

1 AN ACT in relation to health.

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 Anti-Obesity and Related Comorbidities Therapy Act.

6 Section 5. Public policy. It is declared that for the
7 benefit of the people of the State of Illinois, the
8 Department of Public Health, in cooperation with other State
9 agencies, shall be responsible for supporting programs aimed
10 at reducing the incidence and effects of obesity and its
11 related comorbidities. The State acknowledges that obesity
12 is the second-leading cause of death in the United States
13 after smoking, resulting in more than 300,000 preventable
14 deaths each year. There is a causal relationship between
15 obesity and other serious health complications, including,
16 but not limited to, coronary heart disease, cerebrovascular
17 disease (stroke), type II diabetes mellitus, hypertension,
18 sleep apnea, dyslipidemia, gallbladder disease, gastric
19 reflux disease, gout, osteoarthritis of the hips and knees,
20 cancer, infertility, and respiratory difficulties, all of
21 which lead to an increase in obesity-related morbidity and
22 mortality. In addition to the health implications, the
23 economic consequences of the skyrocketing incidence of
24 obesity rates are substantial. The direct cost of diagnosis,
25 treatment, and management of obesity and obesity-related
26 diseases is estimated to be \$45.8 billion, or 6.8% of total
27 national health care expenditures. The reduction in workplace
28 productivity due to an increase in the number of sick days
29 and physical limitations is estimated to have an annual
30 impact on our economy of \$52 billion per year.

31 Obesity continues to dramatically increase both in the

1 United States and in Illinois. One-third of the U.S.
2 population is considered to be obese. The Centers for
3 Disease Control and Prevention reported that 33.5% of the
4 Illinois population was obese in 1998. Obesity, while on the
5 rise in all adult demographic categories, is more prevalent
6 among African-American and Hispanic populations. Among
7 children, there has been a 42% increase in childhood obesity
8 rates since 1980, placing children at an increased risk for
9 diabetes, hypertension, heart disease, and stroke later in
10 life.

11 It is clear that obesity has a significant impact on the
12 health of people in Illinois, and the State economy, by
13 reducing productivity dramatically increasing avoidable
14 medical costs. Clinical studies demonstrate that weight loss
15 in overweight and obese individuals decreases the risk for
16 developing serious health conditions and leads to improvement
17 in health for many persons with those conditions. By
18 investing in programs aimed at reducing obesity and its
19 related comorbidities, the State can improve the physical
20 health of a significant portion of its citizenry and control
21 the skyrocketing costs of health care attributed to obesity's
22 comorbidities. For example, research begun in 1995
23 demonstrates that intentional weight loss in overweight women
24 with existing obesity-related diseases led to a 20% reduction
25 in total mortality, a 40-50% reduction in mortality from
26 obesity-related cancers and a 30-40% reduction in
27 diabetes-related deaths.

28 In recent years, new scientific breakthroughs have led to
29 new drug therapies that are both safe and effective in
30 treating both obesity and its related comorbidities. These
31 innovative drug therapies assist obese individuals in losing
32 weight, improving their health, and reducing their need for
33 complex and costly medical services that are paid for by the
34 State's medical assistance program. It is the policy of this

1 State that where prophylactic therapies actually reduce
2 health care costs and improve patient health, those therapies
3 must be supported. The legislature finds that there is
4 sufficient scientific and empirical evidence to establish
5 that existing FDA-approved anti-obesity drug therapies, when
6 properly supervised by a qualified physician, fit these
7 criteria.

8 Section 10. Definitions. In this Act:

9 (1) "At-risk overweight" means having a body mass index
10 greater than or equal to 27 kilograms per square meter but
11 less than 30 kilograms per square meter and having one or
12 more of the following comorbidities:

- 13 (1) Coronary heart disease.
- 14 (2) Cerebrovascular disease (stroke).
- 15 (3) Dyslipidemia.
- 16 (4) Gallbladder disease.
- 17 (5) Gastric reflux disease.
- 18 (6) Gout.
- 19 (7) Cancer.
- 20 (8) Hypertension.
- 21 (9) Infertility.
- 22 (10) Osteoarthritis of the hips or knees.
- 23 (11) Sleep apnea.
- 24 (12) Type II diabetes mellitus.
- 25 (13) Respiratory difficulties.

26 "Body mass index" is a mathematical formula used to
27 determine a person's body weight in relation to height as
28 measured by dividing a person's weight in kilograms by height
29 in meters squared.

30 "Chronic treatment" means any daily drug therapy
31 indicated by labeling approved by the federal Food and Drug
32 Administration for use for more than 60 days.

33 "Medically indigent patients" means persons who are

1 determined to be eligible for medical assistance under
2 Article V of the Illinois Public Aid Code.

3 "Obese" means having a body mass index greater than or
4 equal to 30 kilograms per square meter.

5 Section 15. Anti-obesity program. The Department of
6 Public Health, in conjunction with the Department of Public
7 Aid and other appropriate State agencies, shall develop a
8 program to provide obese or at-risk overweight medically
9 indigent patients with services for the treatment and
10 prevention of obesity and its related comorbidities. The
11 program shall include education, monitoring, and outpatient
12 prescription drug coverage of anti-obesity drug therapies
13 that are approved by the United States Food and Drug
14 Administration if the patient's treating physician prescribes
15 the therapy as being medically necessary to his or her
16 healthcare.

17 Section 20. Rules. The Department of Public Health may
18 adopt rules to enable it to carry out the provisions of this
19 Act and may coordinate its actions with other State or
20 federal agencies to comply with this Act. The provisions of
21 the Illinois Administrative Procedure Act are expressly
22 adopted and apply to all administrative rules and procedures
23 adopted by the Department under this Act, except that Section
24 5-35 of the Illinois Administrative Procedure Act relating
25 to procedures for rule-making does not apply to the
26 adoption of any rule required by federal law in connection
27 with which the Department is precluded by law from
28 exercising any discretion.

29 Section 90. The Illinois Public Aid Code is amended by
30 changing Section 5-5 as follows:

1 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)
2 Sec. 5-5. Medical services. The Illinois Department, by
3 rule, shall determine the quantity and quality of and the
4 rate of reimbursement for the medical assistance for which
5 payment will be authorized, and the medical services to be
6 provided, which may include all or part of the following: (1)
7 inpatient hospital services; (2) outpatient hospital
8 services; (3) other laboratory and X-ray services; (4)
9 skilled nursing home services; (5) physicians' services
10 whether furnished in the office, the patient's home, a
11 hospital, a skilled nursing home, or elsewhere; (6) medical
12 care, or any other type of remedial care furnished by
13 licensed practitioners; (7) home health care services; (8)
14 private duty nursing service; (9) clinic services; (10)
15 dental services; (11) physical therapy and related services;
16 (12) prescribed drugs, dentures, and prosthetic devices; and
17 eyeglasses prescribed by a physician skilled in the diseases
18 of the eye, or by an optometrist, whichever the person may
19 select; (13) other diagnostic, screening, preventive, and
20 rehabilitative services; (14) transportation and such other
21 expenses as may be necessary; (15) medical treatment of
22 sexual assault survivors, as defined in Section 1a of the
23 Sexual Assault Survivors Emergency Treatment Act, for
24 injuries sustained as a result of the sexual assault,
25 including examinations and laboratory tests to discover
26 evidence which may be used in criminal proceedings arising
27 from the sexual assault; (16) the diagnosis and treatment of
28 sickle cell anemia; and (17) any other medical care, and any
29 other type of remedial care recognized under the laws of this
30 State, but not including abortions, or induced miscarriages
31 or premature births, unless, in the opinion of a physician,
32 such procedures are necessary for the preservation of the
33 life of the woman seeking such treatment, or except an
34 induced premature birth intended to produce a live viable

1 child and such procedure is necessary for the health of the
2 mother or her unborn child. The Illinois Department, by rule,
3 shall prohibit any physician from providing medical
4 assistance to anyone eligible therefor under this Code where
5 such physician has been found guilty of performing an
6 abortion procedure in a wilful and wanton manner upon a woman
7 who was not pregnant at the time such abortion procedure was
8 performed. The term "any other type of remedial care" shall
9 include nursing care and nursing home service for persons who
10 rely on treatment by spiritual means alone through prayer for
11 healing.

12 Notwithstanding any other provision of this Section, a
13 comprehensive tobacco use cessation program that includes
14 purchasing prescription drugs or prescription medical devices
15 approved by the Food and Drug administration shall be covered
16 under the medical assistance program under this Article for
17 persons who are otherwise eligible for assistance under this
18 Article.

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

26 The Illinois Department of Public Aid shall provide the
27 following services to persons eligible for assistance under
28 this Article who are participating in education, training or
29 employment programs operated by the Department of Human
30 Services as successor to the Department of Public Aid:

- 31 (1) dental services, which shall include but not be
32 limited to prosthodontics; and
33 (2) eyeglasses prescribed by a physician skilled in
34 the diseases of the eye, or by an optometrist, whichever

1 the person may select.

2 The Illinois Department shall provide services for the
3 treatment and prevention of obesity and its related
4 comorbidities, including education, monitoring, and
5 outpatient prescription drug coverage of anti-obesity drug
6 therapies that are approved by the United States Food and
7 Drug Administration if the patient's treating physician
8 prescribes the therapy as being medically necessary to his or
9 her healthcare. The Illinois Department shall provide these
10 services to recipients who participate in the program
11 developed by the Department of Public Health under the
12 Anti-Obesity and Related Comorbidities Therapy Act.

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

17 The Illinois Department shall authorize the provision of,
18 and shall authorize payment for, screening by low-dose
19 mammography for the presence of occult breast cancer for
20 women 35 years of age or older who are eligible for medical
21 assistance under this Article, as follows: a baseline
22 mammogram for women 35 to 39 years of age and an annual
23 mammogram for women 40 years of age or older. All screenings
24 shall include a physical breast exam, instruction on
25 self-examination and information regarding the frequency of
26 self-examination and its value as a preventative tool. As
27 used in this Section, "low-dose mammography" means the x-ray
28 examination of the breast using equipment dedicated
29 specifically for mammography, including the x-ray tube,
30 filter, compression device, image receptor, and cassettes,
31 with an average radiation exposure delivery of less than one
32 rad mid-breast, with 2 views for each breast.

33 Any medical or health care provider shall immediately
34 recommend, to any pregnant woman who is being provided

1 prenatal services and is suspected of drug abuse or is
2 addicted as defined in the Alcoholism and Other Drug Abuse
3 and Dependency Act, referral to a local substance abuse
4 treatment provider licensed by the Department of Human
5 Services or to a licensed hospital which provides substance
6 abuse treatment services. The Department of Public Aid shall
7 assure coverage for the cost of treatment of the drug abuse
8 or addiction for pregnant recipients in accordance with the
9 Illinois Medicaid Program in conjunction with the Department
10 of Human Services.

11 All medical providers providing medical assistance to
12 pregnant women under this Code shall receive information from
13 the Department on the availability of services under the Drug
14 Free Families with a Future or any comparable program
15 providing case management services for addicted women,
16 including information on appropriate referrals for other
17 social services that may be needed by addicted women in
18 addition to treatment for addiction.

19 The Illinois Department, in cooperation with the
20 Departments of Human Services (as successor to the Department
21 of Alcoholism and Substance Abuse) and Public Health, through
22 a public awareness campaign, may provide information
23 concerning treatment for alcoholism and drug abuse and
24 addiction, prenatal health care, and other pertinent programs
25 directed at reducing the number of drug-affected infants born
26 to recipients of medical assistance.

27 Neither the Illinois Department of Public Aid nor the
28 Department of Human Services shall sanction the recipient
29 solely on the basis of her substance abuse.

30 The Illinois Department shall establish such regulations
31 governing the dispensing of health services under this
32 Article as it shall deem appropriate. In formulating these
33 regulations the Illinois Department shall consult with and
34 give substantial weight to the recommendations offered by the

1 Citizens Assembly/Council on Public Aid. The Department
2 should seek the advice of formal professional advisory
3 committees appointed by the Director of the Illinois
4 Department for the purpose of providing regular advice on
5 policy and administrative matters, information dissemination
6 and educational activities for medical and health care
7 providers, and consistency in procedures to the Illinois
8 Department.

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
13 projects in certain geographic areas. The Partnership shall
14 be represented by a sponsor organization. The Department, by
15 rule, shall develop qualifications for sponsors of
16 Partnerships. Nothing in this Section shall be construed to
17 require that the sponsor organization be a medical
18 organization.

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

30 (1) Physicians participating in a Partnership and
31 providing certain services, which shall be determined by
32 the Illinois Department, to persons in areas covered by
33 the Partnership may receive an additional surcharge for
34 such services.

1 (2) The Department may elect to consider and
2 negotiate financial incentives to encourage the
3 development of Partnerships and the efficient delivery of
4 medical care.

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

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

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

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

30 The Illinois Department shall require health care
31 providers to maintain records that document the medical care
32 and services provided to recipients of Medical Assistance
33 under this Article. The Illinois Department shall require
34 health care providers to make available, when authorized by

1 the patient, in writing, the medical records in a timely
2 fashion to other health care providers who are treating or
3 serving persons eligible for Medical Assistance under this
4 Article. All dispensers of medical services shall be
5 required to maintain and retain business and professional
6 records sufficient to fully and accurately document the
7 nature, scope, details and receipt of the health care
8 provided to persons eligible for medical assistance under
9 this Code, in accordance with regulations promulgated by the
10 Illinois Department. The rules and regulations shall require
11 that proof of the receipt of prescription drugs, dentures,
12 prosthetic devices and eyeglasses by eligible persons under
13 this Section accompany each claim for reimbursement submitted
14 by the dispenser of such medical services. No such claims for
15 reimbursement shall be approved for payment by the Illinois
16 Department without such proof of receipt, unless the Illinois
17 Department shall have put into effect and shall be operating
18 a system of post-payment audit and review which shall, on a
19 sampling basis, be deemed adequate by the Illinois Department
20 to assure that such drugs, dentures, prosthetic devices and
21 eyeglasses for which payment is being made are actually being
22 received by eligible recipients. Within 90 days after the
23 effective date of this amendatory Act of 1984, the Illinois
24 Department shall establish a current list of acquisition
25 costs for all prosthetic devices and any other items
26 recognized as medical equipment and supplies reimbursable
27 under this Article and shall update such list on a quarterly
28 basis, except that the acquisition costs of all prescription
29 drugs shall be updated no less frequently than every 30 days
30 as required by Section 5-5.12.

31 The rules and regulations of the Illinois Department
32 shall require that a written statement including the required
33 opinion of a physician shall accompany any claim for
34 reimbursement for abortions, or induced miscarriages or

1 premature births. This statement shall indicate what
2 procedures were used in providing such medical services.

3 The Illinois Department shall require that all dispensers
4 of medical services, other than an individual practitioner or
5 group of practitioners, desiring to participate in the
6 Medical Assistance program established under this Article to
7 disclose all financial, beneficial, ownership, equity, surety
8 or other interests in any and all firms, corporations,
9 partnerships, associations, business enterprises, joint
10 ventures, agencies, institutions or other legal entities
11 providing any form of health care services in this State
12 under this Article.

13 The Illinois Department may require that all dispensers
14 of medical services desiring to participate in the medical
15 assistance program established under this Article disclose,
16 under such terms and conditions as the Illinois Department
17 may by rule establish, all inquiries from clients and
18 attorneys regarding medical bills paid by the Illinois
19 Department, which inquiries could indicate potential
20 existence of claims or liens for the Illinois Department.

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

1 replacements of any device or equipment previously authorized
2 for such recipient by the Department. Rules under clause (2)
3 above shall not provide for purchase or lease-purchase of
4 durable medical equipment or supplies used for the purpose of
5 oxygen delivery and respiratory care.

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

15 The Illinois Department shall develop and operate, in
16 cooperation with other State Departments and agencies and in
17 compliance with applicable federal laws and regulations,
18 appropriate and effective systems of health care evaluation
19 and programs for monitoring of utilization of health care
20 services and facilities, as it affects persons eligible for
21 medical assistance under this Code. The Illinois Department
22 shall report regularly the results of the operation of such
23 systems and programs to the Citizens Assembly/Council on
24 Public Aid to enable the Committee to ensure, from time to
25 time, that these programs are effective and meaningful.

26 The Illinois Department shall report annually to the
27 General Assembly, no later than the second Friday in April of
28 1979 and each year thereafter, in regard to:

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

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

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

1 and

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

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

18 (Source: P.A. 90-7, eff. 6-10-97; 90-14, eff. 7-1-97; 91-344,
19 eff. 1-1-00; 91-462, eff. 8-6-99; 91-666, eff. 12-22-99;
20 revised 1-6-00.) 4967

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