



Executive Committee

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1 AMENDMENT TO SENATE BILL 367

2 AMENDMENT NO. _____. Amend Senate Bill 367 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by
5 changing Section 5-2 and adding Section 12-4.38 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, excluding any eligibility
16 requirements that are inconsistent with any federal law or

1 federal regulation, as interpreted by the U.S. Department
2 of Health and Human Services, but who fail to qualify
3 thereunder on the basis of need or who qualify but are not
4 receiving basic maintenance under Article IV, and who have
5 insufficient income and resources to meet the costs of
6 necessary medical care, including but not limited to the
7 following:

8 (a) All persons otherwise eligible for basic
9 maintenance under Article III but who fail to qualify
10 under that Article on the basis of need and who meet
11 either of the following requirements:

12 (i) their income, as determined by the
13 Illinois Department in accordance with any federal
14 requirements, is equal to or less than 70% in
15 fiscal year 2001, equal to or less than 85% in
16 fiscal year 2002 and until a date to be determined
17 by the Department by rule, and equal to or less
18 than 100% beginning on the date determined by the
19 Department by rule, of the nonfarm income official
20 poverty line, as defined by the federal Office of
21 Management and Budget and revised annually in
22 accordance with Section 673(2) of the Omnibus
23 Budget Reconciliation Act of 1981, applicable to
24 families of the same size; or

25 (ii) their income, after the deduction of
26 costs incurred for medical care and for other types

1 of remedial care, is equal to or less than 70% in
2 fiscal year 2001, equal to or less than 85% in
3 fiscal year 2002 and until a date to be determined
4 by the Department by rule, and equal to or less
5 than 100% beginning on the date determined by the
6 Department by rule, of the nonfarm income official
7 poverty line, as defined in item (i) of this
8 subparagraph (a).

9 (b) All persons who, excluding any eligibility
10 requirements that are inconsistent with any federal
11 law or federal regulation, as interpreted by the U.S.
12 Department of Health and Human Services, would be
13 determined eligible for such basic maintenance under
14 Article IV by disregarding the maximum earned income
15 permitted by federal law.

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

18 4. Persons not eligible under any of the preceding
19 paragraphs who fall sick, are injured, or die, not having
20 sufficient money, property or other resources to meet the
21 costs of necessary medical care or funeral and burial
22 expenses.

23 5.(a) Women during pregnancy, after the fact of
24 pregnancy has been determined by medical diagnosis, and
25 during the 60-day period beginning on the last day of the
26 pregnancy, together with their infants and children born

1 after September 30, 1983, whose income and resources are
2 insufficient to meet the costs of necessary medical care to
3 the maximum extent possible under Title XIX of the Federal
4 Social Security Act.

5 (b) The Illinois Department and the Governor shall
6 provide a plan for coverage of the persons eligible under
7 paragraph 5(a) by April 1, 1990. Such plan shall provide
8 ambulatory prenatal care to pregnant women during a
9 presumptive eligibility period and establish an income
10 eligibility standard that is equal to 133% of the nonfarm
11 income official poverty line, as defined by the federal
12 Office of Management and Budget and revised annually in
13 accordance with Section 673(2) of the Omnibus Budget
14 Reconciliation Act of 1981, applicable to families of the
15 same size, provided that costs incurred for medical care
16 are not taken into account in determining such income
17 eligibility.

18 (c) The Illinois Department may conduct a
19 demonstration in at least one county that will provide
20 medical assistance to pregnant women, together with their
21 infants and children up to one year of age, where the
22 income eligibility standard is set up to 185% of the
23 nonfarm income official poverty line, as defined by the
24 federal Office of Management and Budget. The Illinois
25 Department shall seek and obtain necessary authorization
26 provided under federal law to implement such a

1 demonstration. Such demonstration may establish resource
2 standards that are not more restrictive than those
3 established under Article IV of this Code.

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

9 7. Persons who are under 21 years of age and would
10 qualify as disabled as defined under the Federal
11 Supplemental Security Income Program, provided medical
12 service for such persons would be eligible for Federal
13 Financial Participation, and provided the Illinois
14 Department determines that:

15 (a) the person requires a level of care provided by
16 a hospital, skilled nursing facility, or intermediate
17 care facility, as determined by a physician licensed to
18 practice medicine in all its branches;

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

22 (c) the estimated amount which would be expended
23 for care outside the institution is not greater than
24 the estimated amount which would be expended in an
25 institution.

26 8. Persons who become ineligible for basic maintenance

1 assistance under Article IV of this Code in programs
2 administered by the Illinois Department due to employment
3 earnings and persons in assistance units comprised of
4 adults and children who become ineligible for basic
5 maintenance assistance under Article VI of this Code due to
6 employment earnings. The plan for coverage for this class
7 of persons shall:

8 (a) extend the medical assistance coverage for up
9 to 12 months following termination of basic
10 maintenance assistance; and

11 (b) offer persons who have initially received 6
12 months of the coverage provided in paragraph (a) above,
13 the option of receiving an additional 6 months of
14 coverage, subject to the following:

15 (i) such coverage shall be pursuant to
16 provisions of the federal Social Security Act;

17 (ii) such coverage shall include all services
18 covered while the person was eligible for basic
19 maintenance assistance;

20 (iii) no premium shall be charged for such
21 coverage; and

22 (iv) such coverage shall be suspended in the
23 event of a person's failure without good cause to
24 file in a timely fashion reports required for this
25 coverage under the Social Security Act and
26 coverage shall be reinstated upon the filing of

1 such reports if the person remains otherwise
2 eligible.

3 9. Persons with acquired immunodeficiency syndrome
4 (AIDS) or with AIDS-related conditions with respect to whom
5 there has been a determination that but for home or
6 community-based services such individuals would require
7 the level of care provided in an inpatient hospital,
8 skilled nursing facility or intermediate care facility the
9 cost of which is reimbursed under this Article. Assistance
10 shall be provided to such persons to the maximum extent
11 permitted under Title XIX of the Federal Social Security
12 Act.

13 10. Participants in the long-term care insurance
14 partnership program established under the Illinois
15 Long-Term Care Partnership Program Act who meet the
16 qualifications for protection of resources described in
17 Section 15 of that Act.

18 11. Persons with disabilities who are employed and
19 eligible for Medicaid, pursuant to Section
20 1902(a)(10)(A)(ii)(xv) of the Social Security Act, as
21 provided by the Illinois Department by rule. In
22 establishing eligibility standards under this paragraph
23 11, the Department shall, subject to federal approval:

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

26 (b) exempt retirement accounts that the person

1 cannot access without penalty before the age of 59 1/2,
2 and medical savings accounts established pursuant to
3 26 U.S.C. 220;

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

7 (d) continue to apply subparagraphs (b) and (c) in
8 determining the eligibility of the person under this
9 Article even if the person loses eligibility under this
10 paragraph 11.

11 12. Subject to federal approval, persons who are
12 eligible for medical assistance coverage under applicable
13 provisions of the federal Social Security Act and the
14 federal Breast and Cervical Cancer Prevention and
15 Treatment Act of 2000. Those eligible persons are defined
16 to include, but not be limited to, the following persons:

17 (1) persons who have been screened for breast or
18 cervical cancer under the U.S. Centers for Disease
19 Control and Prevention Breast and Cervical Cancer
20 Program established under Title XV of the federal
21 Public Health Services Act in accordance with the
22 requirements of Section 1504 of that Act as
23 administered by the Illinois Department of Public
24 Health; and

25 (2) persons whose screenings under the above
26 program were funded in whole or in part by funds

1 appropriated to the Illinois Department of Public
2 Health for breast or cervical cancer screening.

3 "Medical assistance" under this paragraph 12 shall be
4 identical to the benefits provided under the State's
5 approved plan under Title XIX of the Social Security Act.
6 The Department must request federal approval of the
7 coverage under this paragraph 12 within 30 days after the
8 effective date of this amendatory Act of the 92nd General
9 Assembly.

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

15 14. Subject to the availability of funds for this
16 purpose, the Department may provide coverage under this
17 Article to persons who reside in Illinois who are not
18 eligible under any of the preceding paragraphs and who meet
19 the income guidelines of paragraph 2(a) of this Section and
20 (i) have an application for asylum pending before the
21 federal Department of Homeland Security or on appeal before
22 a court of competent jurisdiction and are represented
23 either by counsel or by an advocate accredited by the
24 federal Department of Homeland Security and employed by a
25 not-for-profit organization in regard to that application
26 or appeal, or (ii) are receiving services through a

1 federally funded torture treatment center. Medical
2 coverage under this paragraph 14 may be provided for up to
3 24 continuous months from the initial eligibility date so
4 long as an individual continues to satisfy the criteria of
5 this paragraph 14. If an individual has an appeal pending
6 regarding an application for asylum before the Department
7 of Homeland Security, eligibility under this paragraph 14
8 may be extended until a final decision is rendered on the
9 appeal. The Department may adopt rules governing the
10 implementation of this paragraph 14.

11 15. Family Care Eligibility.

12 (a) A caretaker relative who is 19 years of age or
13 older when countable income is at or below 185% of the
14 Federal Poverty Level Guidelines, as published
15 annually in the Federal Register, for the appropriate
16 family size. A person may not spend down to become
17 eligible under this paragraph 15.

18 (b) Eligibility shall be reviewed annually.

19 (c) Caretaker relatives enrolled under this
20 paragraph 15 in families with countable income above
21 150% and at or below 185% of the Federal Poverty Level
22 Guidelines shall be counted as family members and pay
23 premiums as established under the Children's Health
24 Insurance Program Act.

25 (d) Premiums shall be billed by and payable to the
26 Department or its authorized agent, on a monthly basis.

1 (e) The premium due date is the last day of the
2 month preceding the month of coverage.

3 (f) Individuals shall have a grace period through
4 the month of coverage to pay the premium.

5 (g) Failure to pay the full monthly premium by the
6 last day of the grace period shall result in
7 termination of coverage.

8 (h) Partial premium payments shall not be
9 refunded.

10 (i) Following termination of an individual's
11 coverage under this paragraph 15, the following action
12 is required before the individual can be re-enrolled:

13 (1) A new application must be completed and the
14 individual must be determined otherwise eligible.

15 (2) There must be full payment of premiums due
16 under this Code, the Children's Health Insurance
17 Program Act, the Covering ALL KIDS Health
18 Insurance Act, or any other healthcare program
19 administered by the Department for periods in
20 which a premium was owed and not paid for the
21 individual.

22 (3) The first month's premium must be paid if
23 there was an unpaid premium on the date the
24 individual's previous coverage was canceled.

25 The Department is authorized to implement the
26 provisions of this amendatory Act of the 95th General

1 Assembly by adopting the medical assistance rules in effect
2 as of October 1, 2007, at 89 Ill. Admin. Code 125, and at
3 89 Ill. Admin. Code 120.32 along with only those changes
4 necessary to conform to federal Medicaid requirements,
5 federal laws, and federal regulations, including but not
6 limited to Section 1931 of the Social Security Act (42
7 U.S.C. Sec. 1396u-1), as interpreted by the U.S. Department
8 of Health and Human Services, and the countable income
9 eligibility standard authorized by this paragraph 15. The
10 Department may not otherwise adopt any rule to implement
11 this increase except as authorized by law, to meet the
12 eligibility standards authorized by the federal government
13 in the Medicaid State Plan or the Title XXI Plan, or to
14 meet an order from the federal government or any court.

15 In implementing the provisions of this amendatory Act of
16 the 96th General Assembly, the Department is authorized to
17 adopt only those rules necessary, including emergency rules.
18 Nothing in this amendatory Act of the 96th General Assembly
19 permits the Department to adopt rules or issue a decision that
20 expands eligibility for the FamilyCare Program to a person
21 whose income exceeds 185% of the Federal Poverty Level as
22 determined from time to time by the U.S. Department of Health
23 and Human Services, unless the Department is provided with
24 express statutory authority.

25 The Illinois Department and the Governor shall provide a
26 plan for coverage of the persons eligible under paragraph 7 as

1 soon as possible after July 1, 1984.

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

16 To the extent permitted under federal law, any person found
17 guilty of a second violation of Article VIII A shall be
18 ineligible for medical assistance under this Article, as
19 provided in Section 8A-8.

20 The eligibility of any person for medical assistance under
21 this Article shall not be affected by the receipt by the person
22 of donations or benefits from fundraisers held for the person
23 in cases of serious illness, as long as neither the person nor
24 members of the person's family have actual control over the
25 donations or benefits or the disbursement of the donations or
26 benefits.

1 (Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06;
2 95-546, eff. 8-29-07; 95-1055, eff. 4-10-09.)

3 (305 ILCS 5/12-4.38 new)

4 Sec. 12-4.38. Special FamilyCare provisions.

5 (a) The Department of Healthcare and Family Services may
6 submit to the Comptroller, and the Comptroller is authorized to
7 pay, on behalf of persons enrolled in the FamilyCare Program,
8 claims for services rendered to an enrollee during the period
9 beginning October 1, 2007, and ending on the effective date of
10 any rules adopted to implement the provisions of this
11 amendatory Act of the 96th General Assembly. The authorization
12 for payment of claims applies only to bona fide claims for
13 payment for services rendered. Any claim for payment which is
14 authorized pursuant to the provisions of this amendatory Act of
15 the 96th General Assembly must adhere to all other applicable
16 rules, regulations, and requirements.

17 (b) Each person enrolled in the FamilyCare Program as of
18 the effective date of this amendatory Act of the 96th General
19 Assembly whose income exceeds 185% of the Federal Poverty
20 Level, but is not more than 400% of the Federal Poverty Level,
21 may remain enrolled in the FamilyCare Program pursuant to this
22 subsection so long as that person continues to meet the
23 eligibility criteria established under the emergency rule at 89
24 Ill. Adm. Code 133 (Illinois Register Volume 31, page 15854)
25 filed November 7, 2007. In no case may a person continue to be

1 enrolled in the FamilyCare Program pursuant to this subsection
2 if the person's income rises above 400% of the Federal Poverty
3 Level or falls below 185% of the Federal Poverty Level at any
4 subsequent time. Nothing contained in this subsection shall
5 prevent an individual from enrolling in the FamilyCare Program
6 as authorized by paragraph 15 of Section 5-2 of this Code if he
7 or she otherwise qualifies under that Section.

8 (c) In implementing the provisions of this amendatory Act
9 of the 96th General Assembly, the Department of Healthcare and
10 Family Services is authorized to adopt only those rules
11 necessary, including emergency rules. Nothing in this
12 amendatory Act of the 96th General Assembly permits the
13 Department to adopt rules or issue a decision that expands
14 eligibility for the FamilyCare Program to a person whose income
15 exceeds 185% of the Federal Poverty Level as determined from
16 time to time by the U.S. Department of Health and Human
17 Services, unless the Department is provided with express
18 statutory authority

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."