



Rep. Sara Feigenholtz

Filed: 4/9/2007

09500HB0652ham003

LRB095 05122 HLH 34820 a

1 AMENDMENT TO HOUSE BILL 652

2 AMENDMENT NO. _____. Amend House Bill 652 by replacing
3 everything after the enacting clause with the following:

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

1 limited to, any or all of the following:

2 (a) (blank); ~~home health services;~~

3 (b) (blank); ~~home nursing services;~~

4 (c) homemaker services;

5 (d) personal assistant services ~~chore and housekeeping~~
6 ~~services;~~

7 (e) adult day services;

8 (f) home-delivered meals;

9 (g) education in self-care;

10 (h) personal care services;

11 (i) adult day health services;

12 (j) habilitation services;

13 (k) respite care;

14 (k-5) community reintegration services;

15 (K-6) flexible senior services;

16 (K-7) medication management;

17 (K-8) emergency home response;

18 (l) other nonmedical social services that may enable
19 the person to become self-supporting; or

20 (m) clearinghouse for information provided by senior
21 citizen home owners who want to rent rooms to or share
22 living space with other senior citizens.

23 The Department shall establish eligibility standards for
24 such services taking into consideration the unique economic and
25 social needs of the target population for whom they are to be
26 provided. Such eligibility standards shall be based on the

1 recipient's ability to pay for services; provided, however,
2 that in determining the amount and nature of services for which
3 a person may qualify, consideration shall not be given to the
4 value of cash, property or other assets held in the name of the
5 person's spouse pursuant to a written agreement dividing
6 marital property into equal but separate shares or pursuant to
7 a transfer of the person's interest in a home to his spouse,
8 provided that the spouse's share of the marital property is not
9 made available to the person seeking such services.

10 Beginning July 1, 2002, the Department shall require as a
11 condition of eligibility that all financially eligible
12 applicants ~~and recipients~~ apply for medical assistance under
13 Article V of the Illinois Public Aid Code in accordance with
14 rules promulgated by the Department.

15 Beginning July 1, 2007, the Department shall require as a
16 condition of eligibility that all new financially eligible
17 applicants apply for and enroll in medical assistance under
18 Article V of the Illinois Public Aid Code in accordance with
19 rules promulgated by the Department.

20 The Department shall, in conjunction with the Department of
21 Public Aid (now Department of Healthcare and Family Services),
22 seek appropriate amendments under Sections 1915 and 1924 of the
23 Social Security Act. The purpose of the amendments shall be to
24 extend eligibility for home and community based services under
25 Sections 1915 and 1924 of the Social Security Act to persons
26 who transfer to or for the benefit of a spouse those amounts of

1 income and resources allowed under Section 1924 of the Social
2 Security Act. Subject to the approval of such amendments, the
3 Department shall extend the provisions of Section 5-4 of the
4 Illinois Public Aid Code to persons who, but for the provision
5 of home or community-based services, would require the level of
6 care provided in an institution, as is provided for in federal
7 law. Those persons no longer found to be eligible for receiving
8 noninstitutional services due to changes in the eligibility
9 criteria shall be given 60 days notice prior to actual
10 termination. Those persons receiving notice of termination may
11 contact the Department and request the determination be
12 appealed at any time during the 60 day notice period. With the
13 exception of the lengthened notice and time frame for the
14 appeal request, the appeal process shall follow the normal
15 procedure. In addition, each person affected regardless of the
16 circumstances for discontinued eligibility shall be given
17 notice and the opportunity to purchase the necessary services
18 through the Community Care Program. If the individual does not
19 elect to purchase services, the Department shall advise the
20 individual of alternative services. The target population
21 identified for the purposes of this Section are persons age 60
22 and older with an identified service need. Priority shall be
23 given to those who are at imminent risk of
24 institutionalization. The services shall be provided to
25 eligible persons age 60 and older to the extent that the cost
26 of the services together with the other personal maintenance

1 expenses of the persons are reasonably related to the standards
2 established for care in a group facility appropriate to the
3 person's condition. These non-institutional services, pilot
4 projects or experimental facilities may be provided as part of
5 or in addition to those authorized by federal law or those
6 funded and administered by the Department of Human Services.
7 The Departments of Human Services, Healthcare and Family
8 Services, Public Health, Veterans' Affairs, and Commerce and
9 Economic Opportunity and other appropriate agencies of State,
10 federal and local governments shall cooperate with the
11 Department on Aging in the establishment and development of the
12 non-institutional services. The Department shall require an
13 annual audit from all chore/housekeeping and homemaker vendors
14 contracting with the Department under this Section. The annual
15 audit shall assure that each audited vendor's procedures are in
16 compliance with Department's financial reporting guidelines
17 requiring an administrative and employee wage and benefits cost
18 split as defined in administrative rules. The audit is a public
19 record under the Freedom of Information Act. The Department
20 shall execute, relative to the nursing home prescreening
21 project, written inter-agency agreements with the Department
22 of Human Services and the Department of Healthcare and Family
23 Services, to effect the following: (1) intake procedures and
24 common eligibility criteria for those persons who are receiving
25 non-institutional services; and (2) the establishment and
26 development of non-institutional services in areas of the State

1 where they are not currently available or are undeveloped. On
2 and after July 1, 1996, all nursing home prescreenings for
3 individuals 60 years of age or older shall be conducted by the
4 Department.

5 As part of the Department on Aging's routine training of
6 case managers and case manager supervisors, the Department may
7 include information on family futures planning for persons who
8 are age 60 or older and who are caregivers of their adult
9 children with developmental disabilities. The content of the
10 training shall be at the Department's discretion.

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

21 The Department, or the Department's authorized
22 representative, shall recover the amount of moneys expended for
23 services provided to or in behalf of a person under this
24 Section by a claim against the person's estate or against the
25 estate of the person's surviving spouse, but no recovery may be
26 had until after the death of the surviving spouse, if any, and

1 then only at such time when there is no surviving child who is
2 under age 21, blind, or permanently and totally disabled. This
3 paragraph, however, shall not bar recovery, at the death of the
4 person, of moneys for services provided to the person or in
5 behalf of the person under this Section to which the person was
6 not entitled; provided that such recovery shall not be enforced
7 against any real estate while it is occupied as a homestead by
8 the surviving spouse or other dependent, if no claims by other
9 creditors have been filed against the estate, or, if such
10 claims have been filed, they remain dormant for failure of
11 prosecution or failure of the claimant to compel administration
12 of the estate for the purpose of payment. This paragraph shall
13 not bar recovery from the estate of a spouse, under Sections
14 1915 and 1924 of the Social Security Act and Section 5-4 of the
15 Illinois Public Aid Code, who precedes a person receiving
16 services under this Section in death. All moneys for services
17 paid to or in behalf of the person under this Section shall be
18 claimed for recovery from the deceased spouse's estate.
19 "Homestead", as used in this paragraph, means the dwelling
20 house and contiguous real estate occupied by a surviving spouse
21 or relative, as defined by the rules and regulations of the
22 Department of Healthcare and Family Services, regardless of the
23 value of the property.

24 The Department shall increase the effectiveness of the
25 existing Community Care Program by:

26 (1) ensuring that in-home services included in the care

1 plan are available on evenings and weekends;

2 (2) ensuring that care plans contain the services that
3 eligible participants' need based on the number of days in
4 a month, not limited to specific blocks of time, as
5 identified by the comprehensive assessment tool selected
6 by the Department for use statewide, not to exceed the
7 total monthly service cost maximum allowed for each
8 service. The Department shall develop administrative rules
9 to implement this item (2);

10 (3) ensuring that the participants have the right to
11 choose the services contained in their care plan and to
12 direct how those services are provided, based on
13 administrative rules established by the Department;

14 (4) ensuring that the determination of need tool is
15 accurate in determining the participants' level of need; to
16 achieve this, the Department, in conjunction with the Older
17 Adult Services Advisory Committee, shall institute a study
18 of the relationship between the Determination of Need
19 scores, level of need, Service Cost Maximums and the
20 development and utilization of service plans no later than
21 May 1, 2008; findings and recommendations shall be
22 presented to the Governor and the General Assembly no later
23 than January 1, 2009; recommendations shall include all
24 needed changes to the service cost maximums schedule and
25 additional covered services;

26 (5) ensuring that homemakers can provide personal care

1 services that may or may not involve contact with clients,
2 including but not limited to:

3 (A) bathing;

4 (B) grooming;

5 (C) toileting;

6 (D) nail care;

7 (E) transferring;

8 (F) respiratory services;

9 (G) exercise; or

10 (H) positioning;

11 (6) ensuring that homemaker program vendors are not
12 restricted from hiring homemakers who are family members of
13 clients or recommended by clients; the Department may not,
14 by rule or policy, require homemakers who are family
15 members of clients or recommended by clients to accept
16 assignments in homes other than the client; and

17 (7) ensuring that the State may access maximum federal
18 matching funds by seeking approval for the Centers for
19 Medicare and Medicaid Services for modifications to the
20 State's home and community based services waiver and
21 additional waiver opportunities in order to maximize
22 federal matching funds; this shall include, but not be
23 limited to, modification that reflects all changes in the
24 Community Care Program services and all increases in the
25 Services Cost Maximum.

26 By January 1, 2009 or as soon after the end of the Cash and

1 Counseling Demonstration Project as is practicable, the
2 Department may, based on its evaluation of the demonstration
3 project, promulgate rules concerning personal assistant
4 services to include, but need not be limited to,
5 qualifications, employment screening, rights under fair labor
6 standards, training, fiduciary agent, and supervision
7 requirements. All applicants shall be subject to the provisions
8 of the Health Care Worker Background Check Act.

9 The Department shall develop procedures to enhance
10 availability of services on evenings, weekends, and on an
11 emergency basis to meet the respite needs of caregivers.
12 Procedures shall be developed to permit the utilization of
13 services in successive blocks of 24 hours up to the monthly
14 maximum established by the Department. Workers providing these
15 services shall be appropriately trained.

16 Beginning on the effective date of this Amendatory Act of
17 1991, no person may perform chore/housekeeping and homemaker
18 services under a program authorized by this Section unless that
19 person has been issued a certificate of pre-service to do so by
20 his or her employing agency. Information gathered to effect
21 such certification shall include (i) the person's name, (ii)
22 the date the person was hired by his or her current employer,
23 and (iii) the training, including dates and levels. Persons
24 engaged in the program authorized by this Section before the
25 effective date of this amendatory Act of 1991 shall be issued a
26 certificate of all pre- and in-service training from his or her

1 employer upon submitting the necessary information. The
2 employing agency shall be required to retain records of all
3 staff pre- and in-service training, and shall provide such
4 records to the Department upon request and upon termination of
5 the employer's contract with the Department. In addition, the
6 employing agency is responsible for the issuance of
7 certifications of in-service training completed to their
8 employees.

9 The Department is required to develop a system to ensure
10 that persons working as homemakers and chore housekeepers
11 receive increases in their wages when the federal minimum wage
12 is increased by requiring vendors to certify that they are
13 meeting the federal minimum wage statute for homemakers and
14 chore housekeepers. An employer that cannot ensure that the
15 minimum wage increase is being given to homemakers and chore
16 housekeepers shall be denied any increase in reimbursement
17 costs.

18 The Community Care Program Advisory Committee is created in
19 the Department on Aging. The Director shall appoint individuals
20 to serve in the Committee, who shall serve at their own
21 expense. Members of the Committee must abide by all applicable
22 ethics laws. The Committee shall advise the Department on
23 issues related to the Department's program of services to
24 prevent unnecessary institutionalization. The Committee shall
25 meet on a bi-monthly basis and shall serve to identify and
26 advise the Department on present and potential issues affecting

1 the service delivery network, the program's clients, and the
2 Department and to recommend solution strategies. Persons
3 appointed to the Committee shall be appointed on, but not
4 limited to, their own and their agency's experience with the
5 program, geographic representation, and willingness to serve.
6 The Committee shall include, but not be limited to,
7 representatives from the following agencies and organizations:

8 (a) at least 4 adult day service representatives;

9 (b) at least 4 case coordination unit representatives;

10 (c) at least 4 representatives from in-home direct care
11 service agencies;

12 (d) at least 2 representatives of statewide trade or
13 labor unions that represent in-home direct care service
14 staff;

15 (e) at least 2 representatives of Area Agencies on
16 Aging;

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

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

21 (h) at least 2 citizen members 60 years of age or
22 older.

23 Nominations may be presented from any agency or State
24 association with interest in the program. The Director, or his
25 or her designee, shall serve as the permanent co-chair of the
26 advisory committee. One other co-chair shall be nominated and

1 approved by the members of the committee on an annual basis.
2 Committee members' terms of appointment shall be for 4 years
3 with one-quarter of the appointees' terms expiring each year.
4 At no time may a member serve more than one consecutive term in
5 any capacity on the committee. The Department shall fill
6 vacancies that have a remaining term of over one year, and this
7 replacement shall occur through the annual replacement of
8 expiring terms. The Director shall designate Department staff
9 to provide technical assistance and staff support to the
10 committee. Department representation shall not constitute
11 membership of the committee. All Committee papers, issues,
12 recommendations, reports, and meeting memoranda are advisory
13 only. The Director, or his or her designee, shall make a
14 written report, as requested by the Committee, regarding issues
15 before the Committee.

16 The Department on Aging and the Department of Human
17 Services shall cooperate in the development and submission of
18 an annual report on programs and services provided under this
19 Section. Such joint report shall be filed with the Governor and
20 the General Assembly on or before September 30 each year.

21 The requirement for reporting to the General Assembly shall
22 be satisfied by filing copies of the report with the Speaker,
23 the Minority Leader and the Clerk of the House of
24 Representatives and the President, the Minority Leader and the
25 Secretary of the Senate and the Legislative Research Unit, as
26 required by Section 3.1 of the General Assembly Organization

1 Act and filing such additional copies with the State Government
2 Report Distribution Center for the General Assembly as is
3 required under paragraph (t) of Section 7 of the State Library
4 Act.

5 Those persons previously found eligible for receiving
6 non-institutional services whose services were discontinued
7 under the Emergency Budget Act of Fiscal Year 1992, and who do
8 not meet the eligibility standards in effect on or after July
9 1, 1992, shall remain ineligible on and after July 1, 1992.
10 Those persons previously not required to cost-share and who
11 were required to cost-share effective March 1, 1992, shall
12 continue to meet cost-share requirements on and after July 1,
13 1992. Beginning July 1, 1992, all clients will be required to
14 meet eligibility, cost-share, and other requirements and will
15 have services discontinued or altered when they fail to meet
16 these requirements.

17 For the purposes of this Section, "flexible senior
18 services" refers to services that require one-time or periodic
19 expenditures including, but not limited to, respite care, home
20 modification, assistive technology, housing assistance, and
21 transportation.

22 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,
23 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;
24 94-954, eff. 6-27-06.)".