



## 98TH GENERAL ASSEMBLY

### State of Illinois

#### 2013 and 2014

##### HB3347

by Rep. Jil Tracy

#### SYNOPSIS AS INTRODUCED:

|                       |                          |
|-----------------------|--------------------------|
| New Act               |                          |
| 305 ILCS 5/11-22      | from Ch. 23, par. 11-22  |
| 305 ILCS 5/11-22a     | from Ch. 23, par. 11-22a |
| 305 ILCS 5/11-22b     | from Ch. 23, par. 11-22b |
| 305 ILCS 5/11-22c     | from Ch. 23, par. 11-22c |
| 330 ILCS 126/Act rep. |                          |

Creates the Military Emergency Direct Insurance Contingency Act and the Military Emergency Direct Insurance Contingency Program under the Act. Provides for the administration of the program by the Department of Healthcare and Family Services. Sets forth eligibility requirements for veterans. Requires the Department to purchase or provide health care benefits for eligible veterans that are identical to the benefits provided to adults under the State's Medicaid program, except for nursing facility services and non-emergency transportation. Includes provisions for co-payments and monthly premiums for health care services. Gives the Department a charge upon claims and causes of action and a right of subrogation, and gives the Department the right to recover the reasonable value of benefits provided. Requires an annual report to the General Assembly by January 1 of each year beginning in 2014. Amends the Illinois Public Aid Code to add cross-references to the Military Emergency Direct Insurance Contingency Act. Repeals the Veterans' Health Insurance Program Act of 2008. Repeals the Military Emergency Direct Insurance Contingency Act on January 1, 2017. Effective immediately.

LRB098 08311 RPM 38416 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Military Emergency Direct Insurance Contingency Act.

6 Section 3. Legislative intent. The General Assembly finds  
7 that those who have served their country honorably in military  
8 service and who are residing in this State deserve access to  
9 affordable, comprehensive health insurance. Many veterans are  
10 uninsured and unable to afford healthcare. This lack of  
11 healthcare, including preventative care, often exacerbates  
12 health conditions. The effects of lack of insurance negatively  
13 impact those residents of the State who are insured because the  
14 cost of paying for care to the uninsured is often shifted to  
15 those who have insurance in the form of higher health insurance  
16 premiums. It is, therefore, the intent of this legislation to  
17 provide access to affordable health insurance for veterans  
18 residing in Illinois who are unable to afford such coverage.  
19 However, the State has only a limited amount of resources, and  
20 the General Assembly therefore declares that while it intends  
21 to cover as many such veterans as possible, the State may not  
22 be able to cover every eligible person who qualifies for this  
23 Program as a matter of entitlement due to limited funding.

1 Section 5. Definitions. The following words have the  
2 following meanings:

3 "Department" means the Department of Healthcare and Family  
4 Services, or any successor agency.

5 "Director" means the Director of Healthcare and Family  
6 Services, or any successor agency.

7 "Medical assistance" means health care benefits provided  
8 under Article V of the Illinois Public Aid Code.

9 "Program" means the Military Emergency Direct Insurance  
10 Contingency Program.

11 "Resident" means an individual who has an Illinois  
12 residence, as provided in Section 5-3 of the Illinois Public  
13 Aid Code.

14 "Veteran" means any person who has served in a branch of  
15 the United States military for greater than 180 consecutive  
16 days after initial training.

17 "Veterans Affairs" or "VA" means the United States  
18 Department of Veterans Affairs.

19 Section 10. Operation of the Program.

20 (a) The Military Emergency Direct Insurance Contingency  
21 Program is created. This Program is not an entitlement.  
22 Enrollment is based on the availability of funds, and  
23 enrollment may be capped based on funds appropriated for the  
24 Program. As soon as practical after the effective date of this

1 Act, coverage for this Program shall begin. The Program shall  
2 be administered by the Department of Healthcare and Family  
3 Services in collaboration with the Department of Veterans'  
4 Affairs. The Department shall have the same powers and  
5 authority to administer the Program as are provided to the  
6 Department in connection with the Department's administration  
7 of the Illinois Public Aid Code. The Department shall  
8 coordinate the Program with other health programs operated by  
9 the Department and other State and federal agencies.

10 (b) The Department shall operate the Program in a manner so  
11 that the estimated cost of the Program during the fiscal year  
12 will not exceed the total appropriation for the Program. The  
13 Department may take any appropriate action to limit spending or  
14 enrollment into the Program, including, but not limited to,  
15 ceasing to accept or process applications, reviewing  
16 eligibility more frequently than annually, adjusting  
17 cost-sharing, or reducing the income threshold for eligibility  
18 as necessary to control expenditures for the Program.

19 Section 15. Eligibility.

20 (a) To be eligible for the Program, a person must:

21 (1) be a veteran who is not on active duty and who has  
22 not been dishonorably discharged from service;

23 (2) be a resident of the State of Illinois;

24 (3) be at least 19 years of age and no older than 64  
25 years of age;

1 (4) be uninsured, as defined by the Department by rule,  
2 for a period of time established by the Department by rule,  
3 which shall be no less than 6 months;

4 (5) not be eligible for medical assistance under the  
5 Illinois Public Aid Code;

6 (6) not be eligible for medical benefits through the  
7 Veterans Health Administration; except that if he or she is  
8 eligible for services provided at a VA facility but resides  
9 60 miles or more from such a facility, he or she is  
10 eligible for the Program; and

11 (7) have a household income no greater than the sum of  
12 (i) an amount equal to 25% of the federal poverty level  
13 plus (ii) an amount equal to the Veterans Administration  
14 means test income threshold at the initiation of the  
15 Program; depending on the availability of funds, this level  
16 may be increased to an amount equal to the sum of (iii) an  
17 amount equal to 50% of the federal poverty level plus (iv)  
18 an amount equal to the Veterans Administration means test  
19 income threshold. This means test income threshold is  
20 subject to alteration by the Department as set forth in  
21 subsection (b) of Section 10.

22 (b) A veteran who is determined eligible for the Program  
23 shall remain eligible for 12 months, provided the veteran  
24 remains a resident of the State and is not excluded under  
25 subsection (c) of this Section and provided the Department has  
26 not limited the enrollment period as set forth in subsection

1 (b) of Section 10.

2 (b-5) If a veteran was enrolled in the program operated  
3 under the Veterans' Health Insurance Program Act of 2008 on the  
4 effective date of this Act, he or she shall be enrolled in the  
5 Program operated under this Act on that date, notwithstanding  
6 any other provision of this Act.

7 (c) A veteran is not eligible for coverage under the  
8 Program if:

9 (1) the premium required under Section 35 of this Act  
10 has not been timely paid; if the required premiums are not  
11 paid, the liability of the Program shall be limited to  
12 benefits incurred under the Program for the time period for  
13 which premiums have been paid and for grace periods as  
14 established under subsection (d); if the required monthly  
15 premium is not paid, the veteran is ineligible for  
16 re-enrollment for a minimum period of 3 months; or

17 (2) the veteran is a resident of a nursing facility or  
18 an inmate of a public institution, as defined by 42 CFR  
19 435.1009.

20 (d) The Department shall adopt rules for the Program,  
21 including, but not limited to, rules relating to eligibility,  
22 re-enrollment, grace periods, notice requirements, hearing  
23 procedures, cost-sharing, covered services, and provider  
24 requirements.

25 Section 20. Notice of decisions to terminate eligibility.

1 Whenever the Department decides to either deny or terminate  
2 eligibility under this Act, the veteran shall have a right to  
3 notice and a hearing, as provided by the Department by rule.

4 Section 25. Illinois Department of Veterans' Affairs. The  
5 Department shall coordinate with the Illinois Department of  
6 Veterans' Affairs and the Veterans Assistance Commissions to  
7 allow State Veterans' Affairs service officers and the Veterans  
8 Assistance Commissions to assist veterans to apply for the  
9 Program. All applicants must be reviewed for Veterans Health  
10 Administration eligibility or other existing health benefits  
11 prior to consideration for the Program.

12 Section 30. Health care benefits.

13 (a) For veterans eligible and enrolled, the Department  
14 shall purchase or provide health care benefits for eligible  
15 veterans that are identical to the benefits provided to adults  
16 under the State's approved plan under Title XIX of the Social  
17 Security Act, except for nursing facility services and  
18 non-emergency transportation.

19 (b) Providers shall be subject to approval by the  
20 Department to provide health care under the Illinois Public Aid  
21 Code and shall be reimbursed at the same rates as providers  
22 reimbursed under the State's approved plan under Title XIX of  
23 the Social Security Act.

24 (c) As an alternative to the benefits set forth in

1 subsection (a) of this Section, and when cost-effective, the  
2 Department may offer veterans subsidies toward the cost of  
3 privately sponsored health insurance, including  
4 employer-sponsored health insurance.

5 Section 35. Cost-sharing. The Department, by rule, shall  
6 set forth requirements concerning co-payments and monthly  
7 premiums for health care services. This cost-sharing shall be  
8 based on household income, as defined by the Department by  
9 rule, and is subject to alteration by the Department as set  
10 forth in subsection (b) of Section 10.

11 Section 40. Charge upon claims and causes of action; right  
12 of subrogation; recoveries. Sections 11-22, 11-22a, 11-22b,  
13 and 11-22c of the Illinois Public Aid Code apply to health  
14 benefits provided to veterans under this Act, as provided in  
15 those Sections.

16 Section 45. Reporting. The Department shall prepare an  
17 annual report for submission to the General Assembly. The  
18 report shall be due to the General Assembly by January 1 of  
19 each year beginning in 2014. This report shall include  
20 information regarding implementation of the Program, including  
21 the number of veterans enrolled and any available information  
22 regarding other benefits derived from the Program, including  
23 screening for and acquisition of other veterans' benefits



1 through the Veterans' Service Officers and the Veterans'  
2 Assistance Commissions. This report may also include  
3 recommendations regarding improvements that may be made to the  
4 Program and regarding the extension of the repeal date set  
5 forth in Section 85 of this Act.

6 Section 50. Emergency rulemaking. The Department may adopt  
7 rules necessary to establish and implement this Act through the  
8 use of emergency rulemaking in accordance with Section 5-45 of  
9 the Illinois Administrative Procedure Act. For the purposes of  
10 that Act, the General Assembly finds that the adoption of rules  
11 to implement this Act is deemed an emergency and necessary for  
12 the public interest, safety, and welfare.

13 Section 85. Repeal. This Act is repealed on January 1,  
14 2017.

15 Section 90. The Illinois Public Aid Code is amended by  
16 changing Sections 11-22, 11-22a, 11-22b, and 11-22c as follows:

17 (305 ILCS 5/11-22) (from Ch. 23, par. 11-22)

18 Sec. 11-22. Charge upon claims and causes of action for  
19 injuries. The Illinois Department shall have a charge upon all  
20 claims, demands and causes of action for injuries to an  
21 applicant for or recipient of (i) financial aid under Articles  
22 III, IV, and V, (ii) health care benefits provided under the

1 Covering ALL KIDS Health Insurance Act, or (iii) health care  
2 benefits provided under the Veterans' Health Insurance Program  
3 Act, ~~or~~ the Veterans' Health Insurance Program Act of 2008, or  
4 the Military Emergency Direct Insurance Contingency Act for the  
5 total amount of medical assistance provided the recipient from  
6 the time of injury to the date of recovery upon such claim,  
7 demand or cause of action. In addition, if the applicant or  
8 recipient was employable, as defined by the Department, at the  
9 time of the injury, the Department shall also have a charge  
10 upon any such claims, demands and causes of action for the  
11 total amount of aid provided to the recipient and his  
12 dependents, including all cash assistance and medical  
13 assistance only to the extent includable in the claimant's  
14 action, from the time of injury to the date of recovery upon  
15 such claim, demand or cause of action. Any definition of  
16 "employable" adopted by the Department shall apply only to  
17 persons above the age of compulsory school attendance.

18 If the injured person was employable at the time of the  
19 injury and is provided aid under Articles III, IV, or V and any  
20 dependent or member of his family is provided aid under Article  
21 VI, or vice versa, both the Illinois Department and the local  
22 governmental unit shall have a charge upon such claims, demands  
23 and causes of action for the aid provided to the injured person  
24 and any dependent member of his family, including all cash  
25 assistance, medical assistance and food stamps, from the time  
26 of the injury to the date of recovery.

1 "Recipient", as used herein, means (i) in the case of  
2 financial aid provided under this Code, the grantee of record  
3 and any persons whose needs are included in the financial aid  
4 provided to the grantee of record or otherwise met by grants  
5 under the appropriate Article of this Code for which such  
6 person is eligible, (ii) in the case of health care benefits  
7 provided under the Covering ALL KIDS Health Insurance Act, the  
8 child to whom those benefits are provided, and (iii) in the  
9 case of health care benefits provided under the Veterans'  
10 Health Insurance Program Act, ~~or~~ the Veterans' Health Insurance  
11 Program Act of 2008, or the Military Emergency Direct Insurance  
12 Contingency Act, the veteran to whom benefits are provided.

13 In each case, the notice shall be served by certified mail  
14 or registered mail, upon the party or parties against whom the  
15 applicant or recipient has a claim, demand or cause of action.  
16 The notice shall claim the charge and describe the interest the  
17 Illinois Department, the local governmental unit, or the  
18 county, has in the claim, demand, or cause of action. The  
19 charge shall attach to any verdict or judgment entered and to  
20 any money or property which may be recovered on account of such  
21 claim, demand, cause of action or suit from and after the time  
22 of the service of the notice.

23 On petition filed by the Illinois Department, or by the  
24 local governmental unit or county if either is claiming a  
25 charge, or by the recipient, or by the defendant, the court, on  
26 written notice to all interested parties, may adjudicate the

1 rights of the parties and enforce the charge. The court may  
2 approve the settlement of any claim, demand or cause of action  
3 either before or after a verdict, and nothing in this Section  
4 shall be construed as requiring the actual trial or final  
5 adjudication of any claim, demand or cause of action upon which  
6 the Illinois Department, the local governmental unit or county  
7 has charge. The court may determine what portion of the  
8 recovery shall be paid to the injured person and what portion  
9 shall be paid to the Illinois Department, the local  
10 governmental unit or county having a charge against the  
11 recovery. In making this determination, the court shall conduct  
12 an evidentiary hearing and shall consider competent evidence  
13 pertaining to the following matters:

14 (1) the amount of the charge sought to be enforced  
15 against the recovery when expressed as a percentage of the  
16 gross amount of the recovery; the amount of the charge  
17 sought to be enforced against the recovery when expressed  
18 as a percentage of the amount obtained by subtracting from  
19 the gross amount of the recovery the total attorney's fees  
20 and other costs incurred by the recipient incident to the  
21 recovery; and whether the Department, unit of local  
22 government or county seeking to enforce the charge against  
23 the recovery should as a matter of fairness and equity bear  
24 its proportionate share of the fees and costs incurred to  
25 generate the recovery from which the charge is sought to be  
26 satisfied;

1           (2) the amount, if any, of the attorney's fees and  
2 other costs incurred by the recipient incident to the  
3 recovery and paid by the recipient up to the time of  
4 recovery, and the amount of such fees and costs remaining  
5 unpaid at the time of recovery;

6           (3) the total hospital, doctor and other medical  
7 expenses incurred for care and treatment of the injury to  
8 the date of recovery therefor, the portion of such expenses  
9 theretofore paid by the recipient, by insurance provided by  
10 the recipient, and by the Department, unit of local  
11 government and county seeking to enforce a charge against  
12 the recovery, and the amount of such previously incurred  
13 expenses which remain unpaid at the time of recovery and by  
14 whom such incurred, unpaid expenses are to be paid;

15           (4) whether the recovery represents less than  
16 substantially full recompense for the injury and the  
17 hospital, doctor and other medical expenses incurred to the  
18 date of recovery for the care and treatment of the injury,  
19 so that reduction of the charge sought to be enforced  
20 against the recovery would not likely result in a double  
21 recovery or unjust enrichment to the recipient;

22           (5) the age of the recipient and of persons dependent  
23 for support upon the recipient, the nature and permanency  
24 of the recipient's injuries as they affect not only the  
25 future employability and education of the recipient but  
26 also the reasonably necessary and foreseeable future

1 material, maintenance, medical, rehabilitative and  
2 training needs of the recipient, the cost of such  
3 reasonably necessary and foreseeable future needs, and the  
4 resources available to meet such needs and pay such costs;

5 (6) the realistic ability of the recipient to repay in  
6 whole or in part the charge sought to be enforced against  
7 the recovery when judged in light of the factors enumerated  
8 above.

9 The burden of producing evidence sufficient to support the  
10 exercise by the court of its discretion to reduce the amount of  
11 a proven charge sought to be enforced against the recovery  
12 shall rest with the party seeking such reduction.

13 The court may reduce and apportion the Illinois  
14 Department's lien proportionate to the recovery of the  
15 claimant. The court may consider the nature and extent of the  
16 injury, economic and noneconomic loss, settlement offers,  
17 comparative negligence as it applies to the case at hand,  
18 hospital costs, physician costs, and all other appropriate  
19 costs. The Illinois Department shall pay its pro rata share of  
20 the attorney fees based on the Illinois Department's lien as it  
21 compares to the total settlement agreed upon. This Section  
22 shall not affect the priority of an attorney's lien under the  
23 Attorneys Lien Act. The charges of the Illinois Department  
24 described in this Section, however, shall take priority over  
25 all other liens and charges existing under the laws of the  
26 State of Illinois with the exception of the attorney's lien

1 under said statute.

2 Whenever the Department or any unit of local government has  
3 a statutory charge under this Section against a recovery for  
4 damages incurred by a recipient because of its advancement of  
5 any assistance, such charge shall not be satisfied out of any  
6 recovery until the attorney's claim for fees is satisfied,  
7 irrespective of whether or not an action based on recipient's  
8 claim has been filed in court.

9 This Section shall be inapplicable to any claim, demand or  
10 cause of action arising under (a) the Workers' Compensation Act  
11 or the predecessor Workers' Compensation Act of June 28, 1913,  
12 (b) the Workers' Occupational Diseases Act or the predecessor  
13 Workers' Occupational Diseases Act of March 16, 1936; and (c)  
14 the Wrongful Death Act.

15 (Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06;  
16 95-755, eff. 7-25-08.)

17 (305 ILCS 5/11-22a) (from Ch. 23, par. 11-22a)

18 Sec. 11-22a. Right of Subrogation. To the extent of the  
19 amount of (i) medical assistance provided by the Department to  
20 or on behalf of a recipient under Article V or VI, (ii) health  
21 care benefits provided for a child under the Covering ALL KIDS  
22 Health Insurance Act, or (iii) health care benefits provided to  
23 a veteran under the Veterans' Health Insurance Program Act, ~~or~~  
24 the Veterans' Health Insurance Program Act of 2008, or the  
25 Military Emergency Direct Insurance Contingency Act, the

1 Department shall be subrogated to any right of recovery such  
2 recipient may have under the terms of any private or public  
3 health care coverage or casualty coverage, including coverage  
4 under the "Workers' Compensation Act", approved July 9, 1951,  
5 as amended, or the "Workers' Occupational Diseases Act",  
6 approved July 9, 1951, as amended, without the necessity of  
7 assignment of claim or other authorization to secure the right  
8 of recovery to the Department. To enforce its subrogation  
9 right, the Department may (i) intervene or join in an action or  
10 proceeding brought by the recipient, his or her guardian,  
11 personal representative, estate, dependents, or survivors  
12 against any person or public or private entity that may be  
13 liable; (ii) institute and prosecute legal proceedings against  
14 any person or public or private entity that may be liable for  
15 the cost of such services; or (iii) institute and prosecute  
16 legal proceedings, to the extent necessary to reimburse the  
17 Illinois Department for its costs, against any noncustodial  
18 parent who (A) is required by court or administrative order to  
19 provide insurance or other coverage of the cost of health care  
20 services for a child eligible for medical assistance under this  
21 Code and (B) has received payment from a third party for the  
22 costs of those services but has not used the payments to  
23 reimburse either the other parent or the guardian of the child  
24 or the provider of the services.

25 (Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06;  
26 95-755, eff. 7-25-08.)



1 (305 ILCS 5/11-22b) (from Ch. 23, par. 11-22b)

2 Sec. 11-22b. Recoveries.

3 (a) As used in this Section:

4 (1) "Carrier" means any insurer, including any private  
5 company, corporation, mutual association, trust fund,  
6 reciprocal or interinsurance exchange authorized under the  
7 laws of this State to insure persons against liability or  
8 injuries caused to another and any insurer providing  
9 benefits under a policy of bodily injury liability  
10 insurance covering liability arising out of the ownership,  
11 maintenance or use of a motor vehicle which provides  
12 uninsured motorist endorsement or coverage.

13 (2) "Beneficiary" means any person or their dependents  
14 who has received benefits or will be provided benefits  
15 under this Code, under the Covering ALL KIDS Health  
16 Insurance Act, or under the Veterans' Health Insurance  
17 Program Act, ~~or~~ the Veterans' Health Insurance Program Act  
18 of 2008, or the Military Emergency Direct Insurance  
19 Contingency Act because of an injury for which another  
20 person may be liable. It includes such beneficiary's  
21 guardian, conservator or other personal representative,  
22 his estate or survivors.

23 (b) (1) When benefits are provided or will be provided to a  
24 beneficiary under this Code, under the Covering ALL KIDS Health  
25 Insurance Act, or under the Veterans' Health Insurance Program

1 Act, ~~or~~ the Veterans' Health Insurance Program Act of 2008, or  
2 the Military Emergency Direct Insurance Contingency Act  
3 because of an injury for which another person is liable, or for  
4 which a carrier is liable in accordance with the provisions of  
5 any policy of insurance issued pursuant to the Illinois  
6 Insurance Code, the Illinois Department shall have a right to  
7 recover from such person or carrier the reasonable value of  
8 benefits so provided. The Attorney General may, to enforce such  
9 right, institute and prosecute legal proceedings against the  
10 third person or carrier who may be liable for the injury in an  
11 appropriate court, either in the name of the Illinois  
12 Department or in the name of the injured person, his guardian,  
13 personal representative, estate, or survivors.

14 (2) The Department may:

15 (A) compromise or settle and release any such claim for  
16 benefits provided under this Code, or

17 (B) waive any such claims for benefits provided under  
18 this Code, in whole or in part, for the convenience of the  
19 Department or if the Department determines that collection  
20 would result in undue hardship upon the person who suffered  
21 the injury or, in a wrongful death action, upon the heirs  
22 of the deceased.

23 (3) No action taken on behalf of the Department pursuant to  
24 this Section or any judgment rendered in such action shall be a  
25 bar to any action upon the claim or cause of action of the  
26 beneficiary, his guardian, conservator, personal

1 representative, estate, dependents or survivors against the  
2 third person who may be liable for the injury, or shall operate  
3 to deny to the beneficiary the recovery for that portion of any  
4 damages not covered hereunder.

5 (c) (1) When an action is brought by the Department pursuant  
6 to subsection (b), it shall be commenced within the period  
7 prescribed by Article XIII of the Code of Civil Procedure.

8 However, the Department may not commence the action prior  
9 to 5 months before the end of the applicable period prescribed  
10 by Article XIII of the Code of Civil Procedure. Thirty days  
11 prior to commencing an action, the Department shall notify the  
12 beneficiary of the Department's intent to commence such an  
13 action.

14 (2) The death of the beneficiary does not abate any right  
15 of action established by subsection (b).

16 (3) When an action or claim is brought by persons entitled  
17 to bring such actions or assert such claims against a third  
18 person who may be liable for causing the death of a  
19 beneficiary, any settlement, judgment or award obtained is  
20 subject to the Department's claim for reimbursement of the  
21 benefits provided to the beneficiary under this Code, under the  
22 Covering ALL KIDS Health Insurance Act, or under the Veterans'  
23 Health Insurance Program Act, ~~or~~ the Veterans' Health Insurance  
24 Program Act of 2008, or the Military Emergency Direct Insurance  
25 Contingency Act.

26 (4) When the action or claim is brought by the beneficiary

1 alone and the beneficiary incurs a personal liability to pay  
2 attorney's fees and costs of litigation, the Department's claim  
3 for reimbursement of the benefits provided to the beneficiary  
4 shall be the full amount of benefits paid on behalf of the  
5 beneficiary under this Code, under the Covering ALL KIDS Health  
6 Insurance Act, or under the Veterans' Health Insurance Program  
7 Act, ~~or~~ the Veterans' Health Insurance Program Act of 2008, or  
8 the Military Emergency Direct Insurance Contingency Act less a  
9 pro rata share which represents the Department's reasonable  
10 share of attorney's fees paid by the beneficiary and that  
11 portion of the cost of litigation expenses determined by  
12 multiplying by the ratio of the full amount of the expenditures  
13 of the full amount of the judgment, award or settlement.

14 (d) (1) If either the beneficiary or the Department brings  
15 an action or claim against such third party or carrier, the  
16 beneficiary or the Department shall within 30 days of filing  
17 the action give to the other written notice by personal service  
18 or registered mail of the action or claim and of the name of  
19 the court in which the action or claim is brought. Proof of  
20 such notice shall be filed in such action or claim. If an  
21 action or claim is brought by either the Department or the  
22 beneficiary, the other may, at any time before trial on the  
23 facts, become a party to such action or claim or shall  
24 consolidate his action or claim with the other if brought  
25 independently.

26 (2) If an action or claim is brought by the Department

1 pursuant to subsection (b)(1), written notice to the  
2 beneficiary, guardian, personal representative, estate or  
3 survivor given pursuant to this Section shall advise him of his  
4 right to intervene in the proceeding, his right to obtain a  
5 private attorney of his choice and the Department's right to  
6 recover the reasonable value of the benefits provided.

7 (e) In the event of judgment or award in a suit or claim  
8 against such third person or carrier:

9 (1) If the action or claim is prosecuted by the  
10 beneficiary alone, the court shall first order paid from  
11 any judgment or award the reasonable litigation expenses  
12 incurred in preparation and prosecution of such action or  
13 claim, together with reasonable attorney's fees, when an  
14 attorney has been retained. After payment of such expenses  
15 and attorney's fees the court shall, on the application of  
16 the Department, allow as a first lien against the amount of  
17 such judgment or award the amount of the Department's  
18 expenditures for the benefit of the beneficiary under this  
19 Code, under the Covering ALL KIDS Health Insurance Act, or  
20 under the Veterans' Health Insurance Program Act, ~~or~~ the  
21 Veterans' Health Insurance Program Act of 2008, or the  
22 Military Emergency Direct Insurance Contingency Act, as  
23 provided in subsection (c)(4).

24 (2) If the action or claim is prosecuted both by the  
25 beneficiary and the Department, the court shall first order  
26 paid from any judgment or award the reasonable litigation

1 expenses incurred in preparation and prosecution of such  
2 action or claim, together with reasonable attorney's fees  
3 for plaintiffs attorneys based solely on the services  
4 rendered for the benefit of the beneficiary. After payment  
5 of such expenses and attorney's fees, the court shall apply  
6 out of the balance of such judgment or award an amount  
7 sufficient to reimburse the Department the full amount of  
8 benefits paid on behalf of the beneficiary under this Code,  
9 under the Covering ALL KIDS Health Insurance Act, or under  
10 the Veterans' Health Insurance Program Act, ~~or~~ the  
11 Veterans' Health Insurance Program Act of 2008, or the  
12 Military Emergency Direct Insurance Contingency Act.

13 (f) The court shall, upon further application at any time  
14 before the judgment or award is satisfied, allow as a further  
15 lien the amount of any expenditures of the Department in  
16 payment of additional benefits arising out of the same cause of  
17 action or claim provided on behalf of the beneficiary under  
18 this Code, under the Covering ALL KIDS Health Insurance Act, or  
19 under the Veterans' Health Insurance Program Act, ~~or~~ the  
20 Veterans' Health Insurance Program Act of 2008, or the Military  
21 Emergency Direct Insurance Contingency Act, when such benefits  
22 were provided or became payable subsequent to the original  
23 order.

24 (g) No judgment, award, or settlement in any action or  
25 claim by a beneficiary to recover damages for injuries, when  
26 the Department has an interest, shall be satisfied without

1 first giving the Department notice and a reasonable opportunity  
2 to perfect and satisfy its lien.

3 (h) When the Department has perfected a lien upon a  
4 judgment or award in favor of a beneficiary against any third  
5 party for an injury for which the beneficiary has received  
6 benefits under this Code, under the Covering ALL KIDS Health  
7 Insurance Act, or under the Veterans' Health Insurance Program  
8 Act, ~~or~~ the Veterans' Health Insurance Program Act of 2008, or  
9 the Military Emergency Direct Insurance Contingency Act, the  
10 Department shall be entitled to a writ of execution as lien  
11 claimant to enforce payment of said lien against such third  
12 party with interest and other accruing costs as in the case of  
13 other executions. In the event the amount of such judgment or  
14 award so recovered has been paid to the beneficiary, the  
15 Department shall be entitled to a writ of execution against  
16 such beneficiary to the extent of the Department's lien, with  
17 interest and other accruing costs as in the case of other  
18 executions.

19 (i) Except as otherwise provided in this Section,  
20 notwithstanding any other provision of law, the entire amount  
21 of any settlement of the injured beneficiary's action or claim,  
22 with or without suit, is subject to the Department's claim for  
23 reimbursement of the benefits provided and any lien filed  
24 pursuant thereto to the same extent and subject to the same  
25 limitations as in Section 11-22 of this Code.

26 (Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06;

1 95-755, eff. 7-25-08.)

2 (305 ILCS 5/11-22c) (from Ch. 23, par. 11-22c)

3 Sec. 11-22c. Recovery of back wages.

4 (a) As used in this Section, "recipient" means any person  
5 receiving financial assistance under Article IV or Article VI  
6 of this Code, receiving health care benefits under the Covering  
7 ALL KIDS Health Insurance Act, or receiving health care  
8 benefits under the Veterans' Health Insurance Program Act, ~~or~~  
9 the Veterans' Health Insurance Program Act of 2008, or the  
10 Military Emergency Direct Insurance Contingency Act.

11 (b) If a recipient maintains any suit, charge or other  
12 court or administrative action against an employer seeking back  
13 pay for a period during which the recipient received financial  
14 assistance under Article IV or Article VI of this Code, health  
15 care benefits under the Covering ALL KIDS Health Insurance Act,  
16 or health care benefits under the Veterans' Health Insurance  
17 Program Act, ~~or~~ the Veterans' Health Insurance Program Act of  
18 2008, or the Military Emergency Direct Insurance Contingency  
19 Act, the recipient shall report such fact to the Department. To  
20 the extent of the amount of assistance provided to or on behalf  
21 of the recipient under Article IV or Article VI, health care  
22 benefits provided under the Covering ALL KIDS Health Insurance  
23 Act, or health care benefits provided under the Veterans'  
24 Health Insurance Program Act, ~~or~~ the Veterans' Health Insurance  
25 Program Act of 2008, or the Military Emergency Direct Insurance



1 Contingency Act, the Department may by intervention or  
2 otherwise without the necessity of assignment of claim, attach  
3 a lien on the recovery of back wages equal to the amount of  
4 assistance provided by the Department to the recipient under  
5 Article IV or Article VI, under the Covering ALL KIDS Health  
6 Insurance Act, or under the Veterans' Health Insurance Program  
7 Act, ~~or~~ the Veterans' Health Insurance Program Act of 2008, or  
8 the Military Emergency Direct Insurance Contingency Act.

9 (Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06;  
10 95-755, eff. 7-25-08.)

11 (330 ILCS 126/Act rep.)

12 Section 92. The Veterans' Health Insurance Program Act of  
13 2008 is repealed.

14 Section 97. Severability. The provisions of this Act are  
15 severable under Section 1.31 of the Statute on Statutes.

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.