



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4150

Introduced 2/27/2009, by Rep. Ronald A. Wait

#### SYNOPSIS AS INTRODUCED:

215 ILCS 106/30

215 ILCS 170/40

305 ILCS 5/5-4.1

305 ILCS 5/5-5

from Ch. 23, par. 5-4.1

from Ch. 23, par. 5-5

Amends the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, and the Illinois Public Aid Code. Provides that in implementing the tobacco use cessation program covered under the medical assistance program, the Department of Healthcare and Family Services may develop a formulary of covered medications, which may include over-the-counter medications if they are prescribed by a physician, a physician's assistant, or an advanced practice nurse with prescriptive authority delegated under the Nurse Practice Act who issues a prescription for such a medication in accordance with a written collaborative agreement under the Nurse Practice Act. Provides that there shall be no co-payment or other cost-sharing requirement for any prescribed tobacco use cessation medication under the medical assistance program, the Children's Health Insurance Program, or the Covering ALL KIDS Health Insurance Program. Requires the Department of Healthcare and Family Services to make any changes in the State's approved plan under Title XIX of the Social Security Act necessary to ensure that these provisions apply to the Children's Health Insurance Program and the Covering ALL KIDS Health Insurance Program. Effective immediately.

LRB096 08315 DRJ 18423 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 Children's Health Insurance Program Act is  
5 amended by changing Section 30 as follows:

6 (215 ILCS 106/30)

7 Sec. 30. Cost sharing.

8 (a) Children enrolled in a health benefits program pursuant  
9 to subdivision (a)(2) of Section 25 and persons enrolled in a  
10 health benefits waiver program pursuant to Section 40 shall be  
11 subject to the following cost sharing requirements:

12 (1) There shall be no co-payment required for well-baby  
13 or well-child care, including age-appropriate  
14 immunizations as required under federal law.

15 (1.5) There shall be no co-payment or other  
16 cost-sharing requirement for any tobacco use cessation  
17 medication prescribed by a physician, by a physician's  
18 assistant, or by an advanced practice nurse with  
19 prescriptive authority delegated under Section 65-40 of  
20 the Nurse Practice Act who issues a prescription for such a  
21 medication in accordance with a written collaborative  
22 agreement under Section 65-35 the Nurse Practice Act.

23 (2) Health insurance premiums for family members,

1           either children or adults, in families whose household  
2           income is above 150% of the federal poverty level shall be  
3           payable monthly, subject to rules promulgated by the  
4           Department for grace periods and advance payments, and  
5           shall be as follows:

6                   (A) \$15 per month for one family member.

7                   (B) \$25 per month for 2 family members.

8                   (C) \$30 per month for 3 family members.

9                   (D) \$35 per month for 4 family members.

10                  (E) \$40 per month for 5 or more family members.

11           (3) Co-payments for children or adults in families  
12           whose income is at or below 150% of the federal poverty  
13           level, at a minimum and to the extent permitted under  
14           federal law, shall be \$2 for all medical visits and  
15           prescriptions provided under this Act.

16           (4) Co-payments for children or adults in families  
17           whose income is above 150% of the federal poverty level, at  
18           a minimum and to the extent permitted under federal law  
19           shall be as follows:

20                   (A) \$5 for medical visits.

21                   (B) \$3 for generic prescriptions and \$5 for brand  
22           name prescriptions.

23                   (C) \$25 for emergency room use for a non-emergency  
24           situation as defined by the Department by rule.

25           (5) The maximum amount of out-of-pocket expenses for  
26           co-payments shall be \$100 per family per year.

1 (b) Individuals enrolled in a privately sponsored health  
2 insurance plan pursuant to subdivision (a)(1) of Section 25  
3 shall be subject to the cost sharing provisions as stated in  
4 the privately sponsored health insurance plan.

5 (Source: P.A. 94-48, eff. 7-1-05.)

6 Section 10. The Covering ALL KIDS Health Insurance Act is  
7 amended by changing Section 40 as follows:

8 (215 ILCS 170/40)

9 (Section scheduled to be repealed on July 1, 2011)

10 Sec. 40. Cost-sharing.

11 (a) Children enrolled in the Program under subsection (a)  
12 of Section 35 are subject to the following cost-sharing  
13 requirements:

14 (1) The Department, by rule, shall set forth  
15 requirements concerning co-payments and coinsurance for  
16 health care services and monthly premiums. This  
17 cost-sharing shall be on a sliding scale based on family  
18 income. The Department may periodically modify such  
19 cost-sharing.

20 (2) Notwithstanding paragraph (1), there shall be no  
21 co-payment required for well-baby or well-child health  
22 care, including, but not limited to, age-appropriate  
23 immunizations as required under State or federal law.

24 (3) Notwithstanding paragraph (1), there shall be no

1       co-payment or other cost-sharing requirement for any  
2       tobacco use cessation medication prescribed by a  
3       physician, by a physician's assistant, or by an advanced  
4       practice nurse with prescriptive authority delegated under  
5       Section 65-40 of the Nurse Practice Act who issues a  
6       prescription for such a medication in accordance with a  
7       written collaborative agreement under Section 65-35 the  
8       Nurse Practice Act.

9       (b) Children enrolled in a privately sponsored health  
10      insurance plan under subsection (b) of Section 35 are subject  
11      to the cost-sharing provisions stated in the privately  
12      sponsored health insurance plan.

13      (c) Notwithstanding any other provision of law, rates paid  
14      by the Department shall not be used in any way to determine the  
15      usual and customary or reasonable charge, which is the charge  
16      for health care that is consistent with the average rate or  
17      charge for similar services furnished by similar providers in a  
18      certain geographic area.

19      (Source: P.A. 94-693, eff. 7-1-06.)

20      Section 15. The Illinois Public Aid Code is amended by  
21      changing Sections 5-4.1 and 5-5 as follows:

22      (305 ILCS 5/5-4.1) (from Ch. 23, par. 5-4.1)

23      Sec. 5-4.1. Co-payments. The Department may by rule provide  
24      that recipients under any Article of this Code shall pay a fee

1 as a co-payment for services. Co-payments may not exceed \$3 for  
2 brand name drugs, \$1 for other pharmacy services other than for  
3 generic drugs, and \$2 for physicians services, dental services,  
4 optical services and supplies, chiropractic services, podiatry  
5 services, and encounter rate clinic services. There shall be no  
6 co-payment for generic drugs. Notwithstanding any other  
7 provision of this Section, there shall be no co-payment or  
8 other cost-sharing requirement for any tobacco use cessation  
9 medication prescribed by a physician, by a physician's  
10 assistant, or by an advanced practice nurse with prescriptive  
11 authority delegated under Section 65-40 of the Nurse Practice  
12 Act who issues a prescription for such a medication in  
13 accordance with a written collaborative agreement under  
14 Section 65-35 the Nurse Practice Act. Co-payments may not  
15 exceed \$3 for hospital outpatient and clinic services.  
16 Provided, however, that any such rule must provide that no  
17 co-payment requirement can exist for renal dialysis, radiation  
18 therapy, cancer chemotherapy, or insulin, and other products  
19 necessary on a recurring basis, the absence of which would be  
20 life threatening, or where co-payment expenditures for  
21 required services and/or medications for chronic diseases that  
22 the Illinois Department shall by rule designate shall cause an  
23 extensive financial burden on the recipient, and provided no  
24 co-payment shall exist for emergency room encounters which are  
25 for medical emergencies.

26 (Source: P.A. 92-597, eff. 6-28-02; 93-593, eff. 8-25-03.)

1 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

2 Sec. 5-5. Medical services. The Illinois Department, by  
3 rule, shall determine the quantity and quality of and the rate  
4 of reimbursement for the medical assistance for which payment  
5 will be authorized, and the medical services to be provided,  
6 which may include all or part of the following: (1) inpatient  
7 hospital services; (2) outpatient hospital services; (3) other  
8 laboratory and X-ray services; (4) skilled nursing home  
9 services; (5) physicians' services whether furnished in the  
10 office, the patient's home, a hospital, a skilled nursing home,  
11 or elsewhere; (6) medical care, or any other type of remedial  
12 care furnished by licensed practitioners; (7) home health care  
13 services; (8) private duty nursing service; (9) clinic  
14 services; (10) dental services, including prevention and  
15 treatment of periodontal disease and dental caries disease for  
16 pregnant women; (11) physical therapy and related services;  
17 (12) prescribed drugs, dentures, and prosthetic devices; and  
18 eyeglasses prescribed by a physician skilled in the diseases of  
19 the eye, or by an optometrist, whichever the person may select;  
20 (13) other diagnostic, screening, preventive, and  
21 rehabilitative services; (14) transportation and such other  
22 expenses as may be necessary; (15) medical treatment of sexual  
23 assault survivors, as defined in Section 1a of the Sexual  
24 Assault Survivors Emergency Treatment Act, for injuries  
25 sustained as a result of the sexual assault, including

1 examinations and laboratory tests to discover evidence which  
2 may be used in criminal proceedings arising from the sexual  
3 assault; (16) the diagnosis and treatment of sickle cell  
4 anemia; and (17) any other medical care, and any other type of  
5 remedial care recognized under the laws of this State, but not  
6 including abortions, or induced miscarriages or premature  
7 births, unless, in the opinion of a physician, such procedures  
8 are necessary for the preservation of the life of the woman  
9 seeking such treatment, or except an induced premature birth  
10 intended to produce a live viable child and such procedure is  
11 necessary for the health of the mother or her unborn child. The  
12 Illinois Department, by rule, shall prohibit any physician from  
13 providing medical assistance to anyone eligible therefor under  
14 this Code where such physician has been found guilty of  
15 performing an abortion procedure in a wilful and wanton manner  
16 upon a woman who was not pregnant at the time such abortion  
17 procedure was performed. The term "any other type of remedial  
18 care" shall include nursing care and nursing home service for  
19 persons who rely on treatment by spiritual means alone through  
20 prayer for healing.

21 Notwithstanding any other provision of this Section, a  
22 comprehensive tobacco use cessation program that includes  
23 purchasing prescription drugs or prescription medical devices  
24 approved by the Food and Drug Administration ~~administration~~  
25 shall be covered under the medical assistance program under  
26 this Article for persons who are otherwise eligible for



1 assistance under this Article. In implementing the  
2 comprehensive tobacco use cessation program under this  
3 paragraph, the Department of Healthcare and Family Services may  
4 develop a formulary of covered medications, which may include  
5 over-the-counter medications if they are prescribed by a  
6 physician, by a physician's assistant, or by an advanced  
7 practice nurse with prescriptive authority delegated under  
8 Section 65-40 of the Nurse Practice Act who issues a  
9 prescription for such a medication in accordance with a written  
10 collaborative agreement under Section 65-35 of the Nurse  
11 Practice Act. The Department shall make any changes in the  
12 State's approved plan under Title XIX of the Social Security  
13 Act necessary to ensure that the provisions of this paragraph  
14 apply to the Children's Health Insurance Program as provided in  
15 Section 25 of the Children's Health Insurance Program Act and  
16 to the Covering ALL KIDS Health Insurance Program as provided  
17 in Section 35 of the Covering ALL KIDS Health Insurance Act.

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

25 The Department of Healthcare and Family Services shall  
26 provide the following services to persons eligible for

1 assistance under this Article who are participating in  
2 education, training or employment programs operated by the  
3 Department of Human Services as successor to the Department of  
4 Public Aid:

5 (1) dental services, which shall include but not be  
6 limited to prosthodontics; and

7 (2) eyeglasses prescribed by a physician skilled in the  
8 diseases of the eye, or by an optometrist, whichever the  
9 person may select.

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

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

20 The Illinois Department shall authorize the provision of,  
21 and shall authorize payment for, screening by low-dose  
22 mammography for the presence of occult breast cancer for women  
23 35 years of age or older who are eligible for medical  
24 assistance under this Article, as follows: a baseline mammogram  
25 for women 35 to 39 years of age and an annual mammogram for  
26 women 40 years of age or older. All screenings shall include a

1 physical breast exam, instruction on self-examination and  
2 information regarding the frequency of self-examination and  
3 its value as a preventative tool. As used in this Section,  
4 "low-dose mammography" means the x-ray examination of the  
5 breast using equipment dedicated specifically for mammography,  
6 including the x-ray tube, filter, compression device, image  
7 receptor, and cassettes, with an average radiation exposure  
8 delivery of less than one rad mid-breast, with 2 views for each  
9 breast.

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

22 All medical providers providing medical assistance to  
23 pregnant women under this Code shall receive information from  
24 the Department on the availability of services under the Drug  
25 Free Families with a Future or any comparable program providing  
26 case management services for addicted women, including

1 information on appropriate referrals for other social services  
2 that may be needed by addicted women in addition to treatment  
3 for addiction.

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

12 Neither the Department of Healthcare and Family Services  
13 nor the Department of Human Services shall sanction the  
14 recipient solely on the basis of her substance abuse.

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

24 The Illinois Department may develop and contract with  
25 Partnerships of medical providers to arrange medical services  
26 for persons eligible under Section 5-2 of this Code.

1 Implementation of this Section may be by demonstration projects  
2 in certain geographic areas. The Partnership shall be  
3 represented by a sponsor organization. The Department, by rule,  
4 shall develop qualifications for sponsors of Partnerships.  
5 Nothing in this Section shall be construed to require that the  
6 sponsor organization be a medical organization.

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

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

22 (2) The Department may elect to consider and negotiate  
23 financial incentives to encourage the development of  
24 Partnerships and the efficient delivery of medical care.

25 (3) Persons receiving medical services through  
26 Partnerships may receive medical and case management

1 services above the level usually offered through the  
2 medical assistance program.

3 Medical providers shall be required to meet certain  
4 qualifications to participate in Partnerships to ensure the  
5 delivery of high quality medical services. These  
6 qualifications shall be determined by rule of the Illinois  
7 Department and may be higher than qualifications for  
8 participation in the medical assistance program. Partnership  
9 sponsors may prescribe reasonable additional qualifications  
10 for participation by medical providers, only with the prior  
11 written approval of the Illinois Department.

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

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

24 The Illinois Department shall require health care  
25 providers to maintain records that document the medical care  
26 and services provided to recipients of Medical Assistance under

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

1 and any other items recognized as medical equipment and  
2 supplies reimbursable under this Article and shall update such  
3 list on a quarterly basis, except that the acquisition costs of  
4 all prescription drugs shall be updated no less frequently than  
5 every 30 days as required by Section 5-5.12.

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

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

21 The Illinois Department may require that all dispensers of  
22 medical services desiring to participate in the medical  
23 assistance program established under this Article disclose,  
24 under such terms and conditions as the Illinois Department may  
25 by rule establish, all inquiries from clients and attorneys  
26 regarding medical bills paid by the Illinois Department, which



1 inquiries could indicate potential existence of claims or liens  
2 for the Illinois Department.

3 Enrollment of a vendor that provides non-emergency medical  
4 transportation, defined by the Department by rule, shall be  
5 conditional for 180 days. During that time, the Department of  
6 Healthcare and Family Services may terminate the vendor's  
7 eligibility to participate in the medical assistance program  
8 without cause. That termination of eligibility is not subject  
9 to the Department's hearing process.

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

25 The Department shall execute, relative to the nursing home  
26 prescreening project, written inter-agency agreements with the

1 Department of Human Services and the Department on Aging, to  
2 effect the following: (i) intake procedures and common  
3 eligibility criteria for those persons who are receiving  
4 non-institutional services; and (ii) the establishment and  
5 development of non-institutional services in areas of the State  
6 where they are not currently available or are undeveloped.

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

14 The Illinois Department shall report annually to the  
15 General Assembly, no later than the second Friday in April of  
16 1979 and each year thereafter, in regard to:

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

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

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

23 (d) efforts at utilization review and control by the  
24 Illinois Department.

25 The period covered by each report shall be the 3 years  
26 ending on the June 30 prior to the report. The report shall

1 include suggested legislation for consideration by the General  
2 Assembly. The filing of one copy of the report with the  
3 Speaker, one copy with the Minority Leader and one copy with  
4 the Clerk of the House of Representatives, one copy with the  
5 President, one copy with the Minority Leader and one copy with  
6 the Secretary of the Senate, one copy with the Legislative  
7 Research Unit, and such additional copies with the State  
8 Government Report Distribution Center for the General Assembly  
9 as is required under paragraph (t) of Section 7 of the State  
10 Library Act shall be deemed sufficient to comply with this  
11 Section.

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

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.