

1 AN ACT concerning developmental disabilities.

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

4 Section 5. The Mental Health and Developmental
5 Disabilities Administrative Act is amended by changing Section
6 2 and by adding Section 77 as follows:

7 (20 ILCS 1705/2) (from Ch. 91 1/2, par. 100-2)

8 Sec. 2. Definitions; administrative subdivisions.

9 (a) For the purposes of this Act, unless the context
10 otherwise requires:

11 "Community day services" or "CDS" means a Home and
12 Community-Based Waiver day program that is certified by the
13 Department. Community day services provide assistance with
14 gaining, maintaining, or improving skills and functioning to
15 individuals with developmental disabilities. Services can
16 reinforce skills or strategies taught in other settings and
17 may include training and supports to help prevent or slow the
18 loss of skills. Community day services take place in a
19 non-residential setting, separate from the individual's
20 residential setting, whether individually owned, controlled,
21 or otherwise. Community day services can be provided in a site
22 certified by the Department (site-based CDS) or in community
23 locations where members of the general community typically

1 congregate (non-site-based CDS). CDS activities shall promote
2 greater independence and support full access to the general
3 community to the same degree as persons not receiving Home and
4 Community-Based Waiver services.

5 "Department" means the Department of Human Services,
6 successor to the former Department of Mental Health and
7 Developmental Disabilities.

8 "Developmental disability" means "developmental
9 disability" as defined in Section 1-106 of the Mental Health
10 and Developmental Disabilities Code.

11 "Intellectual disability" means the "intellectual
12 disability" as defined in Section 1-116 of the Mental Health
13 and Developmental Disabilities Code.

14 "Secretary" means the Secretary of Human Services.

15 (b) Unless the context otherwise requires:

16 (1) References in this Act to the programs or
17 facilities of the Department shall be construed to refer
18 only to those programs or facilities of the Department
19 that pertain to mental health or developmental
20 disabilities.

21 (2) References in this Act to the Department's service
22 providers or service recipients shall be construed to
23 refer only to providers or recipients of services that
24 pertain to the Department's mental health and
25 developmental disabilities functions.

26 (3) References in this Act to employees of the

1 Department shall be construed to refer only to employees
2 whose duties pertain to the Department's mental health and
3 developmental disabilities functions.

4 (c) The Secretary shall establish such subdivisions of the
5 Department as shall be desirable and shall assign to the
6 various subdivisions the responsibilities and duties placed
7 upon the Department by the Laws of the State of Illinois.

8 (d) There is established a coordinator of services to deaf
9 and hearing impaired persons with mental disabilities. In
10 hiring this coordinator, every consideration shall be given to
11 qualified deaf or hearing impaired individuals.

12 (e) Whenever the administrative director of the
13 subdivision for mental health services is not a
14 board-certified psychiatrist, the Secretary shall appoint a
15 Chief for Clinical Services who shall be a board-certified
16 psychiatrist with both clinical and administrative experience.
17 The Chief for Clinical Services shall be responsible for all
18 clinical and medical decisions for mental health services.

19 (Source: P.A. 102-972, eff. 1-1-23.)

20 (20 ILCS 1705/77 new)

21 Sec. 77. Community day services.

22 (a) Community day services certification. An applicant for
23 certification as a CDS provider under this Act shall submit an
24 application in accordance with the application process
25 established by the Department by rule and shall pay an

1 application fee in an amount established by the Department,
2 which amount shall not be more than \$200.

3 (1) If an applicant meets the requirements established
4 by the Department to be certified as a CDS provider under
5 this Act, after payment of the certification fee, the
6 Department shall issue a certificate valid for 2 years
7 from the date thereof unless suspended or revoked by the
8 Department or voluntarily surrendered by the CDS provider.

9 (2) Upon application to the Department, the Department
10 may issue a temporary certificate to an applicant for up
11 to a 2-year period to allow the holder of such certificate
12 reasonable time to become eligible for a certificate under
13 this Act.

14 (3) The Department may conduct site visits to a CDS
15 provider, program, or site certified under this Act to
16 inspect the records or premises, or both, of such
17 provider, program, or site as it deems appropriate, for
18 the purpose of determining compliance with this Act, the
19 Mental Health and Developmental Disabilities Code, and
20 applicable Department rules and regulations. The
21 Department shall conduct inspections of the records and
22 premises of each CDS provider certified under this Act at
23 least once every 2 years.

24 (4) If the Department determines that a CDS provider
25 certified under this Act is not in compliance with this
26 Act or the rules and regulations adopted in accordance

1 with this Act, the Department shall serve a notice of
2 deficiency upon the certified CDS provider. Each notice of
3 deficiency shall be prepared in writing and shall specify
4 the nature of the deficiency, the statutory provision or
5 rule alleged to have been violated, and, if required, that
6 the CDS provider submit a plan of correction to the
7 Department. The notice shall also inform the certified CDS
8 provider of any other action that the Department might
9 take in accordance with this Act and the CDS provider's
10 right to a hearing.

11 (5) As determined by the Department, a
12 disproportionate number or percentage of certification
13 complaints; a disproportionate number or percentage of
14 substantiated cases of abuse, neglect, or exploitation
15 involving a CDS provider; an apparent unnatural death of
16 an individual served by a CDS provider; any egregious or
17 life-threatening abuse or neglect caused by a CDS
18 provider; or any other significant event as determined by
19 the Department shall initiate a review of the CDS
20 provider's certificate by the Department, as well as a
21 review of its agreement for funding. The Department shall
22 adopt rules to establish the process by which the
23 determination to initiate a review shall be made and the
24 timeframe to initiate a review upon the making of such
25 determination.

26 (6) Upon the expiration of a CDS provider's

1 certificate issued under this Act, the CDS provider shall
2 be required to submit a certification renewal application
3 and pay a certificate renewal fee in an amount to be
4 determined by the Department, which amount shall not be
5 more than \$200.

6 (7) A former CDS provider that has had a certification
7 revoked under this Act may not apply for or possess a
8 certificate under a different name.

9 (b) Registry checks for employees. The Department shall
10 require all certified and funded CDS providers to conduct, for
11 each employee, checks of the Health Care Worker Registry, the
12 Illinois Sex Offender Registry, and the Provider Sanctions
13 List maintained by the Department of Healthcare and Family
14 Services' Office of the Inspector General. The Department
15 shall also require certified and funded CDS agencies to
16 conduct a Child Abuse and Neglect Tracking System (CANTS)
17 check of the Department of Children and Family Services' State
18 Central Register, and to initiate a criminal history
19 background check conducted by the Illinois State Police. These
20 required registry checks on employees must be completed at the
21 time of hire and annually thereafter during employment. A
22 person may not be employed if he or she is found to have
23 disqualifying convictions or substantiated cases of abuse or
24 neglect. At the time of the annual registry checks, if a
25 current employee's name has been placed on a registry with
26 disqualifying convictions or disqualifying substantiated cases

1 of abuse or neglect, then the employee must be terminated.
2 Disqualifying convictions or disqualifying substantiated cases
3 of abuse or neglect are defined for the Department of Children
4 and Family Services' State Central Register by the Department
5 of Children and Family Services' standards for background
6 checks in Part 385 of Title 89 of the Illinois Administrative
7 Code. Disqualifying convictions or disqualifying substantiated
8 cases of abuse or neglect are defined for the Health Care
9 Worker Registry by the Health Care Worker Background Check Act
10 and the Department's standards for abuse and neglect
11 investigations in Section 1-17 of the Department of Human
12 Services Act.

13 (1) The CANTS check must be submitted to the
14 Department of Children and Family Services and be in the
15 review process prior to the new employee's start date.

16 (2) A new employee may begin employment while the
17 outcome of the CANTS check is pending.

18 (3) CANTS inquiries shall not occur more than 30 days
19 prior to the first day of employment.

20 (c) CANTS or Health Care Worker Registry waiver. In
21 collaboration with the Department of Children and Family
22 Services, the Department of Human Services shall establish a
23 waiver process from the prohibition of employment or
24 termination of employment requirements in subsection (b) for
25 any applicant or employee listed in CANTS. The waiver process
26 for applicants and employees outlined under Section 40 of the

1 Health Care Worker Background Check Act shall remain in effect
2 for individuals listed on the Health Care Worker Registry.

3 (d) Reports. In collaboration with the Department of
4 Children and Family Services and that Department's Office of
5 Inspector General, as necessary, the Department of Human
6 Services shall review intake and investigation reports.

7 Section 10. The Community Services Act is amended by
8 changing Section 2 as follows:

9 (405 ILCS 30/2) (from Ch. 91 1/2, par. 902)

10 Sec. 2. Community services system. Services should be
11 planned, developed, delivered and evaluated as part of a
12 comprehensive and coordinated system. The Department of Human
13 Services shall encourage the establishment of services in each
14 area of the State which cover the services categories
15 described below. What specific services are provided under
16 each service category shall be based on local needs; special
17 attention shall be given to unserved and underserved
18 populations, including children and youth, racial and ethnic
19 minorities, and the elderly. The service categories shall
20 include:

21 (a) Prevention: services designed primarily to reduce
22 the incidence and ameliorate the severity of developmental
23 disabilities, mental illness, and substance use disorders
24 as defined in the Substance Use Disorder Act;

1 (b) Client Assessment and Diagnosis: services designed
2 to identify persons with developmental disabilities,
3 mental illness, and substance use disorders; to determine
4 the extent of the disability and the level of functioning;
5 to ensure that the individual's need for treatment of
6 mental disorders or substance use disorders or
7 co-occurring substance use and mental health disorders is
8 determined using a uniform screening, assessment, and
9 evaluation process inclusive of criteria; for purposes of
10 this subsection (b), a uniform screening, assessment, and
11 evaluation process refers to a process that includes an
12 appropriate evaluation and, as warranted, a referral;
13 "uniform" does not mean the use of a singular instrument,
14 tool, or process that all must utilize; information
15 obtained through client evaluation can be used in
16 individual treatment and habilitation plans; to assure
17 appropriate placement and to assist in program evaluation;

18 (c) Case Coordination: services to provide information
19 and assistance to persons with disabilities to ensure that
20 they obtain needed services provided by the private and
21 public sectors; case coordination services should be
22 available to individuals whose functioning level or
23 history of institutional recidivism or long-term care
24 indicate that such assistance is required for successful
25 community living;

26 (d) Crisis and Emergency: services to assist

1 individuals and their families through crisis periods, to
2 stabilize individuals under stress and to prevent
3 unnecessary institutionalization;

4 (e) Treatment, Habilitation and Support: services
5 designed to help individuals develop skills which promote
6 independence and improved levels of social and vocational
7 functioning and personal growth; and to provide
8 non-treatment support services which are necessary for
9 successful community living;

10 (f) Community Residential Alternatives to
11 Institutional Settings: services to provide living
12 arrangements for persons unable to live independently; the
13 level of supervision, services provided and length of stay
14 at community residential alternatives will vary by the
15 type of program and the needs and functioning level of the
16 residents; other services may be provided in a community
17 residential alternative which promote the acquisition of
18 independent living skills and integration with the
19 community.

20 (g) Community Day Services or CDS: a Home and
21 Community-Based Waiver day program that is certified by
22 the Department. Community day services provide assistance
23 with gaining, maintaining, or improving skills and
24 functioning to individuals with developmental
25 disabilities. Services can reinforce skills or strategies
26 taught in other settings and may include training and

1 supports to help prevent or slow the loss of skills.
2 Community day services take place in a non-residential
3 setting, separate from the individual's residential
4 setting, whether individually owned, controlled, or
5 otherwise. Community day services can be provided in a
6 site certified by the Department (site-based CDS) or in
7 community locations where members of the general community
8 typically congregate (non-site-based CDS). CDS activities
9 shall promote greater independence and support full access
10 to the general community to the same degree as persons not
11 receiving Home and Community-Based Waiver services.
12 (Source: P.A. 99-143, eff. 7-27-15; 100-759, eff. 1-1-19.)