

# SB0749



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB0749

Introduced 1/24/2013, by Sen. John J. Cullerton

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-2

from Ch. 23, par. 5-2

Amends the Illinois Public Aid Code. Makes a technical change in a Section concerning the classes of persons eligible for Medicaid.

LRB098 04948 KTG 34978 b

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 Illinois Public Aid Code is amended by  
5 changing Section 5-2 as follows:

6 (305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

7 Sec. 5-2. Classes of Persons Eligible. Medical assistance  
8 under this Article shall be available to any of the ~~the~~  
9 following classes of persons in respect to whom a plan for  
10 coverage has been submitted to the Governor by the Illinois  
11 Department and 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  
17 federal regulation, as interpreted by the U.S. Department  
18 of Health and Human Services, but who fail to qualify  
19 thereunder on the basis of need or who qualify but are not  
20 receiving basic maintenance under Article IV, and who have  
21 insufficient income and resources to meet the costs of  
22 necessary medical care, including but not limited to the  
23 following:

1           (a) All persons otherwise eligible for basic  
2 maintenance under Article III but who fail to qualify  
3 under that Article on the basis of need and who meet  
4 either of the following requirements:

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

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

1           subparagraph (a).

2           (b) All persons who, excluding any eligibility  
3 requirements that are inconsistent with any federal  
4 law or federal regulation, as interpreted by the U.S.  
5 Department of Health and Human Services, would be  
6 determined eligible for such basic maintenance under  
7 Article IV by disregarding the maximum earned income  
8 permitted by federal law.

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

11           4. Persons not eligible under any of the preceding  
12 paragraphs who fall sick, are injured, or die, not having  
13 sufficient money, property or other resources to meet the  
14 costs of necessary medical care or funeral and burial  
15 expenses.

16           5.(a) Women during pregnancy, after the fact of  
17 pregnancy has been determined by medical diagnosis, and  
18 during the 60-day period beginning on the last day of the  
19 pregnancy, together with their infants and children born  
20 after September 30, 1983, whose income and resources are  
21 insufficient to meet the costs of necessary medical care to  
22 the maximum extent possible under Title XIX of the Federal  
23 Social Security Act.

24           (b) The Illinois Department and the Governor shall  
25 provide a plan for coverage of the persons eligible under  
26 paragraph 5(a) by April 1, 1990. Such plan shall provide

1        ambulatory prenatal care to pregnant women during a  
2        presumptive eligibility period and establish an income  
3        eligibility standard that is equal to 133% of the nonfarm  
4        income official poverty line, as defined by the federal  
5        Office of Management and Budget and revised annually in  
6        accordance with Section 673(2) of the Omnibus Budget  
7        Reconciliation Act of 1981, applicable to families of the  
8        same size, provided that costs incurred for medical care  
9        are not taken into account in determining such income  
10       eligibility.

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

23        6. Persons under the age of 18 who fail to qualify as  
24        dependent under Article IV and who have insufficient income  
25        and resources to meet the costs of necessary medical care  
26        to the maximum extent permitted under Title XIX of the

1 Federal Social Security Act.

2 7. (Blank).

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

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

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

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

20 (ii) such coverage shall include all services  
21 covered while the person was eligible for basic  
22 maintenance assistance;

23 (iii) no premium shall be charged for such  
24 coverage; and

25 (iv) such coverage shall be suspended in the  
26 event of a person's failure without good cause to

1 file in a timely fashion reports required for this  
2 coverage under the Social Security Act and  
3 coverage shall be reinstated upon the filing of  
4 such reports if the person remains otherwise  
5 eligible.

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

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

21 11. Persons with disabilities who are employed and  
22 eligible for Medicaid, pursuant to Section  
23 1902(a)(10)(A)(ii)(xv) of the Social Security Act, and,  
24 subject to federal approval, persons with a medically  
25 improved disability who are employed and eligible for  
26 Medicaid pursuant to Section 1902(a)(10)(A)(ii)(xvi) of

1 the Social Security Act, as provided by the Illinois  
2 Department by rule. In establishing eligibility standards  
3 under this paragraph 11, the Department shall, subject to  
4 federal approval:

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

7 (b) exempt retirement accounts that the person  
8 cannot access without penalty before the age of 59 1/2,  
9 and medical savings accounts established pursuant to  
10 26 U.S.C. 220;

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

14 (d) continue to apply subparagraphs (b) and (c) in  
15 determining the eligibility of the person under this  
16 Article even if the person loses eligibility under this  
17 paragraph 11.

18 12. Subject to federal approval, persons who are  
19 eligible for medical assistance coverage under applicable  
20 provisions of the federal Social Security Act and the  
21 federal Breast and Cervical Cancer Prevention and  
22 Treatment Act of 2000. Those eligible persons are defined  
23 to include, but not be limited to, the following persons:

24 (1) persons who have been screened for breast or  
25 cervical cancer under the U.S. Centers for Disease  
26 Control and Prevention Breast and Cervical Cancer



1           Program established under Title XV of the federal  
2           Public Health Services Act in accordance with the  
3           requirements of Section 1504 of that Act as  
4           administered by the Illinois Department of Public  
5           Health; and

6                   (2) persons whose screenings under the above  
7           program were funded in whole or in part by funds  
8           appropriated to the Illinois Department of Public  
9           Health for breast or cervical cancer screening.

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

17           In addition to the persons who are eligible for medical  
18           assistance pursuant to subparagraphs (1) and (2) of this  
19           paragraph 12, and to be paid from funds appropriated to the  
20           Department for its medical programs, any uninsured person  
21           as defined by the Department in rules residing in Illinois  
22           who is younger than 65 years of age, who has been screened  
23           for breast and cervical cancer in accordance with standards  
24           and procedures adopted by the Department of Public Health  
25           for screening, and who is referred to the Department by the  
26           Department of Public Health as being in need of treatment

1 for breast or cervical cancer is eligible for medical  
2 assistance benefits that are consistent with the benefits  
3 provided to those persons described in subparagraphs (1)  
4 and (2). Medical assistance coverage for the persons who  
5 are eligible under the preceding sentence is not dependent  
6 on federal approval, but federal moneys may be used to pay  
7 for services provided under that coverage upon federal  
8 approval.

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

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

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

10 15. Family Care Eligibility.

11 (a) On and after July 1, 2012, a caretaker relative  
12 who is 19 years of age or older when countable income  
13 is at or below 133% of the Federal Poverty Level  
14 Guidelines, as published annually in the Federal  
15 Register, for the appropriate family size. A person may  
16 not spend down to become eligible under this paragraph  
17 15.

18 (b) Eligibility shall be reviewed annually.

19 (c) (Blank).

20 (d) (Blank).

21 (e) (Blank).

22 (f) (Blank).

23 (g) (Blank).

24 (h) (Blank).

25 (i) Following termination of an individual's  
26 coverage under this paragraph 15, the individual must

1           be determined eligible before the person can be  
2           re-enrolled.

3           16. Subject to appropriation, uninsured persons who  
4           are not otherwise eligible under this Section who have been  
5           certified and referred by the Department of Public Health  
6           as having been screened and found to need diagnostic  
7           evaluation or treatment, or both diagnostic evaluation and  
8           treatment, for prostate or testicular cancer. For the  
9           purposes of this paragraph 16, uninsured persons are those  
10          who do not have creditable coverage, as defined under the  
11          Health Insurance Portability and Accountability Act, or  
12          have otherwise exhausted any insurance benefits they may  
13          have had, for prostate or testicular cancer diagnostic  
14          evaluation or treatment, or both diagnostic evaluation and  
15          treatment. To be eligible, a person must furnish a Social  
16          Security number. A person's assets are exempt from  
17          consideration in determining eligibility under this  
18          paragraph 16. Such persons shall be eligible for medical  
19          assistance under this paragraph 16 for so long as they need  
20          treatment for the cancer. A person shall be considered to  
21          need treatment if, in the opinion of the person's treating  
22          physician, the person requires therapy directed toward  
23          cure or palliation of prostate or testicular cancer,  
24          including recurrent metastatic cancer that is a known or  
25          presumed complication of prostate or testicular cancer and  
26          complications resulting from the treatment modalities

1 themselves. Persons who require only routine monitoring  
2 services are not considered to need treatment. "Medical  
3 assistance" under this paragraph 16 shall be identical to  
4 the benefits provided under the State's approved plan under  
5 Title XIX of the Social Security Act. Notwithstanding any  
6 other provision of law, the Department (i) does not have a  
7 claim against the estate of a deceased recipient of  
8 services under this paragraph 16 and (ii) does not have a  
9 lien against any homestead property or other legal or  
10 equitable real property interest owned by a recipient of  
11 services under this paragraph 16.

12 17. Persons who, pursuant to a waiver approved by the  
13 Secretary of the U.S. Department of Health and Human  
14 Services, are eligible for medical assistance under Title  
15 XIX or XXI of the federal Social Security Act.  
16 Notwithstanding any other provision of this Code and  
17 consistent with the terms of the approved waiver, the  
18 Illinois Department, may by rule:

19 (a) Limit the geographic areas in which the waiver  
20 program operates.

21 (b) Determine the scope, quantity, duration, and  
22 quality, and the rate and method of reimbursement, of  
23 the medical services to be provided, which may differ  
24 from those for other classes of persons eligible for  
25 assistance under this Article.

26 (c) Restrict the persons' freedom in choice of

1 providers.

2 In implementing the provisions of Public Act 96-20, the  
3 Department is authorized to adopt only those rules necessary,  
4 including emergency rules. Nothing in Public Act 96-20 permits  
5 the Department to adopt rules or issue a decision that expands  
6 eligibility for the FamilyCare Program to a person whose income  
7 exceeds 185% of the Federal Poverty Level as determined from  
8 time to time by the U.S. Department of Health and Human  
9 Services, unless the Department is provided with express  
10 statutory authority.

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

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

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

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

12           Notwithstanding any other provision of this Code, if the  
13 United States Supreme Court holds Title II, Subtitle A, Section  
14 2001(a) of Public Law 111-148 to be unconstitutional, or if a  
15 holding of Public Law 111-148 makes Medicaid eligibility  
16 allowed under Section 2001(a) inoperable, the State or a unit  
17 of local government shall be prohibited from enrolling  
18 individuals in the Medical Assistance Program as the result of  
19 federal approval of a State Medicaid waiver on or after the  
20 effective date of this amendatory Act of the 97th General  
21 Assembly, and any individuals enrolled in the Medical  
22 Assistance Program pursuant to eligibility permitted as a  
23 result of such a State Medicaid waiver shall become immediately  
24 ineligible.

25           Notwithstanding any other provision of this Code, if an Act  
26 of Congress that becomes a Public Law eliminates Section

1 2001(a) of Public Law 111-148, the State or a unit of local  
2 government shall be prohibited from enrolling individuals in  
3 the Medical Assistance Program as the result of federal  
4 approval of a State Medicaid waiver on or after the effective  
5 date of this amendatory Act of the 97th General Assembly, and  
6 any individuals enrolled in the Medical Assistance Program  
7 pursuant to eligibility permitted as a result of such a State  
8 Medicaid waiver shall become immediately ineligible.

9 (Source: P.A. 96-20, eff. 6-30-09; 96-181, eff. 8-10-09;  
10 96-328, eff. 8-11-09; 96-567, eff. 1-1-10; 96-1000, eff.  
11 7-2-10; 96-1123, eff. 1-1-11; 96-1270, eff. 7-26-10; 97-48,  
12 eff. 6-28-11; 97-74, eff. 6-30-11; 97-333, eff. 8-12-11;  
13 97-687, eff. 6-14-12; 97-689, eff. 6-14-12; 97-813, eff.  
14 7-13-12; revised 7-23-12.)