



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0652

Introduced 2/6/2007, by Rep. Sara Feigenholtz - John D'Amico - Harry Osterman - Julie Hamos

#### SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02

from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. Provides that the program of services established by the Department for the purpose of preventing unnecessary institutionalization shall be known as the Community Care Program. Requires certain services to be included in the Program, and authorizes the Department to include other services. Provides that participants may choose among the preventative services provided. Provides that the Department shall report the number of participants in the Community Care Program who receive medical assistance. Provides that the Department shall ensure that all eligible participants receive the number of hours they need up to the monthly service cost maximum, that all services are available to Community Care Program participants on evenings and weekends, and that participants have the right to choose how the hours of service are designated. Provides that the Program shall include personal assistant services. Contains other provisions. Effective July 1, 2007.

LRB095 05122 HLH 28290 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Act on the Aging is amended by  
5 changing Section 4.02 as follows:

6 (20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

7 Sec. 4.02. The Department shall establish a program of  
8 services, which shall be known as the Community Care Program,  
9 to prevent unnecessary institutionalization of persons age 60  
10 and older in need of long term care or who are established as  
11 persons who suffer from Alzheimer's disease or a related  
12 disorder under the Alzheimer's Disease Assistance Act, thereby  
13 enabling them to remain in their own homes or in other living  
14 arrangements. Such preventive services, which may be  
15 coordinated with other programs for the aged and monitored by  
16 area agencies on aging in cooperation with the Department,  
17 shall ~~may include, but are not limited to, any or~~ all of the  
18 following:

19 ~~(a)~~ home health services;

20 ~~(b)~~ home nursing services;

21 ~~(c)~~ homemaker services;

22 ~~(d)~~ chore and housekeeping services; and

23 personal care services.

1 The Community Care Program may also include one or more of the  
2 following:

3 ~~(e)~~ adult day services;

4 ~~(f)~~ home-delivered meals;

5 ~~(g)~~ education in self-care;

6 ~~(h)~~ personal care services;

7 ~~(i)~~ adult day health services;

8 ~~(j)~~ habilitation services;

9 ~~(k)~~ respite care;

10 ~~(k-5)~~ community reintegration services;

11 ~~(l)~~ other nonmedical social services that may enable  
12 the person to become self-supporting; or

13 ~~(m)~~ clearinghouse for information provided by senior  
14 citizen home owners who want to rent rooms to or share  
15 living space with other senior citizens.

16 An eligible individual shall have the right to choose among  
17 these preventative services up to the monthly service cost  
18 maximum developed by the Department.

19 The Department shall establish eligibility standards for  
20 such services taking into consideration the unique economic and  
21 social needs of the target population for whom they are to be  
22 provided. Such eligibility standards shall be based on the  
23 recipient's ability to pay for services; provided, however,  
24 that in determining the amount and nature of services for which  
25 a person may qualify, consideration shall not be given to the  
26 value of cash, property or other assets held in the name of the

1 person's spouse pursuant to a written agreement dividing  
2 marital property into equal but separate shares or pursuant to  
3 a transfer of the person's interest in a home to his spouse,  
4 provided that the spouse's share of the marital property is not  
5 made available to the person seeking such services.

6 Beginning July 1, 2002, the Department shall require as a  
7 condition of eligibility that all financially eligible  
8 applicants and recipients apply for medical assistance under  
9 Article V of the Illinois Public Aid Code in accordance with  
10 rules promulgated by the Department. To ensure proper  
11 enforcement of this requirement, the Department shall report,  
12 on a quarterly basis, the number of participants in the  
13 Community Care Program who have applied for and receive that  
14 medical assistance.

15 The Department shall, in conjunction with the Department of  
16 Public Aid (now Department of Healthcare and Family Services),  
17 seek appropriate amendments under Sections 1915 and 1924 of the  
18 Social Security Act. The purpose of the amendments shall be to  
19 extend eligibility for home and community based services under  
20 Sections 1915 and 1924 of the Social Security Act to persons  
21 who transfer to or for the benefit of a spouse those amounts of  
22 income and resources allowed under Section 1924 of the Social  
23 Security Act. Subject to the approval of such amendments, the  
24 Department shall extend the provisions of Section 5-4 of the  
25 Illinois Public Aid Code to persons who, but for the provision  
26 of home or community-based services, would require the level of

1 care provided in an institution, as is provided for in federal  
2 law. Those persons no longer found to be eligible for receiving  
3 noninstitutional services due to changes in the eligibility  
4 criteria shall be given 60 days notice prior to actual  
5 termination. Those persons receiving notice of termination may  
6 contact the Department and request the determination be  
7 appealed at any time during the 60 day notice period. With the  
8 exception of the lengthened notice and time frame for the  
9 appeal request, the appeal process shall follow the normal  
10 procedure. In addition, each person affected regardless of the  
11 circumstances for discontinued eligibility shall be given  
12 notice and the opportunity to purchase the necessary services  
13 through the Community Care Program. If the individual does not  
14 elect to purchase services, the Department shall advise the  
15 individual of alternative services. The target population  
16 identified for the purposes of this Section are persons age 60  
17 and older with an identified service need. Priority shall be  
18 given to those who are at imminent risk of  
19 institutionalization. The services shall be provided to  
20 eligible persons age 60 and older to the extent that the cost  
21 of the services together with the other personal maintenance  
22 expenses of the persons are reasonably related to the standards  
23 established for care in a group facility appropriate to the  
24 person's condition. These non-institutional services, pilot  
25 projects or experimental facilities may be provided as part of  
26 or in addition to those authorized by federal law or those

1 funded and administered by the Department of Human Services.  
2 The Departments of Human Services, Healthcare and Family  
3 Services, Public Health, Veterans' Affairs, and Commerce and  
4 Economic Opportunity and other appropriate agencies of State,  
5 federal and local governments shall cooperate with the  
6 Department on Aging in the establishment and development of the  
7 non-institutional services. The Department shall require an  
8 annual audit from all chore/housekeeping and homemaker vendors  
9 contracting with the Department under this Section. The annual  
10 audit shall assure that each audited vendor's procedures are in  
11 compliance with Department's financial reporting guidelines  
12 requiring an administrative and employee wage and benefits cost  
13 split as defined in administrative rules. The audit is a public  
14 record under the Freedom of Information Act. The Department  
15 shall execute, relative to the nursing home prescreening  
16 project, written inter-agency agreements with the Department  
17 of Human Services and the Department of Healthcare and Family  
18 Services, to effect the following: (1) intake procedures and  
19 common eligibility criteria for those persons who are receiving  
20 non-institutional services; and (2) the establishment and  
21 development of non-institutional services in areas of the State  
22 where they are not currently available or are undeveloped. On  
23 and after July 1, 1996, all nursing home prescreenings for  
24 individuals 60 years of age or older shall be conducted by the  
25 Department.

26 As part of the Department on Aging's routine training of

1 case managers and case manager supervisors, the Department may  
2 include information on family futures planning for persons who  
3 are age 60 or older and who are caregivers of their adult  
4 children with developmental disabilities. The content of the  
5 training shall be at the Department's discretion.

6 The Department is authorized to establish a system of  
7 recipient copayment for services provided under this Section,  
8 such copayment to be based upon the recipient's ability to pay  
9 but in no case to exceed the actual cost of the services  
10 provided. Additionally, any portion of a person's income which  
11 is equal to or less than the federal poverty standard shall not  
12 be considered by the Department in determining the copayment.  
13 The level of such copayment shall be adjusted whenever  
14 necessary to reflect any change in the officially designated  
15 federal poverty standard.

16 The Department, or the Department's authorized  
17 representative, shall recover the amount of moneys expended for  
18 services provided to or in behalf of a person under this  
19 Section by a claim against the person's estate or against the  
20 estate of the person's surviving spouse, but no recovery may be  
21 had until after the death of the surviving spouse, if any, and  
22 then only at such time when there is no surviving child who is  
23 under age 21, blind, or permanently and totally disabled. This  
24 paragraph, however, shall not bar recovery, at the death of the  
25 person, of moneys for services provided to the person or in  
26 behalf of the person under this Section to which the person was

1 not entitled; provided that such recovery shall not be enforced  
2 against any real estate while it is occupied as a homestead by  
3 the surviving spouse or other dependent, if no claims by other  
4 creditors have been filed against the estate, or, if such  
5 claims have been filed, they remain dormant for failure of  
6 prosecution or failure of the claimant to compel administration  
7 of the estate for the purpose of payment. This paragraph shall  
8 not bar recovery from the estate of a spouse, under Sections  
9 1915 and 1924 of the Social Security Act and Section 5-4 of the  
10 Illinois Public Aid Code, who precedes a person receiving  
11 services under this Section in death. All moneys for services  
12 paid to or in behalf of the person under this Section shall be  
13 claimed for recovery from the deceased spouse's estate.  
14 "Homestead", as used in this paragraph, means the dwelling  
15 house and contiguous real estate occupied by a surviving spouse  
16 or relative, as defined by the rules and regulations of the  
17 Department of Healthcare and Family Services, regardless of the  
18 value of the property.

19 The Department shall increase the effectiveness of the  
20 existing Community Care Program by:

21 (1) ensuring that all services are available to  
22 Community Care Program participants on evenings and  
23 weekends;

24 (2) ensuring that all eligible participants receive  
25 the number of hours they need up to the monthly service  
26 cost maximum, and ensuring that the participant has the

1 right to choose how those hours are designated;

2 (3) ensuring that services shall not be limited to  
3 specific blocks of time;

4 (4) promulgating regulations comparable to Section  
5 679.50 of Title 89 of the Illinois Administrative Code:  
6 Service Cost Maximums under the Department of  
7 Rehabilitation Services' Home Services Program; and

8 (5) including personal assistant services in the list  
9 of services that shall be provided by the Community Care  
10 Program.

11 Within 6 months after the effective date of this amendatory  
12 Act of the 95th General Assembly, the Department on Aging shall  
13 promulgate rules concerning the personal assistant's  
14 qualifications and training requirements. The Department shall  
15 define the services that a personal assistant may provide,  
16 including household tasks, shopping or personal care,  
17 incidental health care tasks, and health and safety monitoring.  
18 Community Care Program services provided by a personal  
19 assistant must be approved by the participant's physician.

20 ~~The Department shall develop procedures to enhance~~  
21 ~~availability of services on evenings, weekends, and on an~~  
22 ~~emergency basis to meet the respite needs of caregivers.~~  
23 ~~Procedures shall be developed to permit the utilization of~~  
24 ~~services in successive blocks of 24 hours up to the monthly~~  
25 ~~maximum established by the Department. Workers providing these~~  
26 ~~services shall be appropriately trained.~~

1           Beginning on the effective date of this Amendatory Act of  
2 1991, no person may perform chore/housekeeping and homemaker  
3 services under a program authorized by this Section unless that  
4 person has been issued a certificate of pre-service to do so by  
5 his or her employing agency. Information gathered to effect  
6 such certification shall include (i) the person's name, (ii)  
7 the date the person was hired by his or her current employer,  
8 and (iii) the training, including dates and levels. Persons  
9 engaged in the program authorized by this Section before the  
10 effective date of this amendatory Act of 1991 shall be issued a  
11 certificate of all pre- and in-service training from his or her  
12 employer upon submitting the necessary information. The  
13 employing agency shall be required to retain records of all  
14 staff pre- and in-service training, and shall provide such  
15 records to the Department upon request and upon termination of  
16 the employer's contract with the Department. In addition, the  
17 employing agency is responsible for the issuance of  
18 certifications of in-service training completed to their  
19 employees.

20           The Department is required to develop a system to ensure  
21 that persons working as homemakers and chore housekeepers  
22 receive increases in their wages when the federal minimum wage  
23 is increased by requiring vendors to certify that they are  
24 meeting the federal minimum wage statute for homemakers and  
25 chore housekeepers. An employer that cannot ensure that the  
26 minimum wage increase is being given to homemakers and chore

1 housekeepers shall be denied any increase in reimbursement  
2 costs.

3 The Community Care Program Advisory Committee is created in  
4 the Department on Aging. The Director shall appoint individuals  
5 to serve in the Committee, who shall serve at their own  
6 expense. Members of the Committee must abide by all applicable  
7 ethics laws. The Committee shall advise the Department on  
8 issues related to the Department's program of services to  
9 prevent unnecessary institutionalization. The Committee shall  
10 meet on a bi-monthly basis and shall serve to identify and  
11 advise the Department on present and potential issues affecting  
12 the service delivery network, the program's clients, and the  
13 Department and to recommend solution strategies. Persons  
14 appointed to the Committee shall be appointed on, but not  
15 limited to, their own and their agency's experience with the  
16 program, geographic representation, and willingness to serve.  
17 The Committee shall include, but not be limited to,  
18 representatives from the following agencies and organizations:

- 19 (a) at least 4 adult day service representatives;  
20 (b) at least 4 case coordination unit representatives;  
21 (c) at least 4 representatives from in-home direct care  
22 service agencies;  
23 (d) at least 2 representatives of statewide trade or  
24 labor unions that represent in-home direct care service  
25 staff;  
26 (e) at least 2 representatives of Area Agencies on

1 Aging;

2 (f) at least 2 non-provider representatives from a  
3 policy, advocacy, research, or other service organization;

4 (g) at least 2 representatives from a statewide  
5 membership organization for senior citizens; and

6 (h) at least 2 citizen members 60 years of age or  
7 older.

8 Nominations may be presented from any agency or State  
9 association with interest in the program. The Director, or his  
10 or her designee, shall serve as the permanent co-chair of the  
11 advisory committee. One other co-chair shall be nominated and  
12 approved by the members of the committee on an annual basis.  
13 Committee members' terms of appointment shall be for 4 years  
14 with one-quarter of the appointees' terms expiring each year.  
15 At no time may a member serve more than one consecutive term in  
16 any capacity on the committee. The Department shall fill  
17 vacancies that have a remaining term of over one year, and this  
18 replacement shall occur through the annual replacement of  
19 expiring terms. The Director shall designate Department staff  
20 to provide technical assistance and staff support to the  
21 committee. Department representation shall not constitute  
22 membership of the committee. All Committee papers, issues,  
23 recommendations, reports, and meeting memoranda are advisory  
24 only. The Director, or his or her designee, shall make a  
25 written report, as requested by the Committee, regarding issues  
26 before the Committee.

1           The Department on Aging and the Department of Human  
2 Services shall cooperate in the development and submission of  
3 an annual report on programs and services provided under this  
4 Section. Such joint report shall be filed with the Governor and  
5 the General Assembly on or before September 30 each year.

6           The requirement for reporting to the General Assembly shall  
7 be satisfied by filing copies of the report with the Speaker,  
8 the Minority Leader and the Clerk of the House of  
9 Representatives and the President, the Minority Leader and the  
10 Secretary of the Senate and the Legislative Research Unit, as  
11 required by Section 3.1 of the General Assembly Organization  
12 Act and filing such additional copies with the State Government  
13 Report Distribution Center for the General Assembly as is  
14 required under paragraph (t) of Section 7 of the State Library  
15 Act.

16           Those persons previously found eligible for receiving  
17 non-institutional services whose services were discontinued  
18 under the Emergency Budget Act of Fiscal Year 1992, and who do  
19 not meet the eligibility standards in effect on or after July  
20 1, 1992, shall remain ineligible on and after July 1, 1992.  
21 Those persons previously not required to cost-share and who  
22 were required to cost-share effective March 1, 1992, shall  
23 continue to meet cost-share requirements on and after July 1,  
24 1992. Beginning July 1, 1992, all clients will be required to  
25 meet eligibility, cost-share, and other requirements and will  
26 have services discontinued or altered when they fail to meet

1 these requirements.

2 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,  
3 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;  
4 94-954, eff. 6-27-06.)

5 Section 99. Effective date. This Act takes effect July 1,  
6 2007.