

AN ACT concerning State government.

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

Section 5. The Disabilities Services Act of 2003 is amended by adding a heading to Article 1 immediately before Section 1 of the Act, by adding a heading to Article 2 immediately before Section 5 of the Act, by adding Article 3 and a heading to Article 99 immediately before Section 90 of the Act as follows:

(20 ILCS 2407/Art. 1 heading new)

ARTICLE 1. SHORT TITLE

(20 ILCS 2407/Art. 2 heading new)

ARTICLE 2. DISABILITIES SERVICES ACT of 2003

(20 ILCS 2407/Art. 3 heading new)

ARTICLE 3. MONEY FOLLOWS THE PERSON IMPLEMENTATION ACT

(20 ILCS 2407/51 new)

Sec. 51. Legislative intent. It is the intent of the General Assembly to promote the civil rights of persons with disabilities by providing community-based service for persons with disabilities when such services are determined appropriate and desired, as required by Title II of the

Americans with Disabilities Act under the United States Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581 (1999). In accordance with Section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171), the purpose of this Act is (i) to identify and reduce barriers or mechanisms, whether in State law, the State Medicaid Plan, the State budget, or otherwise, that prevent or restrict the flexible use of public funds to enable individuals with disabilities to receive support for appropriate and necessary long-term care services in settings of their choice; (ii) to increase the use of home and community-based long-term care services, rather than institutions or long-term care facilities; (iii) to increase the ability of the State Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institution or a long-term care facility to a community setting; and (iv) to ensure that procedures are in place that are at least comparable to those required under the qualified home and community-based program to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services. Utilizing the framework created by the "Money Follows the Person" demonstration project, approval received by the State on May 14, 2007, the purpose of this Act is to codify and reinforce the State's commitment to promote individual choice and control

and increase utilization of home and community-based services through:

(a) Increased ability of the State Medicaid program to ensure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institution to a community setting.

(b) Assessment and removal of barriers to community reintegration, including development of a comprehensive housing strategy.

(c) Expand availability of consumer self-directed service options.

(d) Increased use of home and community-based long-term care services, rather than institutions or long-term care facilities, such that the percentage of the State long-term care budget expended for community-based services increases from its current 28.5% to at least 37% in the next 5 years.

(e) Creation and implementation of interagency agreements or budgetary mechanisms to allow for the flexible movement of allocated dollars from institutional budget appropriations to appropriations supporting home and community-based services or Medicaid State Plan options.

(f) Creation of an equitable, clinically sound and cost-effective system for identification and review of community transition candidates across all long-term care

systems; including improvement of prescreening, assessment for rapid reintegration and targeted review of longer stay residents, training and outreach education for providers and consumers on community alternatives across all long-term care systems.

(g) Development and implementation of data and information systems to track individuals across service systems and funding streams; support responsive eligibility determination; facilitate placement and care decisions; identify individuals with potential for transition; and drive planning for the development of community-based alternatives.

(h) Establishment of procedures that are at least comparable to those required under the qualified home and community-based program to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services.

(i) Nothing in this amendatory Act of the 95th General Assembly shall diminish or restrict the choice of an individual to reside in an institution or the quality of care they receive.

(20 ILCS 2407/52 new)

Sec. 52. Applicability; definitions. In accordance with Section 6071 of the Deficit Reduction Act of 2005 (P.L.

109-171), as used in this Article:

"Departments". The term "Departments" means for the purposes of this Act, the Department of Human Services, the Department on Aging, Department of Healthcare and Family Services and Department of Public Health, unless otherwise noted.

"Home and community-based long-term care services". The term "home and community-based long-term care services" means, with respect to the State Medicaid program, a service aid, or benefit, home and community-based services, including but not limited to home health and personal care services, that are provided to a person with a disability, and are voluntarily accepted, as part of his or her long-term care that: (i) is provided under the State's qualified home and community-based program or that could be provided under such a program but is otherwise provided under the Medicaid program; (ii) is delivered in a qualified residence; and (iii) is necessary for the person with a disability to live in the community.

"Long-term care facility". The term "long-term care facility", for the purposes of this Article, means a skilled nursing or intermediate long-term care facility subject to licensure by the Department of Public Health under the Nursing Home Care Act, an intermediate care facility for the developmentally disabled (ICF-DDs), and a State-operated developmental center or mental health center, whether publicly or privately owned.

"Money Follows the Person" Demonstration. Enacted by the Deficit Reduction Act of 2005, the Money Follows the Person (MFP) Rebalancing Demonstration is part of a comprehensive, coordinated strategy to assist states, in collaboration with stakeholders, to make widespread changes to their long-term care support systems. This initiative will assist states in their efforts to reduce their reliance on institutional care while developing community-based long-term care opportunities, enabling the elderly and people with disabilities to fully participate in their communities.

"Public funds" mean any funds appropriated by the General Assembly to the Departments of Human Services, on Aging, of Healthcare and Family Services and of Public Health for settings and services as defined in this Article.

"Qualified residence". The term "qualified residence" means, with respect to an eligible individual: (i) a home owned or leased by the individual or the individual's authorized representative (as defined by P.L. 109-171); (ii) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; or (iii) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside. Where qualified residences are not sufficient to meet the demand of eligible individuals, time-limited exceptions to this definition may be developed

through administrative rule.

"Self-directed services". The term "self-directed services" means, with respect to home and community-based long-term services for an eligible individual, those services for the individual that are planned and purchased under the direction and control of the individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State Medicaid program consistent with the following requirements:

(a) Assessment: there is an assessment of the needs, capabilities, and preference of the individual with respect to such services.

(b) Individual service care or treatment plan: based on the assessment, there is development jointly with such individual or individual's authorized representative, a plan for such services for the individual that (i) specifies those services, if any, that the individual or the individual's authorized representative would be responsible for directing; (ii) identifies the methods by which the individual or the individual's authorized representative or an agency designated by an individual or representative will select, manage, and dismiss providers of such services.

(20 ILCS 2407/53 new)

Sec. 53. Rebalancing benchmarks.

(a) Illinois' long-term care system is in a state of transformation, as evidenced by the creation and subsequent work products of the Disability Services Advisory Committee, Older Adult Services Advisory Committee, Housing Task Force and other executive and legislative branch initiatives.

(b) Illinois' Money Follows the Person demonstration approval capitalizes on this progress and commits the State to transition approximately 3,357 older persons and persons with developmental, physical or psychiatric disabilities from institutional to home and community-based settings, resulting in an increased percentage of long-term care community spending over the next 5 years.

(c) The State will endeavor to increase the percentage of community-based long-term care spending over the next 5 years according to the following timeline:

Estimated baseline: 28.5%

Year 1: 30%

Year 2: 31%

Year 3: 32%

Year 4: 35%

Year 5: 37%

(d) The Departments will utilize interagency agreements and will seek legislative authority to implement a Money Follows the Person budgetary mechanism to allocate or reallocate funds for the purpose of expanding the availability, quality or stability of home and community-based long-term care

services and supports for persons with disabilities.

(e) The allocation of public funds for home and community-based long-term care services shall not have the effect of: (i) diminishing or reducing the quality of services available to residents of long-term care facilities; (ii) forcing any residents of long-term care facilities to involuntarily accept home and community-based long-term care services, or causing any residents of long-term care facilities to be involuntarily transferred or discharged; (iii) causing reductions in long-term care facility reimbursement rates in effect as of July 1, 2008; or (iv) diminishing access to a full array of long-term care options.

(20 ILCS 2407/54 new)

Sec. 54. Quality assurance and quality improvement.

(a) In accordance with subsection (11) of Section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171), the Departments shall develop a plan for quality assurance and quality improvement for home and community-based long-term care services under the State Medicaid program, including a plan to assure the health and welfare of eligible individuals under this Act.

(b) This plan shall require the Departments to apply for any available funding to support the intent of this legislation, and to seek any appropriate federal Medicaid approval.

(20 ILCS 2407/55 new)

Sec. 55. Dissemination of reports.

(a) On or before April 1 of each year, in conjunction with their annual report, the Department of Healthcare and Family Services, in cooperation with the other involved agencies, shall report to the Governor and the General Assembly on the implementation of this Act and include, at a minimum, the following data: (i) a description of any interagency agreements, fiscal payment mechanisms or methodologies developed under this Act that effectively support choice; (ii) information concerning the dollar amounts of State Medicaid long-term care expenditures and the percentage of such expenditures that were for institutional long-term care services or were for home and community-based long-term care services; and (iii) documentation that the Departments have met the requirements under Section 54(a) to assure the health and welfare of eligible individuals receiving home and community-based long-term care services. This report must be made available to the general public, including via the Departmental websites.

(20 ILCS 2407/56 new)

Sec. 56. Effect on existing rights.

(a) This Article does not alter or affect the manner in which persons with disabilities are determined eligible or

appropriate for home and community-based long-term care services.

(b) This Article shall not be read to limit in any way the rights of persons with disabilities under the U.S. Constitution, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Social Security Act, or any other federal or State law.

(20 ILCS 2407/57 new)

Sec. 57. Rules. The Departments of Human Services, on Aging, of Healthcare and Family Services and of Public Health shall adopt any rules necessary for the implementation and administration of this Act.