by rule,
26 shall develop qualifications for sponsors of Partnerships.

1 Nothing in this Section shall be construed to require that the
2 sponsor organization be a medical organization.

3 The sponsor must negotiate formal written contracts with
4 medical providers for physician services, inpatient and
5 outpatient hospital care, home health services, treatment for
6 alcoholism and substance abuse, and other services determined
7 necessary by the Illinois Department by rule for delivery by
8 Partnerships. Physician services must include prenatal and
9 obstetrical care. The Illinois Department shall reimburse
10 medical services delivered by Partnership providers to clients
11 in target areas according to provisions of this Article and the
12 Illinois Health Finance Reform Act, except that:

13 (1) Physicians participating in a Partnership and
14 providing certain services, which shall be determined by
15 the Illinois Department, to persons in areas covered by the
16 Partnership may receive an additional surcharge for such
17 services.

18 (2) The Department may elect to consider and negotiate
19 financial incentives to encourage the development of
20 Partnerships and the efficient delivery of medical care.

21 (3) Persons receiving medical services through
22 Partnerships may receive medical and case management
23 services above the level usually offered through the
24 medical assistance program.

25 Medical providers shall be required to meet certain
26 qualifications to participate in Partnerships to ensure the

1 delivery of high quality medical services. These
2 qualifications shall be determined by rule of the Illinois
3 Department and may be higher than qualifications for
4 participation in the medical assistance program. Partnership
5 sponsors may prescribe reasonable additional qualifications
6 for participation by medical providers, only with the prior
7 written approval of the Illinois Department.

8 Nothing in this Section shall limit the free choice of
9 practitioners, hospitals, and other providers of medical
10 services by clients. In order to ensure patient freedom of
11 choice, the Illinois Department shall immediately promulgate
12 all rules and take all other necessary actions so that provided
13 services may be accessed from therapeutically certified
14 optometrists to the full extent of the Illinois Optometric
15 Practice Act of 1987 without discriminating between service
16 providers.

17 The Department shall apply for a waiver from the United
18 States Health Care Financing Administration to allow for the
19 implementation of Partnerships under this Section.

20 The Illinois Department shall require health care
21 providers to maintain records that document the medical care
22 and services provided to recipients of Medical Assistance under
23 this Article. The Illinois Department shall require health care
24 providers to make available, when authorized by the patient, in
25 writing, the medical records in a timely fashion to other
26 health care providers who are treating or serving persons

1 eligible for Medical Assistance under this Article. All
2 dispensers of medical services shall be required to maintain
3 and retain business and professional records sufficient to
4 fully and accurately document the nature, scope, details and
5 receipt of the health care provided to persons eligible for
6 medical assistance under this Code, in accordance with
7 regulations promulgated by the Illinois Department. The rules
8 and regulations shall require that proof of the receipt of
9 prescription drugs, dentures, prosthetic devices and
10 eyeglasses by eligible persons under this Section accompany
11 each claim for reimbursement submitted by the dispenser of such
12 medical services. No such claims for reimbursement shall be
13 approved for payment by the Illinois Department without such
14 proof of receipt, unless the Illinois Department shall have put
15 into effect and shall be operating a system of post-payment
16 audit and review which shall, on a sampling basis, be deemed
17 adequate by the Illinois Department to assure that such drugs,
18 dentures, prosthetic devices and eyeglasses for which payment
19 is being made are actually being received by eligible
20 recipients. Within 90 days after the effective date of this
21 amendatory Act of 1984, the Illinois Department shall establish
22 a current list of acquisition costs for all prosthetic devices
23 and any other items recognized as medical equipment and
24 supplies reimbursable under this Article and shall update such
25 list on a quarterly basis, except that the acquisition costs of
26 all prescription drugs shall be updated no less frequently than

1 every 30 days as required by Section 5-5.12.

2 The rules and regulations of the Illinois Department shall
3 require that a written statement including the required opinion
4 of a physician shall accompany any claim for reimbursement for
5 abortions, or induced miscarriages or premature births. This
6 statement shall indicate what procedures were used in providing
7 such medical services.

8 The Illinois Department shall require all dispensers of
9 medical services, other than an individual practitioner or
10 group of practitioners, desiring to participate in the Medical
11 Assistance program established under this Article to disclose
12 all financial, beneficial, ownership, equity, surety or other
13 interests in any and all firms, corporations, partnerships,
14 associations, business enterprises, joint ventures, agencies,
15 institutions or other legal entities providing any form of
16 health care services in this State under this Article.

17 The Illinois Department may require that all dispensers of
18 medical services desiring to participate in the medical
19 assistance program established under this Article disclose,
20 under such terms and conditions as the Illinois Department may
21 by rule establish, all inquiries from clients and attorneys
22 regarding medical bills paid by the Illinois Department, which
23 inquiries could indicate potential existence of claims or liens
24 for the Illinois Department.

25 Enrollment of a vendor that provides non-emergency medical
26 transportation, defined by the Department by rule, shall be

1 conditional for 180 days. During that time, the Department of
2 Healthcare and Family Services may terminate the vendor's
3 eligibility to participate in the medical assistance program
4 without cause. That termination of eligibility is not subject
5 to the Department's hearing process.

6 The Illinois Department shall establish policies,
7 procedures, standards and criteria by rule for the acquisition,
8 repair and replacement of orthotic and prosthetic devices and
9 durable medical equipment. Such rules shall provide, but not be
10 limited to, the following services: (1) immediate repair or
11 replacement of such devices by recipients without medical
12 authorization; and (2) rental, lease, purchase or
13 lease-purchase of durable medical equipment in a
14 cost-effective manner, taking into consideration the
15 recipient's medical prognosis, the extent of the recipient's
16 needs, and the requirements and costs for maintaining such
17 equipment. Such rules shall enable a recipient to temporarily
18 acquire and use alternative or substitute devices or equipment
19 pending repairs or replacements of any device or equipment
20 previously authorized for such recipient by the Department.

21 The Department shall execute, relative to the nursing home
22 prescreening project, written inter-agency agreements with the
23 Department of Human Services and the Department on Aging, to
24 effect the following: (i) intake procedures and common
25 eligibility criteria for those persons who are receiving
26 non-institutional services; and (ii) the establishment and

1 development of non-institutional services in areas of the State
2 where they are not currently available or are undeveloped.

3 The Illinois Department shall develop and operate, in
4 cooperation with other State Departments and agencies and in
5 compliance with applicable federal laws and regulations,
6 appropriate and effective systems of health care evaluation and
7 programs for monitoring of utilization of health care services
8 and facilities, as it affects persons eligible for medical
9 assistance under this Code.

10 The Illinois Department shall report annually to the
11 General Assembly, no later than the second Friday in April of
12 1979 and each year thereafter, in regard to:

13 (a) actual statistics and trends in utilization of
14 medical services by public aid recipients;

15 (b) actual statistics and trends in the provision of
16 the various medical services by medical vendors;

17 (c) current rate structures and proposed changes in
18 those rate structures for the various medical vendors; and

19 (d) efforts at utilization review and control by the
20 Illinois Department.

21 The period covered by each report shall be the 3 years
22 ending on the June 30 prior to the report. The report shall
23 include suggested legislation for consideration by the General
24 Assembly. The filing of one copy of the report with the
25 Speaker, one copy with the Minority Leader and one copy with
26 the Clerk of the House of Representatives, one copy with the

1 President, one copy with the Minority Leader and one copy with
2 the Secretary of the Senate, one copy with the Legislative
3 Research Unit, and such additional copies with the State
4 Government Report Distribution Center for the General Assembly
5 as is required under paragraph (t) of Section 7 of the State
6 Library Act shall be deemed sufficient to comply with this
7 Section.

8 Notwithstanding any other rulemaking authority that may
9 exist, neither the Governor nor any agency or agency head under
10 the jurisdiction of the Governor has any authority to make or
11 promulgate rules to implement or enforce the provisions of this
12 amendatory Act of the 95th General Assembly. If, however, the
13 Governor believes that rules are necessary to implement or
14 enforce the provisions of this amendatory Act of the 95th
15 General Assembly, the Governor may suggest rules to the General
16 Assembly by filing them with the Clerk of the House and
17 Secretary of the Senate and by requesting that the General
18 Assembly authorize such rulemaking by law, enact those
19 suggested rules into law, or take any other appropriate action
20 in the General Assembly's discretion. Nothing contained in this
21 amendatory Act of the 95th General Assembly shall be
22 interpreted to grant rulemaking authority under any other
23 Illinois statute where such authority is not otherwise
24 explicitly given. For the purposes of this amendatory Act of
25 the 95th General Assembly, "rules" is given the meaning
26 contained in Section 1-70 of the Illinois Administrative

1 Procedure Act, and "agency" and "agency head" are given the
2 meanings contained in Sections 1-20 and 1-25 of the Illinois
3 Administrative Procedure Act to the extent that such
4 definitions apply to agencies or agency heads under the
5 jurisdiction of the Governor.

6 (Source: P.A. 95-331, eff. 8-21-07; 95-520, eff. 8-28-07.)