



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5676

Introduced 2/9/2010, by Rep. Ronald A. Wait

SYNOPSIS AS INTRODUCED:

215 ILCS 106/30

215 ILCS 170/40

305 ILCS 5/5-4.1

from Ch. 23, par. 5-4.1

305 ILCS 5/5-5

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. Contains a nonacceleration clause. Effective immediately.

LRB096 18883 RPM 34270 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 (Text of Section before amendment by P.A. 96-806)

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

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

26 Notwithstanding any other provision of this Section, a

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

23 Notwithstanding any other provision of this Code, the
24 Illinois Department may not require, as a condition of payment
25 for any laboratory test authorized under this Article, that a
26 physician's handwritten signature appear on the laboratory

1 test order form. The Illinois Department may, however, impose
2 other appropriate requirements regarding laboratory test order
3 documentation.

4 The Department of Healthcare and Family Services shall
5 provide the following services to persons eligible for
6 assistance under this Article who are participating in
7 education, training or employment programs operated by the
8 Department of Human Services as successor to the Department of
9 Public Aid:

10 (1) dental services provided by or under the
11 supervision of a dentist; and

12 (2) eyeglasses prescribed by a physician skilled in the
13 diseases of the eye, or by an optometrist, whichever the
14 person may select.

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

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

25 The Illinois Department shall authorize the provision of,
26 and shall authorize payment for, screening by low-dose

1 mammography for the presence of occult breast cancer for women
2 35 years of age or older who are eligible for medical
3 assistance under this Article, as follows:

4 (A) A baseline mammogram for women 35 to 39 years of
5 age.

6 (B) An annual mammogram for women 40 years of age or
7 older.

8 (C) A mammogram at the age and intervals considered
9 medically necessary by the woman's health care provider for
10 women under 40 years of age and having a family history of
11 breast cancer, prior personal history of breast cancer,
12 positive genetic testing, or other risk factors.

13 (D) A comprehensive ultrasound screening of an entire
14 breast or breasts if a mammogram demonstrates
15 heterogeneous or dense breast tissue, when medically
16 necessary as determined by a physician licensed to practice
17 medicine in all of its branches.

18 All screenings shall include a physical breast exam,
19 instruction on self-examination and information regarding the
20 frequency of self-examination and its value as a preventative
21 tool. For purposes of this Section, "low-dose mammography"
22 means the x-ray examination of the breast using equipment
23 dedicated specifically for mammography, including the x-ray
24 tube, filter, compression device, and image receptor, with an
25 average radiation exposure delivery of less than one rad per
26 breast for 2 views of an average size breast. The term also

1 includes digital mammography.

2 On and after July 1, 2008, screening and diagnostic
3 mammography shall be reimbursed at the same rate as the
4 Medicare program's rates, including the increased
5 reimbursement for digital mammography.

6 The Department shall convene an expert panel including
7 representatives of hospitals, free-standing mammography
8 facilities, and doctors, including radiologists, to establish
9 quality standards. Based on these quality standards, the
10 Department shall provide for bonus payments to mammography
11 facilities meeting the standards for screening and diagnosis.
12 The bonus payments shall be at least 15% higher than the
13 Medicare rates for mammography.

14 Subject to federal approval, the Department shall
15 establish a rate methodology for mammography at federally
16 qualified health centers and other encounter-rate clinics.
17 These clinics or centers may also collaborate with other
18 hospital-based mammography facilities.

19 The Department shall establish a methodology to remind
20 women who are age-appropriate for screening mammography, but
21 who have not received a mammogram within the previous 18
22 months, of the importance and benefit of screening mammography.

23 The Department shall establish a performance goal for
24 primary care providers with respect to their female patients
25 over age 40 receiving an annual mammogram. This performance
26 goal shall be used to provide additional reimbursement in the

1 form of a quality performance bonus to primary care providers
2 who meet that goal.

3 The Department shall devise a means of case-managing or
4 patient navigation for beneficiaries diagnosed with breast
5 cancer. This program shall initially operate as a pilot program
6 in areas of the State with the highest incidence of mortality
7 related to breast cancer. At least one pilot program site shall
8 be in the metropolitan Chicago area and at least one site shall
9 be outside the metropolitan Chicago area. An evaluation of the
10 pilot program shall be carried out measuring health outcomes
11 and cost of care for those served by the pilot program compared
12 to similarly situated patients who are not served by the pilot
13 program.

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

26 All medical providers providing medical assistance to

1 pregnant women under this Code shall receive information from
2 the Department on the availability of services under the Drug
3 Free Families with a Future or any comparable program providing
4 case management services for addicted women, including
5 information on appropriate referrals for other social services
6 that may be needed by addicted women in addition to treatment
7 for addiction.

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

16 Neither the Department of Healthcare and Family Services
17 nor the Department of Human Services shall sanction the
18 recipient solely on the basis of her substance abuse.

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

1 procedures to the Illinois Department.

2 The Illinois Department may develop and contract with
3 Partnerships of medical providers to arrange medical services
4 for persons eligible under Section 5-2 of this Code.
5 Implementation of this Section may be by demonstration projects
6 in certain geographic areas. The Partnership shall be
7 represented by a sponsor organization. The Department, by rule,
8 shall develop qualifications for sponsors of Partnerships.
9 Nothing in this Section shall be construed to require that the
10 sponsor organization be a medical organization.

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

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

26 (2) The Department may elect to consider and negotiate

1 financial incentives to encourage the development of
2 Partnerships and the efficient delivery of medical care.

3 (3) Persons receiving medical services through
4 Partnerships may receive medical and case management
5 services above the level usually offered through the
6 medical assistance program.

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

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

25 The Department shall apply for a waiver from the United
26 States Health Care Financing Administration to allow for the

1 implementation of Partnerships under this Section.

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

1 is being made are actually being received by eligible
2 recipients. Within 90 days after the effective date of this
3 amendatory Act of 1984, the Illinois Department shall establish
4 a current list of acquisition costs for all prosthetic devices
5 and any other items recognized as medical equipment and
6 supplies reimbursable under this Article and shall update such
7 list on a quarterly basis, except that the acquisition costs of
8 all prescription drugs shall be updated no less frequently than
9 every 30 days as required by Section 5-5.12.

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

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

25 The Illinois Department may require that all dispensers of
26 medical services desiring to participate in the medical

1 assistance program established under this Article disclose,
2 under such terms and conditions as the Illinois Department may
3 by rule establish, all inquiries from clients and attorneys
4 regarding medical bills paid by the Illinois Department, which
5 inquiries could indicate potential existence of claims or liens
6 for the Illinois Department.

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

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

1 pending repairs or replacements of any device or equipment
2 previously authorized for such recipient by the Department.

3 The Department shall execute, relative to the nursing home
4 prescreening project, written inter-agency agreements with the
5 Department of Human Services and the Department on Aging, to
6 effect the following: (i) intake procedures and common
7 eligibility criteria for those persons who are receiving
8 non-institutional services; and (ii) the establishment and
9 development of non-institutional services in areas of the State
10 where they are not currently available or are undeveloped.

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

18 The Illinois Department shall report annually to the
19 General Assembly, no later than the second Friday in April of
20 1979 and each year thereafter, in regard to:

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

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

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

1 (d) efforts at utilization review and control by the
2 Illinois Department.

3 The period covered by each report shall be the 3 years
4 ending on the June 30 prior to the report. The report shall
5 include suggested legislation for consideration by the General
6 Assembly. The filing of one copy of the report with the
7 Speaker, one copy with the Minority Leader and one copy with
8 the Clerk of the House of Representatives, one copy with the
9 President, one copy with the Minority Leader and one copy with
10 the Secretary of the Senate, one copy with the Legislative
11 Research Unit, and such additional copies with the State
12 Government Report Distribution Center for the General Assembly
13 as is required under paragraph (t) of Section 7 of the State
14 Library Act shall be deemed sufficient to comply with this
15 Section.

16 Rulemaking authority to implement Public Act 95-1045 ~~this~~
17 ~~amendatory Act of the 95th General Assembly~~, if any, is
18 conditioned on the rules being adopted in accordance with all
19 provisions of the Illinois Administrative Procedure Act and all
20 rules and procedures of the Joint Committee on Administrative
21 Rules; any purported rule not so adopted, for whatever reason,
22 is unauthorized.

23 (Source: P.A. 95-331, eff. 8-21-07; 95-520, eff. 8-28-07;
24 95-1045, eff. 3-27-09; 96-156, eff. 1-1-10; revised 11-4-09.)

25 (Text of Section after amendment by P.A. 96-806)

1 Sec. 5-5. Medical services. The Illinois Department, by
2 rule, shall determine the quantity and quality of and the rate
3 of reimbursement for the medical assistance for which payment
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7 laboratory and X-ray services; (4) skilled nursing home
8 services; (5) physicians' services whether furnished in the
9 office, the patient's home, a hospital, a skilled nursing home,
10 or elsewhere; (6) medical care, or any other type of remedial
11 care furnished by licensed practitioners; (7) home health care
12 services; (8) private duty nursing service; (9) clinic
13 services; (10) dental services, including prevention and
14 treatment of periodontal disease and dental caries disease for
15 pregnant women, provided by an individual licensed to practice
16 dentistry or dental surgery; for purposes of this item (10),
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18 procedures provided by or under the supervision of a dentist in
19 the practice of his or her profession; (11) physical therapy
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21 prosthetic devices; and eyeglasses prescribed by a physician
22 skilled in the diseases of the eye, or by an optometrist,
23 whichever the person may select; (13) other diagnostic,
24 screening, preventive, and rehabilitative services; (14)
25 transportation and such other expenses as may be necessary;
26 (15) medical treatment of sexual assault survivors, as defined

1 in Section 1a of the Sexual Assault Survivors Emergency
2 Treatment Act, for injuries sustained as a result of the sexual
3 assault, including examinations and laboratory tests to
4 discover evidence which may be used in criminal proceedings
5 arising from the sexual assault; (16) the diagnosis and
6 treatment of sickle cell anemia; and (17) any other medical
7 care, and any other type of remedial care recognized under the
8 laws of this State, but not including abortions, or induced
9 miscarriages or premature births, unless, in the opinion of a
10 physician, such procedures are necessary for the preservation
11 of the life of the woman seeking such treatment, or except an
12 induced premature birth intended to produce a live viable child
13 and such procedure is necessary for the health of the mother or
14 her unborn child. The Illinois Department, by rule, shall
15 prohibit any physician from providing medical assistance to
16 anyone eligible therefor under this Code where such physician
17 has been found guilty of performing an abortion procedure in a
18 wilful and wanton manner upon a woman who was not pregnant at
19 the time such abortion procedure was performed. The term "any
20 other type of remedial care" shall include nursing care and
21 nursing home service for persons who rely on treatment by
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24 comprehensive tobacco use cessation program that includes
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2 this Article for persons who are otherwise eligible for
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7 over-the-counter medications if they are prescribed by a
8 physician, by a physician's assistant, or by an advanced
9 practice nurse with prescriptive authority delegated under
10 Section 65-40 of the Nurse Practice Act who issues a
11 prescription for such a medication in accordance with a written
12 collaborative agreement under Section 65-35 of the Nurse
13 Practice Act. The Department shall make any changes in the
14 State's approved plan under Title XIX of the Social Security
15 Act necessary to ensure that the provisions of this paragraph
16 apply to the Children's Health Insurance Program as provided in
17 Section 25 of the Children's Health Insurance Program Act and
18 to the Covering ALL KIDS Health Insurance Program as provided
19 in Section 35 of the Covering ALL KIDS Health Insurance Act.

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

1 The Department of Healthcare and Family Services shall
2 provide the following services to persons eligible for
3 assistance under this Article who are participating in
4 education, training or employment programs operated by the
5 Department of Human Services as successor to the Department of
6 Public Aid:

7 (1) dental services provided by or under the
8 supervision of a dentist; and

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

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

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

22 The Illinois Department shall authorize the provision of,
23 and shall authorize payment for, screening by low-dose
24 mammography for the presence of occult breast cancer for women
25 35 years of age or older who are eligible for medical
26 assistance under this Article, as follows:

1 (A) A baseline mammogram for women 35 to 39 years of
2 age.

3 (B) An annual mammogram for women 40 years of age or
4 older.

5 (C) A mammogram at the age and intervals considered
6 medically necessary by the woman's health care provider for
7 women under 40 years of age and having a family history of
8 breast cancer, prior personal history of breast cancer,
9 positive genetic testing, or other risk factors.

10 (D) A comprehensive ultrasound screening of an entire
11 breast or breasts if a mammogram demonstrates
12 heterogeneous or dense breast tissue, when medically
13 necessary as determined by a physician licensed to practice
14 medicine in all of its branches.

15 All screenings shall include a physical breast exam,
16 instruction on self-examination and information regarding the
17 frequency of self-examination and its value as a preventative
18 tool. For purposes of this Section, "low-dose mammography"
19 means the x-ray examination of the breast using equipment
20 dedicated specifically for mammography, including the x-ray
21 tube, filter, compression device, and image receptor, with an
22 average radiation exposure delivery of less than one rad per
23 breast for 2 views of an average size breast. The term also
24 includes digital mammography.

25 On and after July 1, 2008, screening and diagnostic
26 mammography shall be reimbursed at the same rate as the

1 Medicare program's rates, including the increased
2 reimbursement for digital mammography.

3 The Department shall convene an expert panel including
4 representatives of hospitals, free-standing mammography
5 facilities, and doctors, including radiologists, to establish
6 quality standards. Based on these quality standards, the
7 Department shall provide for bonus payments to mammography
8 facilities meeting the standards for screening and diagnosis.
9 The bonus payments shall be at least 15% higher than the
10 Medicare rates for mammography.

11 Subject to federal approval, the Department shall
12 establish a rate methodology for mammography at federally
13 qualified health centers and other encounter-rate clinics.
14 These clinics or centers may also collaborate with other
15 hospital-based mammography facilities.

16 The Department shall establish a methodology to remind
17 women who are age-appropriate for screening mammography, but
18 who have not received a mammogram within the previous 18
19 months, of the importance and benefit of screening mammography.

20 The Department shall establish a performance goal for
21 primary care providers with respect to their female patients
22 over age 40 receiving an annual mammogram. This performance
23 goal shall be used to provide additional reimbursement in the
24 form of a quality performance bonus to primary care providers
25 who meet that goal.

26 The Department shall devise a means of case-managing or

1 patient navigation for beneficiaries diagnosed with breast
2 cancer. This program shall initially operate as a pilot program
3 in areas of the State with the highest incidence of mortality
4 related to breast cancer. At least one pilot program site shall
5 be in the metropolitan Chicago area and at least one site shall
6 be outside the metropolitan Chicago area. An evaluation of the
7 pilot program shall be carried out measuring health outcomes
8 and cost of care for those served by the pilot program compared
9 to similarly situated patients who are not served by the pilot
10 program.

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

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

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

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

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

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

25 Notwithstanding any other provision of law, a health care
26 provider under the medical assistance program may elect, in

1 lieu of receiving direct payment for services provided under
2 that program, to participate in the State Employees Deferred
3 Compensation Plan adopted under Article 24 of the Illinois
4 Pension Code. A health care provider who elects to participate
5 in the plan does not have a cause of action against the State
6 for any damages allegedly suffered by the provider as a result
7 of any delay by the State in crediting the amount of any
8 contribution to the provider's plan account.

9 The Illinois Department may develop and contract with
10 Partnerships of medical providers to arrange medical services
11 for persons eligible under Section 5-2 of this Code.
12 Implementation of this Section may be by demonstration projects
13 in certain geographic areas. The Partnership shall be
14 represented by a sponsor organization. The Department, by rule,
15 shall develop qualifications for sponsors of Partnerships.
16 Nothing in this Section shall be construed to require that the
17 sponsor organization be a medical organization.

18 The sponsor must negotiate formal written contracts with
19 medical providers for physician services, inpatient and
20 outpatient hospital care, home health services, treatment for
21 alcoholism and substance abuse, and other services determined
22 necessary by the Illinois Department by rule for delivery by
23 Partnerships. Physician services must include prenatal and
24 obstetrical care. The Illinois Department shall reimburse
25 medical services delivered by Partnership providers to clients
26 in target areas according to provisions of this Article and the

1 Illinois Health Finance Reform Act, except that:

2 (1) Physicians participating in a Partnership and
3 providing certain services, which shall be determined by
4 the Illinois Department, to persons in areas covered by the
5 Partnership may receive an additional surcharge for such
6 services.

7 (2) The Department may elect to consider and negotiate
8 financial incentives to encourage the development of
9 Partnerships and the efficient delivery of medical care.

10 (3) Persons receiving medical services through
11 Partnerships may receive medical and case management
12 services above the level usually offered through the
13 medical assistance program.

14 Medical providers shall be required to meet certain
15 qualifications to participate in Partnerships to ensure the
16 delivery of high quality medical services. These
17 qualifications shall be determined by rule of the Illinois
18 Department and may be higher than qualifications for
19 participation in the medical assistance program. Partnership
20 sponsors may prescribe reasonable additional qualifications
21 for participation by medical providers, only with the prior
22 written approval of the Illinois Department.

23 Nothing in this Section shall limit the free choice of
24 practitioners, hospitals, and other providers of medical
25 services by clients. In order to ensure patient freedom of
26 choice, the Illinois Department shall immediately promulgate

1 all rules and take all other necessary actions so that provided
2 services may be accessed from therapeutically certified
3 optometrists to the full extent of the Illinois Optometric
4 Practice Act of 1987 without discriminating between service
5 providers.

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

9 The Illinois Department shall require health care
10 providers to maintain records that document the medical care
11 and services provided to recipients of Medical Assistance under
12 this Article. The Illinois Department shall require health care
13 providers to make available, when authorized by the patient, in
14 writing, the medical records in a timely fashion to other
15 health care providers who are treating or serving persons
16 eligible for Medical Assistance under this Article. All
17 dispensers of medical services shall be required to maintain
18 and retain business and professional records sufficient to
19 fully and accurately document the nature, scope, details and
20 receipt of the health care provided to persons eligible for
21 medical assistance under this Code, in accordance with
22 regulations promulgated by the Illinois Department. The rules
23 and regulations shall require that proof of the receipt of
24 prescription drugs, dentures, prosthetic devices and
25 eyeglasses by eligible persons under this Section accompany
26 each claim for reimbursement submitted by the dispenser of such

1 medical services. No such claims for reimbursement shall be
2 approved for payment by the Illinois Department without such
3 proof of receipt, unless the Illinois Department shall have put
4 into effect and shall be operating a system of post-payment
5 audit and review which shall, on a sampling basis, be deemed
6 adequate by the Illinois Department to assure that such drugs,
7 dentures, prosthetic devices and eyeglasses for which payment
8 is being made are actually being received by eligible
9 recipients. Within 90 days after the effective date of this
10 amendatory Act of 1984, the Illinois Department shall establish
11 a current list of acquisition costs for all prosthetic devices
12 and any other items recognized as medical equipment and
13 supplies reimbursable under this Article and shall update such
14 list on a quarterly basis, except that the acquisition costs of
15 all prescription drugs shall be updated no less frequently than
16 every 30 days as required by Section 5-5.12.

17 The rules and regulations of the Illinois Department shall
18 require that a written statement including the required opinion
19 of a physician shall accompany any claim for reimbursement for
20 abortions, or induced miscarriages or premature births. This
21 statement shall indicate what procedures were used in providing
22 such medical services.

23 The Illinois Department shall require all dispensers of
24 medical services, other than an individual practitioner or
25 group of practitioners, desiring to participate in the Medical
26 Assistance program established under this Article to disclose

1 all financial, beneficial, ownership, equity, surety or other
2 interests in any and all firms, corporations, partnerships,
3 associations, business enterprises, joint ventures, agencies,
4 institutions or other legal entities providing any form of
5 health care services in this State under this Article.

6 The Illinois Department may require that all dispensers of
7 medical services desiring to participate in the medical
8 assistance program established under this Article disclose,
9 under such terms and conditions as the Illinois Department may
10 by rule establish, all inquiries from clients and attorneys
11 regarding medical bills paid by the Illinois Department, which
12 inquiries could indicate potential existence of claims or liens
13 for the Illinois Department.

14 Enrollment of a vendor that provides non-emergency medical
15 transportation, defined by the Department by rule, shall be
16 conditional for 180 days. During that time, the Department of
17 Healthcare and Family Services may terminate the vendor's
18 eligibility to participate in the medical assistance program
19 without cause. That termination of eligibility is not subject
20 to the Department's hearing process.

21 The Illinois Department shall establish policies,
22 procedures, standards and criteria by rule for the acquisition,
23 repair and replacement of orthotic and prosthetic devices and
24 durable medical equipment. Such rules shall provide, but not be
25 limited to, the following services: (1) immediate repair or
26 replacement of such devices by recipients without medical

1 authorization; and (2) rental, lease, purchase or
2 lease-purchase of durable medical equipment in a
3 cost-effective manner, taking into consideration the
4 recipient's medical prognosis, the extent of the recipient's
5 needs, and the requirements and costs for maintaining such
6 equipment. Such rules shall enable a recipient to temporarily
7 acquire and use alternative or substitute devices or equipment
8 pending repairs or replacements of any device or equipment
9 previously authorized for such recipient by the Department.

10 The Department shall execute, relative to the nursing home
11 prescreening project, written inter-agency agreements with the
12 Department of Human Services and the Department on Aging, to
13 effect the following: (i) intake procedures and common
14 eligibility criteria for those persons who are receiving
15 non-institutional services; and (ii) the establishment and
16 development of non-institutional services in areas of the State
17 where they are not currently available or are undeveloped.

18 The Illinois Department shall develop and operate, in
19 cooperation with other State Departments and agencies and in
20 compliance with applicable federal laws and regulations,
21 appropriate and effective systems of health care evaluation and
22 programs for monitoring of utilization of health care services
23 and facilities, as it affects persons eligible for medical
24 assistance under this Code.

25 The Illinois Department shall report annually to the
26 General Assembly, no later than the second Friday in April of

1 1979 and each year thereafter, in regard to:

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

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

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

8 (d) efforts at utilization review and control by the
9 Illinois Department.

10 The period covered by each report shall be the 3 years
11 ending on the June 30 prior to the report. The report shall
12 include suggested legislation for consideration by the General
13 Assembly. The filing of one copy of the report with the
14 Speaker, one copy with the Minority Leader and one copy with
15 the Clerk of the House of Representatives, one copy with the
16 President, one copy with the Minority Leader and one copy with
17 the Secretary of the Senate, one copy with the Legislative
18 Research Unit, and such additional copies with the State
19 Government Report Distribution Center for the General Assembly
20 as is required under paragraph (t) of Section 7 of the State
21 Library Act shall be deemed sufficient to comply with this
22 Section.

23 Rulemaking authority to implement Public Act 95-1045 ~~this~~
24 ~~amendatory Act of the 95th General Assembly~~, if any, is
25 conditioned on the rules being adopted in accordance with all
26 provisions of the Illinois Administrative Procedure Act and all

1 rules and procedures of the Joint Committee on Administrative
2 Rules; any purported rule not so adopted, for whatever reason,
3 is unauthorized.

4 (Source: P.A. 95-331, eff. 8-21-07; 95-520, eff. 8-28-07;
5 95-1045, eff. 3-27-09; 96-156, eff. 1-1-10; 96-806, eff.
6 7-1-10; revised 11-4-09.)

7 Section 95. No acceleration or delay. Where this Act makes
8 changes in a statute that is represented in this Act by text
9 that is not yet or no longer in effect (for example, a Section
10 represented by multiple versions), the use of that text does
11 not accelerate or delay the taking effect of (i) the changes
12 made by this Act or (ii) provisions derived from any other
13 Public Act.

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