

2005 DRAFTING REQUEST

Bill

Received: **12/06/2005**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Josh Zepnick (608) 266-1707**

By/Representing: **Connor Sabatino**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **DAK**

Submit via email: **YES**

Requester's email: **Rep.Zepnick@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Health insurance coverage for children

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	rryan 01/05/2006	kfollett 01/06/2006	pgreensl 01/06/2006	_____	lnorthro 01/06/2006	lemery 01/23/2006	

FE Sent For:

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At intro.

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1/16
1/6
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PJK

FE Sent For:

<END>

Ryan, Robin

From: Sabatino, Connor
Sent: Thursday, December 01, 2005 3:44 PM
To: Kennedy, Debora; Ryan, Robin
Subject: Draft Request: Illinois' All Kids program

Debora and Robin,

I am writing to both of you because of the potential scope of the request. Debora, you may recall our recent request of lower Medicare coverage to 55. After the meeting we had, realizing the complexity of the issue, Josh is interested in attacking the issue for the other end of the age spectrum. This should allow us to avoid many of the state vs. fed issues where we found our hands a bit tied-up.

As you may well have heard, Illinois recently passed a sweeping program called "All Kids" that provides health insurance to all children in Illinois regardless of family income. I have attached a link to the text of the Act as passed and signed into law. There is also a comprehensive website setup for the plan, which I have linked as well.

You can view this as a shift in our previous 55+ drafting request, i.e. you can classify this as one draft request and not two separate ones, if that makes it any easier.

Bottom line: we want to model a draft as close to the Illinois program as possible.

Act Text:

<http://www.ilga.gov/legislation/publicacts/94/094-0693.htm>

Program Web Page:

<http://www.allkidscovered.com/>

I will follow up with a call tomorrow to make sure this all makes sense.

Connor
Office of Rep. Josh Zepnick

Public Act 094-0693

HB0806 Enrolled

LRB094 03660 BDD 33665 b

AN ACT concerning State government.

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

Section 1. Short title. This Act may be cited as the
Covering ALL KIDS Health Insurance Act.

Section 5. Legislative intent. The General Assembly finds that, for the economic and social benefit of all residents of the State, it is important to enable all children of this State to access affordable health insurance that offers comprehensive coverage and emphasizes preventive healthcare. Many children in working families, including many families whose family income ranges between \$40,000 and \$80,000, are uninsured. Numerous studies, including the Institute of Medicine's report, "Health Insurance Matters", demonstrate that lack of insurance negatively affects health status. The General Assembly further finds that access to healthcare is a key component for children's healthy development and successful education. The effects of lack of insurance also negatively impact those who are insured because the cost of paying for care to the uninsured is often shifted to those who have insurance in the form of higher health insurance premiums. A Families USA 2005 report indicates that family premiums in Illinois are increased by \$1,059 due to cost-shifting from the uninsured. It is, therefore, the intent of this legislation to provide access to affordable health insurance to all uninsured children in Illinois.

Section 10. Definitions. In this Act:

"Application agent" means an organization or individual, such as a licensed health care provider, school, youth service agency, employer, labor union, local chamber of commerce, community-based organization, or other organization, approved by the Department to assist in enrolling children in the Program.

"Child" means a person under the age of 19.

"Department" means the Department of Healthcare and Family Services.

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

"Program" means the Covering ALL KIDS Health Insurance Program.

"Resident" means an individual (i) who is in the State for other than a temporary or transitory purpose during the taxable year or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year.

Section 15. Operation of Program. The Covering ALL KIDS Health Insurance Program is created. The Program shall be

administered by the Department of Healthcare and Family Services. The Department shall have the same powers and authority to administer the Program as are provided to the Department in connection with the Department's administration of the Illinois Public Aid Code and the Children's Health Insurance Program Act. The Department shall coordinate the Program with the existing children's health programs operated by the Department and other State agencies.

Section 20. Eligibility.

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

(1) who is a resident of the State of Illinois; and

(2) who is ineligible for medical assistance under the Illinois Public Aid Code or benefits under the Children's Health Insurance Program Act; and

(3) either (i) who has been without health insurance coverage for a period set forth by the Department in rules, but not less than 6 months during the first month of operation of the Program, 7 months during the second month of operation, 8 months during the third month of operation, 9 months during the fourth month of operation, 10 months during the fifth month of operation, 11 months during the sixth month of operation, and 12 months thereafter, (ii) whose parent has lost employment that made available affordable dependent health insurance coverage, until such time as affordable employer-sponsored dependent health insurance coverage is again available for the child as set forth by the Department in rules, (iii) who is a newborn whose responsible relative does not have available affordable private or employer-sponsored health insurance, or (iv) who, within one year of applying for coverage under this Act, lost medical benefits under the Illinois Public Aid Code or the Children's Health Insurance Program Act.

An entity that provides health insurance coverage (as defined in Section 2 of the Comprehensive Health Insurance Plan Act) to Illinois residents shall provide health insurance data match to the Department of Healthcare and Family Services for the purpose of determining eligibility for the Program under this Act.

The Department of Healthcare and Family Services, in collaboration with the Department of Financial and Professional Regulation, Division of Insurance, shall adopt rules governing the exchange of information under this Section. The rules shall be consistent with all laws relating to the confidentiality or privacy of personal information or medical records, including provisions under the Federal Health Insurance Portability and Accountability Act (HIPAA).

(b) The Department shall monitor the availability and retention of employer-sponsored dependent health insurance coverage and shall modify the period described in subdivision (a)(3) if necessary to promote retention of private or employer-sponsored health insurance and timely access to healthcare services, but at no time shall the period described in subdivision (a)(3) be less than 6 months.

(c) The Department, at its discretion, may take into account the affordability of dependent health insurance when determining whether employer-sponsored dependent health insurance coverage is available upon reemployment of a child's parent as provided in subdivision (a)(3).

(d) A child who is determined to be eligible for the Program shall remain eligible for 12 months, provided that the child maintains his or her residence in this State, has not yet attained 19 years of age, and is not excluded under subsection (e).

(e) A child is not eligible for coverage under the Program if:

(1) the premium required under Section 40 has not been timely paid; if the required premiums are not paid, the liability of the Program shall be limited to benefits incurred under the Program for the time period for which premiums have been paid; if the required monthly premium is not paid, the child is ineligible for re-enrollment for a minimum period of 3 months; re-enrollment shall be completed before the next covered medical visit, and the first month's required premium shall be paid in advance of the next covered medical visit; or

(2) the child is an inmate of a public institution or an institution for mental diseases.

(f) The Department shall adopt eligibility rules, including, but not limited to: rules regarding annual renewals of eligibility for the Program; rules providing for re-enrollment, grace periods, notice requirements, and hearing procedures under subdivision (e)(1) of this Section; and rules regarding what constitutes availability and affordability of private or employer-sponsored health insurance, with consideration of such factors as the percentage of income needed to purchase children or family health insurance, the availability of employer subsidies, and other relevant factors.

Section 25. Enrollment in Program. The Department shall develop procedures to allow application agents to assist in enrolling children in the Program or other children's health programs operated by the Department. At the Department's discretion, technical assistance payments may be made available for approved applications facilitated by an application agent.

Section 30. Program outreach and marketing. The Department may provide grants to application agents and other community-based organizations to educate the public about the availability of the Program. The Department shall adopt rules regarding performance standards and outcomes measures expected of organizations that are awarded grants under this Section, including penalties for nonperformance of contract standards.

Section 35. Health care benefits for children.

(a) The Department shall purchase or provide health care benefits for eligible children that are identical to the benefits provided for children under the Illinois Children's Health Insurance Program Act, except for non-emergency transportation.

(b) As an alternative to the benefits set forth in subsection (a), and when cost-effective, the Department may offer families subsidies toward the cost of privately sponsored health insurance, including employer-sponsored health insurance.

(c) Notwithstanding clause (i) of subdivision (a)(3) of Section 20, the Department may consider offering, as an

alternative to the benefits set forth in subsection (a), partial coverage to children who are enrolled in a high-deductible private health insurance plan.

(d) Notwithstanding clause (i) of subdivision (a)(3) of Section 20, the Department may consider offering, as an alternative to the benefits set forth in subsection (a), a limited package of benefits to children in families who have private or employer-sponsored health insurance that does not cover certain benefits such as dental or vision benefits.

(e) The content and availability of benefits described in subsections (b), (c), and (d), and the terms of eligibility for those benefits, shall be at the Department's discretion and the Department's determination of efficacy and cost-effectiveness as a means of promoting retention of private or employer-sponsored health insurance.

Section 40. Cost-sharing.

(a) Children enrolled in the Program under subsection (a) of Section 35 are subject to the following cost-sharing requirements:

(1) The Department, by rule, shall set forth requirements concerning co-payments and coinsurance for health care services and monthly premiums. This cost-sharing shall be on a sliding scale based on family income. The Department may periodically modify such cost-sharing.

(2) Notwithstanding paragraph (1), there shall be no co-payment required for well-baby or well-child health care, including, but not limited to, age-appropriate immunizations as required under State or federal law.

(b) Children enrolled in a privately sponsored health insurance plan under subsection (b) of Section 35 are subject to the cost-sharing provisions stated in the privately sponsored health insurance plan.

(c) Notwithstanding any other provision of law, rates paid by the Department shall not be used in any way to determine the usual and customary or reasonable charge, which is the charge for health care that is consistent with the average rate or charge for similar services furnished by similar providers in a certain geographic area.

Section 45. Study.

(a) The Department shall conduct a study that includes, but is not limited to, the following:

(1) Establishing estimates, broken down by regions of the State, of the number of children with and without health insurance coverage; the number of children who are eligible for Medicaid or the Children's Health Insurance Program, and, of that number, the number who are enrolled in Medicaid or the Children's Health Insurance Program; and the number of children with access to dependent coverage through an employer, and, of that number, the number who are enrolled in dependent coverage through an employer.

(2) Surveying those families whose children have access to employer-sponsored dependent coverage but who decline such coverage as to the reasons for declining coverage.

(3) Ascertaining, for the population of children accessing employer-sponsored dependent coverage or who have access to such coverage, the comprehensiveness of

dependent coverage available, the amount of cost-sharing currently paid by the employees, and the cost-sharing associated with such coverage.

(4) Measuring the health outcomes or other benefits for children utilizing the Covering ALL KIDS Health Insurance Program and analyzing the effects on utilization of healthcare services for children after enrollment in the Program compared to the preceding period of uninsured status.

(b) The studies described in subsection (a) shall be conducted in a manner that compares a time period preceding or at the initiation of the program with a later period.

(c) The Department shall submit the preliminary results of the study to the Governor and the General Assembly no later than July 1, 2008 and shall submit the final results to the Governor and the General Assembly no later than July 1, 2010.

Section 50. Consultation with stakeholders. The Department shall present details regarding implementation of the Program to the Medicaid Advisory Committee, and the Committee shall serve as the forum for healthcare providers, advocates, consumers, and other interested parties to advise the Department with respect to the Program.

Section 55. Charge upon claims and causes of action; right of subrogation; recoveries. Sections 11-22, 11-22a, 11-22b, and 11-22c of the Illinois Public Aid Code apply to health care benefits provided to children under this Act, as provided in those Sections.

Section 60. Federal financial participation. The Department shall request any necessary state plan amendments or waivers of federal requirements in order to allow receipt of federal funds for implementing any or all of the provisions of the Program. The failure of the responsible federal agency to approve a waiver or other State plan amendment shall not prevent the implementation of any provision of this Act.

Section 65. Emergency rulemaking. The Department may adopt rules necessary to establish and implement this Act through the use of emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For the purposes of that Act, the General Assembly finds that the adoption of rules to implement this Act is deemed an emergency and necessary for the public interest, safety, and welfare. This Section is repealed on July 1, 2008.

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

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

Sec. 11-22. Charge upon claims and causes of action for injuries. The Illinois Department shall have a charge upon all claims, demands and causes of action for injuries to an applicant for or recipient of (i) financial aid under Articles III, IV, and V or (ii) health care benefits provided under the Covering ALL KIDS Health Insurance Act for the total amount of medical assistance provided the recipient from the time of injury to the date of recovery upon such claim, demand or cause of action. In addition, if the applicant or recipient was

employable, as defined by the Department, at the time of the injury, the Department shall also have a charge upon any such claims, demands and causes of action for the total amount of aid provided to the recipient and his dependents, including all cash assistance and medical assistance only to the extent includable in the claimant's action, from the time of injury to the date of recovery upon such claim, demand or cause of action. Any definition of "employable" adopted by the Department shall apply only to persons above the age of compulsory school attendance.

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

"Recipient", as used herein, means (i) in the case of financial aid provided under this Code, the grantee of record and any persons whose needs are included in the financial aid provided to the grantee of record or otherwise met by grants under the appropriate Article of this Code for which such person is eligible and (ii) in the case of health care benefits provided under the Covering ALL KIDS Health Insurance Act, the child to whom those benefits are provided.

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

On petition filed by the Illinois Department, or by the local governmental unit or county if either is claiming a charge, or by the recipient, or by the defendant, the court, on written notice to all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this Section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the Illinois Department, the local governmental unit or county has charge. The court may determine what portion of the recovery shall be paid to the injured person and what portion shall be paid to the Illinois Department, the local governmental unit or county having a charge against the recovery. In making this determination, the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

- (1) the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees

and other costs incurred by the recipient incident to the recovery; and whether the Department, unit of local government or county seeking to enforce the charge against the recovery should as a matter of fairness and equity bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

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

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

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

(5) the age of the recipient and of persons dependent for support upon the recipient, the nature and permanency of the recipient's injuries as they affect not only the future employability and education of the recipient but also the reasonably necessary and foreseeable future material, maintenance, medical, rehabilitative and training needs of the recipient, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

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

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

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

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

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

(Source: P.A. 91-357, eff. 7-29-99; 92-111, eff. 1-1-02.)

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

Sec. 11-22a. Right of Subrogation. To the extent of the amount of (i) medical assistance provided by the Department to or on behalf of a recipient under Article V or VI or (ii) health care benefits provided for a child under the Covering ALL KIDS Health Insurance Act, the Department shall be subrogated to any right of recovery such recipient may have under the terms of any private or public health care coverage or casualty coverage, including coverage under the "Workers' Compensation Act", approved July 9, 1951, as amended, or the "Workers' Occupational Diseases Act", approved July 9, 1951, as amended, without the necessity of assignment of claim or other authorization to secure the right of recovery to the Department. To enforce its subrogation right, the Department may (i) intervene or join in an action or proceeding brought by the recipient, his or her guardian, personal representative, estate, dependents, or survivors against any person or public or private entity that may be liable; (ii) institute and prosecute legal proceedings against any person or public or private entity that may be liable for the cost of such services; or (iii) institute and prosecute legal proceedings, to the extent necessary to reimburse the Illinois Department for its costs, against any noncustodial parent who (A) is required by court or administrative order to provide insurance or other coverage of the cost of health care services for a child eligible for medical assistance under this Code and (B) has received payment from a third party for the costs of those services but has not used the payments to reimburse either the other parent or the guardian of the child or the provider of the services.

(Source: P.A. 92-111, eff. 1-1-02.)

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

Sec. 11-22b. Recoveries.

(a) As used in this Section:

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

(2) "Beneficiary" means any person or their dependents who

has received benefits or will be provided benefits under this Code or under the Covering ALL KIDS Health Insurance Act because of an injury for which another person may be liable. It includes such beneficiary's guardian, conservator or other personal representative, his estate or survivors.

(b) (1) When benefits are provided or will be provided to a beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act because of an injury for which another person is liable, or for which a carrier is liable in accordance with the provisions of any policy of insurance issued pursuant to the Illinois Insurance Code, the Illinois Department shall have a right to recover from such person or carrier the reasonable value of benefits so provided. The Attorney General may, to enforce such right, institute and prosecute legal proceedings against the third person or carrier who may be liable for the injury in an appropriate court, either in the name of the Illinois Department or in the name of the injured person, his guardian, personal representative, estate, or survivors.

(2) The Department may:

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

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

(3) No action taken on behalf of the Department pursuant to this Section or any judgment rendered in such action shall be a bar to any action upon the claim or cause of action of the beneficiary, his guardian, conservator, personal representative, estate, dependents or survivors against the third person who may be liable for the injury, or shall operate to deny to the beneficiary the recovery for that portion of any damages not covered hereunder.

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

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

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

(3) When an action or claim is brought by persons entitled to bring such actions or assert such claims against a third person who may be liable for causing the death of a beneficiary, any settlement, judgment or award obtained is subject to the Department's claim for reimbursement of the benefits provided to the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act.

(4) When the action or claim is brought by the beneficiary alone and the beneficiary incurs a personal liability to pay attorney's fees and costs of litigation, the Department's claim for reimbursement of the benefits provided to the beneficiary shall be the full amount of benefits paid on behalf of the

beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act less a pro rata share which represents the Department's reasonable share of attorney's fees paid by the beneficiary and that portion of the cost of litigation expenses determined by multiplying by the ratio of the full amount of the expenditures of the full amount of the judgment, award or settlement.

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

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

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

(1) If the action or claim is prosecuted by the beneficiary alone, the court shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees, when an attorney has been retained. After payment of such expenses and attorney's fees the court shall, on the application of the Department, allow as a first lien against the amount of such judgment or award the amount of the Department's expenditures for the benefit of the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act, as provided in subsection (c)(4).

(2) If the action or claim is prosecuted both by the beneficiary and the Department, the court shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees for plaintiffs attorneys based solely on the services rendered for the benefit of the beneficiary. After payment of such expenses and attorney's fees, the court shall apply out of the balance of such judgment or award an amount sufficient to reimburse the Department the full amount of benefits paid on behalf of the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act.

(f) The court shall, upon further application at any time before the judgment or award is satisfied, allow as a further lien the amount of any expenditures of the Department in payment of additional benefits arising out of the same cause of action or claim provided on behalf of the beneficiary under this Code or under the Covering ALL KIDS Health Insurance Act, when such benefits were provided or became payable subsequent to the original order.

(g) No judgment, award, or settlement in any action or

claim by a beneficiary to recover damages for injuries, when the Department has an interest, shall be satisfied without first giving the Department notice and a reasonable opportunity to perfect and satisfy its lien.

(h) When the Department has perfected a lien upon a judgment or award in favor of a beneficiary against any third party for an injury for which the beneficiary has received benefits under this Code or under the Covering ALL KIDS Health Insurance Act, the Department shall be entitled to a writ of execution as lien claimant to enforce payment of said lien against such third party with interest and other accruing costs as in the case of other executions. In the event the amount of such judgment or award so recovered has been paid to the beneficiary, the Department shall be entitled to a writ of execution against such beneficiary to the extent of the Department's lien, with interest and other accruing costs as in the case of other executions.

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

(Source: P.A. 92-651, eff. 7-11-02.)

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

Sec. 11-22c. (a) As used in this Section, "recipient" means any person receiving financial assistance under Article IV or Article VI of this Code or receiving health care benefits under the Covering ALL KIDS Health Insurance Act.

(b) If a recipient maintains any suit, charge or other court or administrative action against an employer seeking back pay for a period during which the recipient received financial assistance under Article IV or Article VI of this Code or health care benefits under the Covering ALL KIDS Health Insurance Act, the recipient shall report such fact to the Department. To the extent of the amount of assistance provided to or on behalf of the recipient under Article IV or Article VI or health care benefits provided under the Covering ALL KIDS Health Insurance Act, the Department may by intervention or otherwise without the necessity of assignment of claim, attach a lien on the recovery of back wages equal to the amount of assistance provided by the Department to the recipient under Article IV or Article VI or under the Covering ALL KIDS Health Insurance Act.

(Source: P.A. 86-497.)

Section 97. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 98. Repealer. This Act is repealed on July 1, 2011.

Section 99. Effective date. This Act takes effect July 1, 2006.

LRB 4/198

1/4/06

Call to Connor

Want the study requirements (§ 45) from Illinois bill? - no

Don't need ~~the~~ ~~the~~ provisions other than core elements of program (Eligibility, Benefits, ...) i.e., don't need grant for outreach or provision on application assistants.

Effective date? Jan 1, 2007

Will put in a ORR appropriation with \$0

Will give DAFS emergency rule making authority.

1/4/06 Call to Connor

Want an admin' appropriation for DAFS, or just benefits?

Answer: for new, just the approp. for benefits



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-4198/1

RLR: k.f

Wanted Fri 1/6/05
2005 BILL

D-Note

Gen Cat.

1 AN ACT...; relating to: health insurance coverage for children, extending the
2 time limit for emergency rule procedures, providing an exemption from
3 emergency rule procedures, requiring the exercise of rule-making authority,
4 and making appropriations.

Analysis by the Legislative Reference Bureau

Currently, the Department of Health and Family Services (DHFS) administers the Medical Assistance (MA) and Badger Care programs to provide comprehensive health care coverage to program enrollees. Generally, children under the age of six whose family income does not exceed 185% of the federal poverty level (FPL) and children over age six whose family income does not exceed 100% of the FPL are eligible for MA. Also certain disabled or blind children are eligible for MA. Children, regardless of age, whose family income does not exceed 185% of FPL and who do not have access to an employer-subsidized health insurance plan for which the employer subsidizes at least 80% of the cost are generally eligible for Badger Care. (Family income may increase up to 200% of FPL before a family already enrolled in Badger Care loses eligibility). Badger Care enrollees with family income in excess of 150% of the FPL must pay a monthly premium. The benefits under MA and Badger Care include physician services; early periodic screening, diagnosis, and treatment; in-patient and out-patient hospital services; dental services; optometrist or optician services; mental health services; and prescription and over-the-counter drugs.

This bill requires the DHFS to administer a program (All Kids) to provide health care coverage to certain children under the age of 19 regardless of the child's

BILL

family income. A child is eligible if he or she is a resident of Wisconsin; not eligible for MA or Badger Care; not a resident of an institution for mental diseases or an inmates of a public institution; and if the child satisfies at least one of the following health care coverage conditions: 1) The child has been without health insurance coverage for a period of time established by DHFS (at least 6 months upon program implementation, incrementally increasing to at least 12 months); 2) the child's parent lost access to affordable employer-sponsored health insurance for the child as a result of job loss; 3) the child is a newborn without access to affordable employer-sponsored health insurance; or 4) the child lost eligibility for MA or Badger Care in the previous 12 months.

The bill authorizes DHFS to establish cost-sharing requirements for enrollees including monthly premiums (based on family income), co-payments, or co-insurance. If a required monthly premium is not timely paid, the child is terminated from All Kids and is not eligible to re-enroll for at least three months.

The benefits under All Kids are the same as the benefits under MA, except that All Kids does not cover non-emergency transportation services. However, the bill authorizes DHFS to subsidize a health insurance plan for an enrollee rather than providing the MA benefits if the subsidy is cost-effective. Further, the bill authorizes DHFS to provide a limited package of health care benefits to children who satisfy all of the eligibility criteria except the health care coverage conditions and are either enrolled in a high-deductible health insurance plan or a health insurance plan that does not cover all of the benefits covered under All Kids. The bill creates a general purpose revenue appropriation and a program revenue appropriation to fund benefits under the All Kids program.

Under the bill, the All Kids program is effective January 1, 2007. The bill requires DHFS to promulgate emergency rules for the program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
- 2 the following amounts for the purposes indicated:

YPS:
check spacing throughout this bill

if he or she is

he or she

SIX if he or she is

X

X
X
X

BILL

SECTION 4

1 (b) The child is not eligible to receive benefits under s. 49.45 or 49.665.

2 (c) The child is not a resident of an institution for mental diseases, as defined
3 in s. 49.43 (6m).

4 (d) The child is not an inmate of a public institution, as defined in 42 CFR
5 435.1009.

6 (e) At the time of eligibility determination, any of the following apply: ^{ies}

7 1. The child has been without health insurance coverage for a period
8 established by the department by rule that is not less than 6 months during the first
9 month of operation of the program under this section, 7 months during the 2nd
10 month of operation, 8 months during the 3rd month of operation, 9 months during
11 the 4th month of operation, 10 months during the 5th month of operation, 11 months
12 during the 6th month of operation, and 12 months for any month after the 6th month
13 of operation.

14 2. As a result of losing employment, the child's parent lost access to affordable
15 employer-sponsored health insurance coverage for the child, and the parent remains
16 without access to affordable employer-sponsored health insurance coverage for the
17 child.

18 3. The child is a newborn and affordable private or employer-sponsored health
19 insurance coverage is not available for the child.

20 4. The child lost eligibility for benefits under s. 49.45 or 49.665 within the 12
21 months before applying for benefits under this section.

22 (3) ENROLLMENT DURATION. A child who is determined to be eligible under sub.

23 (2) remains eligible for 12 months except if sub. (2) (a), (c), or (d) no longer applies

24 or if a monthly premium required under sub. (5) is not timely paid. A child for whom

BILL

1 the monthly premium is not timely paid is ineligible to re^Penroll in the program
2 under this section for 3 months.

3 ⁹⁵ (4) BENEFITS. (a) Except as provided in par. (b), the benefits under this section
4 are the same as those described under s. 49.46 (2), except that non^Pemergency
5 transportation services are not covered under this section.

6 (b) As an alternative to providing the benefits under par. (a), the department
7 may subsidize the cost of health insurance coverage for a child, including
8 employer-sponsored coverage, if paying the subsidy is cost-effective.

9 ⁹⁶ (5) COST SHARING. (a) Except as provided in par. (b), a child receiving benefits
10 under sub. (4) (a) is subject to any co^Ppayment, coinsurance, or monthly premium
11 established by the department. The department shall determine co^Ppayment,
12 coinsurance, and monthly premium amounts on a sliding scale based on family
13 income.

14 (b) The department may not require a co^Ppayment for the benefit described
15 under s. 49.46 (2) (a) 2.

16 ⁹⁵ (c) A child enrolled in a privately^Ssponsored health plan as provided under sub.
17 (4) (b) is subject to the cost-sharing provisions stated in the plan.

18 ⁹⁷ (6) ALTERNATIVES. Notwithstanding subs. (2) (e) and (4), if cost-effective, the
19 department may, as an alternative to the benefits under sub. (4), provide a limited
20 package of the services under sub. (4) (a) to a child who satisfies the eligibility criteria
21 under sub. (2) (a), (b), (c), and (d) and is enrolled in a high-deductible health
22 insurance plan or a health insurance plan that does not cover all of the benefits under
23 sub. (4) (a).

24 ²⁸ (7) INFORMATION ABOUT APPLICANTS AND ENROLLEES. (a) In this subsection:

25 1. "Disability insurance policy" has the meaning given in s. 632.895 (1) (a).

BILL

1 2. "Insurer" has the meaning given in s. 600.03 (27)

2 (b) An insurer that issues or delivers a disability insurance policy that provides
3 coverage to a resident of this state shall provide to the department, upon the
4 department's request, information contained in the insurer's records that the
5 department needs to verify the eligibility of program applicants and enrollees under
6 this section.

7 (c) Upon requesting an insurer to provide the information under par. (b), the
8 department shall enter into a written agreement with the insurer that satisfies all
9 of the following:

10 1. Identifies in detail the information to be disclosed.

11 2. Includes provisions that adequately safeguard the confidentiality of the
12 information to be disclosed.

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25.

13 (d) 1. An insurer shall provide the information requested under par. (b) within
14 180 days after receiving the department's request if it is the first time that the
15 department has requested the insurer to disclose information under this subsection.

16 2. An insurer shall provide the information requested under par. (b) within 30
17 days after receiving the department's request if the department has previously
18 requested the insurer to disclose information under this subsection.

19 3. If an insurer fails to comply with subd. 1. or 2., the department may notify
20 the commissioner of insurance, and the commissioner of insurance may initiate
21 enforcement proceedings against the insurer under s. 601.41 (4) (a).

create
auto
ref (A)

SECTION 5. Nonstatutory provisions.

22 (1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
23
24 the department of health and family services shall promulgate the rules required

create auto ref (B)

BILL

1 under section 49.67 (2) (b) of the statutes, as created by this act. Notwithstanding
 2 section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this
 3 subsection remain in effect until the effective date of the permanent rules
 4 promulgated under section 49.67 (2) of the statutes, as created by this act, or until
 5 January 1, 2008, whichever is sooner. Notwithstanding section 227.24 (1) (a), (2) (b),
 6 and (3) of the statutes, the department is not required to provide evidence that
 7 promulgating a rule under this subsection as an emergency rule is necessary for the
 8 preservation of the public peace, health, safety, or welfare and is not required to
 9 provide a finding of emergency for a rule promulgated under this subsection.

change to
 10
 action: ns: effdate E2

SECTION 6. Effective date. ^S ^{no #}

A.R. A
 (5) A.R.
 (3)

11 (1) This act takes effect on January 1, 2007, except as follows:

txt: ns: effdate →

12 (1) (a) The treatment of section 49.67 (2) (b) of the statutes and SECTION 4 of this
 13 act take effect on the day after publication.

14 (END)

(D-Note)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4198/1dn

RLR: *gjf*

Date

Representative Zepnik and Connor Sabatino:

X
The Illinois All Kids bill prohibits charging a co-payment for “well-child” or “well-baby” care. I assumed that the Medical Assistance early and periodic screening, diagnostic and treatment benefit, known as HealthCheck in Wisconsin, is equivalent to well-child and well-baby care.

For this draft, I have included an appropriation but have specified “\$-0-” for expenditure in fiscal years 2005-06 and 2006-07. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4198/1dn
RLR:kjf:pg

January 6, 2006

Representative Zepnik and Connor Sabatino:

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Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

Emery, Lynn

From: Sabatino, Connor
Sent: Monday, January 23, 2006 9:11 AM
To: LRB.Legal
Subject: Draft review: LRB 05-4198/1 Topic: Health insurance coverage for children

It has been requested by <Sabatino, Connor> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-4198/1 Topic: Health insurance coverage for children