

AN ACT concerning public aid.

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

Section 5. The Department of Human Services Act is amended by adding Section 10-55 as follows:

(20 ILCS 1305/10-55 new)

Sec. 10-55. Report; children with developmental disabilities, severe mental illness, or severe emotional disorders. On or before March 1, 2008, the Department shall submit a report to the Governor and to the General Assembly regarding the extent to which children (i) with developmental disabilities, mental illness, severe emotional disorders, or more than one of these disabilities, and (ii) who are currently being provided services in an institution, could otherwise be served in a less-restrictive community or home-based setting for the same cost or for a lower cost. The Department shall submit bi-annual updated reports to the Governor and the General Assembly no later than March 1 of every even-numbered year beginning in 2010.

Section 10. The Illinois Public Aid Code is amended by changing Sections 5-2.05 and 12-4.36 as follows:

(305 ILCS 5/5-2.05)

Sec. 5-2.05. Children with disabilities ~~Disabled children.~~

(a) The Department of Healthcare and Family Services, in conjunction with the Department of Human Services, ~~Public Aid~~ may offer, to children with developmental disabilities or children with severe mental illness or severe emotional disorders ~~and severely mentally ill or emotionally disturbed children~~ who otherwise would not qualify for medical assistance under this Article due to family income, home-based and community-based services instead of institutional placement, as allowed under paragraph 7 of Section 5-2.

(b) The Department of Healthcare and Family Services ~~Public Aid~~, in conjunction with the Department of Human Services and the Division of Specialized Care for Children, University of Illinois-Chicago, shall submit a bi-annual ~~also~~ report to the Governor and the General Assembly no later than January 1 of every even-numbered year, beginning in 2008, 2004 regarding the status of existing services offered under paragraph 7 of Section 5-2. This report shall include, but not be limited to, the following information:

~~(1) The number of persons eligible for these services.~~

~~(2) The number of persons who applied for these services.~~

(1) ~~(3)~~ The number of persons who currently receive these services.

(2) ~~(4)~~ The nature, scope, and cost of services

~~provided under paragraph 7 of Section 5-2.~~

(3) ~~(5)~~ The comparative cost of providing those services in a hospital, skilled nursing facility, or intermediate care facility.

(4) ~~(6)~~ The funding sources for the provision of services, including federal financial participation.

(5) ~~(7)~~ The qualifications, skills, and availability of caregivers for children receiving services.

(6) The number of children who have aged out of the services offered under paragraph 7 of Section 5-2 during the 2 years immediately preceding the report.

~~The report shall also include information regarding the extent to which the existing programs could provide coverage for mentally disabled children who are currently being provided services in an institution who could otherwise be served in a less restrictive, community based setting for the same or a lower cost.~~

(Source: P.A. 93-599, eff. 8-26-03; revised 12-15-05.)

(305 ILCS 5/12-4.36)

Sec. 12-4.36. Pilot program for persons who are medically fragile and technology-dependent.

(a) Subject to appropriations for the first fiscal year of the pilot program beginning July 1, 2006, the Department of Human Services, in cooperation with the Department of Healthcare and Family Services, shall adopt rules to initiate a

3-year pilot program to (i) test a standardized assessment tool for persons who are medically fragile and technology-dependent who may be provided home and community-based services to meet their medical needs rather than be provided care in an institution not solely because of a severe mental or developmental impairment and (ii) provide appropriate home and community-based medical services for such persons as provided in subsection (c) of this Section. The Department of Human Services may administer the pilot program until June 30, 2010 ~~2009~~ if the General Assembly annually appropriates funds for this purpose.

(b) Notwithstanding any other provisions of this Code, the rules implementing the pilot program shall provide for criteria, standards, procedures, and reimbursement for services that are not otherwise being provided in scope, duration, or amount through any other program administered by any Department of Human Services or any other agency of the State for these medically fragile, technology-dependent persons. At a minimum, the rules shall include the following:

(1) A requirement that a pilot program participant be eligible for medical assistance under this Code, a citizen of the United States, or an individual who is lawfully residing permanently in the United States, and a resident of Illinois.

(2) A requirement that a standardized assessment for medically fragile, technology-dependent persons will

establish the level of care and the service-cost maximums.

(3) A requirement for a determination by a physician licensed to practice medicine in all its branches (i) that, except for the provision of home and community-based care, these individuals would require the level of care provided in an institutional setting and (ii) that the necessary level of care can be provided safely in the home and community through the provision of medical support services.

(4) A requirement that the services provided be medically necessary and appropriate for the level of functioning of the persons who are participating in the pilot program.

(5) Provisions for care coordination and family support services that will enable the person to receive services in the most integrated setting possible appropriate to his or her medical condition and level of functioning.

(6) The frequency of assessment and plan-of-care reviews.

(7) The family or guardian's active participation as care givers in meeting the individual's medical needs.

(8) The estimated cost to the State for in-home care, as compared to the institutional level of care appropriate to the individual's medical needs, may not exceed 100% of the institutional care as indicated by the standardized

assessment tool.

(9) When determining the hours of medically necessary support services needed to maintain the individual at home, consideration shall be given to the availability of other services, including direct care provided by the individual's family or guardian that can reasonably be expected to meet the medical needs of the individual.

(c) During the pilot program, an individual who has received services pursuant to paragraph 7 of Section 5-2 of this Code, but who no longer receives ~~receive~~ such services because he or she has reached the age of 21, may be provided additional services pursuant to rule if the Department of Human Services, Division of Rehabilitation Services, determines from completion of the assessment tool for that individual that the exceptional care rate established by the Department of Healthcare and Family Services under Section 5-5.8a of this Code is not sufficient to cover the medical needs of the individual under the home and community-based services (HCBS) waivers for persons with disabilities.

(d) The Department of Human Services is authorized to lower the payment levels established under this Section or take such other actions, including, without limitation, cessation of enrollment, reduction of available medical services, and changing standards for eligibility, that are deemed necessary by the Department during a State fiscal year to ensure that payments under this Section do not exceed available funds.

These changes may be accomplished by emergency rulemaking under Section 5-45 of the Illinois Administrative Procedure Act, except that the limitation on the number of emergency rules that may be adopted in a 24-month period shall not apply.

(e) The Department of Human Services must make an annual report to the Governor and the General Assembly with respect to the persons eligible for medical assistance under this pilot program. The report must cover the State fiscal year ending on June 30 of the preceding year. The first report is due by January 1, 2008. The report must include the following information for the fiscal year covered by the report:

(1) The number of persons who were evaluated through the assessment tool under this pilot program.

(2) The number of persons who received services not available under the home and community-based services (HCBS) waivers for persons with disabilities under this pilot program.

(3) The number of persons whose services were reduced under this pilot program.

(4) The nature, scope, and cost of services provided under this pilot program.

(5) The comparative costs of providing those services in other institutions.

(6) The Department's progress in establishing an objective, standardized assessment tool for the HCBS waiver that assesses the medical needs of medically

fragile, technology-dependent adults.

(7) Recommendations for the funding needed to expand this pilot program to all medically fragile, technology-dependent individuals in HCBS waivers.

(8) Subject to appropriation or the availability of other funds for this purpose, participant experience survey information for persons with disabilities who are participating in this pilot program and for persons with disabilities who are not participating in the pilot program but who are currently receiving services under the home and community-based services (HCBS) waiver and who have received services under paragraph 7 of Section 5-2 of this Code.

This report may be submitted as part of the report required by subsection (b) of section 5-2.05 of this Code.

(Source: P.A. 94-838, eff. 6-6-06.)

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