

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:

12 1. Recipients of basic maintenance grants under  
13 Articles III and IV.

14 2. Persons otherwise eligible for basic maintenance  
15 under Articles III and IV but who fail to qualify  
16 thereunder on the basis of need, and who have insufficient  
17 income and resources to meet the costs of necessary medical  
18 care, including but not limited to the following:

19 (a) All persons otherwise eligible for basic  
20 maintenance under Article III but who fail to qualify  
21 under that Article on the basis of need and who meet  
22 either of the following requirements:

23 (i) their income, as determined by the

1 Illinois Department in accordance with any federal  
2 requirements, is equal to or less than 70% in  
3 fiscal year 2001, equal to or less than 85% in  
4 fiscal year 2002 and until a date to be determined  
5 by the Department by rule, and equal to or less  
6 than 100% beginning on the date determined by the  
7 Department by rule, of the nonfarm income official  
8 poverty line, as defined by the federal Office of  
9 Management and Budget and revised annually in  
10 accordance with Section 673(2) of the Omnibus  
11 Budget Reconciliation Act of 1981, applicable to  
12 families of the same size; or

13 (ii) their income, after the deduction of  
14 costs incurred for medical care and for other types  
15 of remedial care, is equal to or less than 70% in  
16 fiscal year 2001, equal to or less than 85% in  
17 fiscal year 2002 and until a date to be determined  
18 by the Department by rule, and equal to or less  
19 than 100% beginning on the date determined by the  
20 Department by rule, of the nonfarm income official  
21 poverty line, as defined in item (i) of this  
22 subparagraph (a).

23 (b) All persons who would be determined eligible  
24 for such basic maintenance under Article IV by  
25 disregarding the maximum earned income permitted by  
26 federal law.

1           3. Persons who would otherwise qualify for Aid to the  
2 Medically Indigent under Article VII.

3           4. Persons not eligible under any of the preceding  
4 paragraphs who fall sick, are injured, or die, not having  
5 sufficient money, property or other resources to meet the  
6 costs of necessary medical care or funeral and burial  
7 expenses.

8           5.(a) Women during pregnancy, after the fact of  
9 pregnancy has been determined by medical diagnosis, and  
10 during the 60-day period beginning on the last day of the  
11 pregnancy, together with their infants and children born  
12 after September 30, 1983, whose income and resources are  
13 insufficient to meet the costs of necessary medical care to  
14 the maximum extent possible under Title XIX of the Federal  
15 Social Security Act.

16           (b) The Illinois Department and the Governor shall  
17 provide a plan for coverage of the persons eligible under  
18 paragraph 5(a) by April 1, 1990. Such plan shall provide  
19 ambulatory prenatal care to pregnant women during a  
20 presumptive eligibility period and establish an income  
21 eligibility standard that is equal to 133% of the nonfarm  
22 income official poverty line, as defined by the federal  
23 Office of Management and Budget and revised annually in  
24 accordance with Section 673(2) of the Omnibus Budget  
25 Reconciliation Act of 1981, applicable to families of the  
26 same size, provided that costs incurred for medical care

1 are not taken into account in determining such income  
2 eligibility.

3 (c) The Illinois Department may conduct a  
4 demonstration in at least one county that will provide  
5 medical assistance to pregnant women, together with their  
6 infants and children up to one year of age, where the  
7 income eligibility standard is set up to 185% of the  
8 nonfarm income official poverty line, as defined by the  
9 federal Office of Management and Budget. The Illinois  
10 Department shall seek and obtain necessary authorization  
11 provided under federal law to implement such a  
12 demonstration. Such demonstration may establish resource  
13 standards that are not more restrictive than those  
14 established under Article IV of this Code.

15 6. Persons under the age of 18 who fail to qualify as  
16 dependent under Article IV and who have insufficient income  
17 and resources to meet the costs of necessary medical care  
18 to the maximum extent permitted under Title XIX of the  
19 Federal Social Security Act.

20 7. Persons who are under 21 years of age and would  
21 qualify as disabled as defined under the Federal  
22 Supplemental Security Income Program, provided medical  
23 service for such persons would be eligible for Federal  
24 Financial Participation, and provided the Illinois  
25 Department determines that:

26 (a) the person requires a level of care provided by

1 a hospital, skilled nursing facility, or intermediate  
2 care facility, as determined by a physician licensed to  
3 practice medicine in all its branches;

4 (b) it is appropriate to provide such care outside  
5 of an institution, as determined by a physician  
6 licensed to practice medicine in all its branches;

7 (c) the estimated amount which would be expended  
8 for care outside the institution is not greater than  
9 the estimated amount which would be expended in an  
10 institution.

11 8. Persons who become ineligible for basic maintenance  
12 assistance under Article IV of this Code in programs  
13 administered by the Illinois Department due to employment  
14 earnings and persons in assistance units comprised of  
15 adults and children who become ineligible for basic  
16 maintenance assistance under Article VI of this Code due to  
17 employment earnings. The plan for coverage for this class  
18 of persons shall:

19 (a) extend the medical assistance coverage for up  
20 to 12 months following termination of basic  
21 maintenance assistance; and

22 (b) offer persons who have initially received 6  
23 months of the coverage provided in paragraph (a) above,  
24 the option of receiving an additional 6 months of  
25 coverage, subject to the following:

26 (i) such coverage shall be pursuant to

1 provisions of the federal Social Security Act;

2 (ii) such coverage shall include all services  
3 covered while the person was eligible for basic  
4 maintenance assistance;

5 (iii) no premium shall be charged for such  
6 coverage; and

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

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

24 10. Participants in the long-term care insurance  
25 partnership program established under the Partnership for  
26 Long-Term Care Act who meet the qualifications for

1 protection of resources described in Section 25 of that  
2 Act.

3 11. Persons with disabilities who are employed and  
4 eligible for Medicaid, pursuant to Section  
5 1902(a)(10)(A)(ii)(xv) of the Social Security Act, as  
6 provided by the Illinois Department by rule. In  
7 establishing eligibility standards under this paragraph  
8 11, the Department shall, subject to federal approval:

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

11 (b) exempt retirement accounts that the person  
12 cannot access without penalty before the age of 59 1/2,  
13 and medical savings accounts established pursuant to  
14 26 U.S.C. 220;

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

18 (d) continue to apply subparagraphs (b) and (c) in  
19 determining the eligibility of the person under this  
20 Article even if the person loses eligibility under this  
21 paragraph 11.

22 12. Subject to federal approval, persons who are  
23 eligible for medical assistance coverage under applicable  
24 provisions of the federal Social Security Act and the  
25 federal Breast and Cervical Cancer Prevention and  
26 Treatment Act of 2000. Those eligible persons are defined

1 to include, but not be limited to, the following persons:

2 (1) persons who have been screened for breast or  
3 cervical cancer under the U.S. Centers for Disease  
4 Control and Prevention Breast and Cervical Cancer  
5 Program established under Title XV of the federal  
6 Public Health Services Act in accordance with the  
7 requirements of Section 1504 of that Act as  
8 administered by the Illinois Department of Public  
9 Health; and

10 (2) persons whose screenings under the above  
11 program were funded in whole or in part by funds  
12 appropriated to the Illinois Department of Public  
13 Health for breast or cervical cancer screening.

14 "Medical assistance" under this paragraph 12 shall be  
15 identical to the benefits provided under the State's  
16 approved plan under Title XIX of the Social Security Act.  
17 The Department must request federal approval of the  
18 coverage under this paragraph 12 within 30 days after the  
19 effective date of this amendatory Act of the 92nd General  
20 Assembly.

21 In addition to the women who are eligible for medical  
22 assistance pursuant to subparagraphs (1) and (2) of this  
23 paragraph 12, all uninsured women residing in Illinois who  
24 are at least 35 years of age but less than 65 years of age  
25 are eligible for medical assistance benefits that are  
26 consistent with the benefits provided to those women

1 described in paragraphs (1) and (2). Medical assistance  
2 coverage for the women who are eligible under the preceding  
3 sentence is not dependent on federal approval, but federal  
4 moneys may be used to pay for services provided under that  
5 coverage upon federal approval.

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

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

1           this paragraph 14. If an individual has an appeal pending  
2           regarding an application for asylum before the Department  
3           of Homeland Security, eligibility under this paragraph 14  
4           may be extended until a final decision is rendered on the  
5           appeal. The Department may adopt rules governing the  
6           implementation of this paragraph 14.

7           The Illinois Department and the Governor shall provide a  
8           plan for coverage of the persons eligible under paragraph 7 as  
9           soon as possible after July 1, 1984.

10          The eligibility of any such person for medical assistance  
11          under this Article is not affected by the payment of any grant  
12          under the Senior Citizens and Disabled Persons Property Tax  
13          Relief and Pharmaceutical Assistance Act or any distributions  
14          or items of income described under subparagraph (X) of  
15          paragraph (2) of subsection (a) of Section 203 of the Illinois  
16          Income Tax Act. The Department shall by rule establish the  
17          amounts of assets to be disregarded in determining eligibility  
18          for medical assistance, which shall at a minimum equal the  
19          amounts to be disregarded under the Federal Supplemental  
20          Security Income Program. The amount of assets of a single  
21          person to be disregarded shall not be less than \$2,000, and the  
22          amount of assets of a married couple to be disregarded shall  
23          not be less than \$3,000.

24          To the extent permitted under federal law, any person found  
25          guilty of a second violation of Article VIII A shall be  
26          ineligible for medical assistance under this Article, as

1 provided in Section 8A-8.

2 The eligibility of any person for medical assistance under  
3 this Article shall not be affected by the receipt by the person  
4 of donations or benefits from fundraisers held for the person  
5 in cases of serious illness, as long as neither the person nor  
6 members of the person's family have actual control over the  
7 donations or benefits or the disbursement of the donations or  
8 benefits.

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

1 contained in Section 1-70 of the Illinois Administrative  
2 Procedure Act, and "agency" and "agency head" are given the  
3 meanings contained in Sections 1-20 and 1-25 of the Illinois  
4 Administrative Procedure Act to the extent that such  
5 definitions apply to agencies or agency heads under the  
6 jurisdiction of the Governor.

7 (Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06;  
8 95-546, eff. 8-29-07.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.