



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3376

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

20 ILCS 2405/3

from Ch. 23, par. 3434

Amends the Rehabilitation of Persons with Disabilities Act. Provides that a home care consumer in the Department of Human Services' Home Services Program has the right and discretion to: (i) select and hire a personal assistant or other individual provider of his or her choice; and (ii) determine the number of hours worked weekly by his or her personal assistant or other individual provider. Provides that, subject to the Department's authority to approve the total monthly hours in a home care consumer's service plan, the State of Illinois and any of its departments, including the Department, shall not limit the number of weekly hours worked by personal assistants or other individual providers in the Department's Home Services Program. Provides that the provisions do not limit the Department's authority in any other statute to disqualify an individual from providing services in the Department's Home Services Program for reasons other than the number of weekly hours worked by the individual.

LRB100 10869 KTG 21104 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 Rehabilitation of Persons with Disabilities
5 Act is amended by changing Section 3 as follows:

6 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

7 Sec. 3. Powers and duties. The Department shall have the
8 powers and duties enumerated herein:

9 (a) To co-operate with the federal government in the
10 administration of the provisions of the federal Rehabilitation
11 Act of 1973, as amended, of the Workforce Investment Act of
12 1998, and of the federal Social Security Act to the extent and
13 in the manner provided in these Acts.

14 (b) To prescribe and supervise such courses of vocational
15 training and provide such other services as may be necessary
16 for the habilitation and rehabilitation of persons with one or
17 more disabilities, including the administrative activities
18 under subsection (e) of this Section, and to co-operate with
19 State and local school authorities and other recognized
20 agencies engaged in habilitation, rehabilitation and
21 comprehensive rehabilitation services; and to cooperate with
22 the Department of Children and Family Services regarding the
23 care and education of children with one or more disabilities.

1 (c) (Blank).

2 (d) To report in writing, to the Governor, annually on or
3 before the first day of December, and at such other times and
4 in such manner and upon such subjects as the Governor may
5 require. The annual report shall contain (1) a statement of the
6 existing condition of comprehensive rehabilitation services,
7 habilitation and rehabilitation in the State; (2) a statement
8 of suggestions and recommendations with reference to the
9 development of comprehensive rehabilitation services,
10 habilitation and rehabilitation in the State; and (3) an
11 itemized statement of the amounts of money received from
12 federal, State and other sources, and of the objects and
13 purposes to which the respective items of these several amounts
14 have been devoted.

15 (e) (Blank).

16 (f) To establish a program of services to prevent the
17 unnecessary institutionalization of persons in need of long
18 term care and who meet the criteria for blindness or disability
19 as defined by the Social Security Act, thereby enabling them to
20 remain in their own homes. Such preventive services include any
21 or all of the following:

22 (1) personal assistant services;

23 (2) homemaker services;

24 (3) home-delivered meals;

25 (4) adult day care services;

26 (5) respite care;

- 1 (6) home modification or assistive equipment;
- 2 (7) home health services;
- 3 (8) electronic home response;
- 4 (9) brain injury behavioral/cognitive services;
- 5 (10) brain injury habilitation;
- 6 (11) brain injury pre-vocational services; or
- 7 (12) brain injury supported employment.

8 The Department shall establish eligibility standards for
9 such services taking into consideration the unique economic and
10 social needs of the population for whom they are to be
11 provided. Such eligibility standards may be based on the
12 recipient's ability to pay for services; provided, however,
13 that any portion of a person's income that is equal to or less
14 than the "protected income" level shall not be considered by
15 the Department in determining eligibility. The "protected
16 income" level shall be determined by the Department, shall
17 never be less than the federal poverty standard, and shall be
18 adjusted each year to reflect changes in the Consumer Price
19 Index For All Urban Consumers as determined by the United
20 States Department of Labor. The standards must provide that a
21 person may not have more than \$10,000 in assets to be eligible
22 for the services, and the Department may increase or decrease
23 the asset limitation by rule. The Department may not decrease
24 the asset level below \$10,000.

25 The services shall be provided, as established by the
26 Department by rule, to eligible persons to prevent unnecessary

1 or premature institutionalization, to the extent that the cost
2 of the services, together with the other personal maintenance
3 expenses of the persons, are reasonably related to the
4 standards established for care in a group facility appropriate
5 to their condition. These non-institutional services, pilot
6 projects or experimental facilities may be provided as part of
7 or in addition to those authorized by federal law or those
8 funded and administered by the Illinois Department on Aging.
9 The Department shall set rates and fees for services in a fair
10 and equitable manner. Services identical to those offered by
11 the Department on Aging shall be paid at the same rate.

12 Personal assistants shall be paid at a rate negotiated
13 between the State and an exclusive representative of personal
14 assistants under a collective bargaining agreement. In no case
15 shall the Department pay personal assistants an hourly wage
16 that is less than the federal minimum wage.

17 Solely for the purposes of coverage under the Illinois
18 Public Labor Relations Act (5 ILCS 315/), personal assistants
19 providing services under the Department's Home Services
20 Program shall be considered to be public employees and the
21 State of Illinois shall be considered to be their employer as
22 of the effective date of this amendatory Act of the 93rd
23 General Assembly, but not before. Solely for the purposes of
24 coverage under the Illinois Public Labor Relations Act, home
25 care and home health workers who function as personal
26 assistants and individual maintenance home health workers and

1 who also provide services under the Department's Home Services
2 Program shall be considered to be public employees, no matter
3 whether the State provides such services through direct
4 fee-for-service arrangements, with the assistance of a managed
5 care organization or other intermediary, or otherwise, and the
6 State of Illinois shall be considered to be the employer of
7 those persons as of January 29, 2013 (the effective date of
8 Public Act 97-1158), but not before except as otherwise
9 provided under this subsection (f). The State shall engage in
10 collective bargaining with an exclusive representative of home
11 care and home health workers who function as personal
12 assistants and individual maintenance home health workers
13 working under the Home Services Program concerning their terms
14 and conditions of employment that are within the State's
15 control. Nothing in this paragraph shall be understood to limit
16 the right of the persons receiving services defined in this
17 Section to hire and fire home care and home health workers who
18 function as personal assistants and individual maintenance
19 home health workers working under the Home Services Program or
20 to supervise them within the limitations set by the Home
21 Services Program. The State shall not be considered to be the
22 employer of home care and home health workers who function as
23 personal assistants and individual maintenance home health
24 workers working under the Home Services Program for any
25 purposes not specifically provided in Public Act 93-204 or
26 Public Act 97-1158, including but not limited to, purposes of

1 vicarious liability in tort and purposes of statutory
2 retirement or health insurance benefits. Home care and home
3 health workers who function as personal assistants and
4 individual maintenance home health workers and who also provide
5 services under the Department's Home Services Program shall not
6 be covered by the State Employees Group Insurance Act of 1971
7 (5 ILCS 375/).

8 A home care consumer in the Department's Home Services
9 Program has the right and discretion to select and hire a
10 personal assistant or other individual provider of his or her
11 choice. A home care consumer in the Department's Home Services
12 Program also has the right and discretion to determine the
13 number of hours worked weekly by his or her personal assistant
14 or other individual provider. Subject to the Department's
15 authority to approve the total monthly hours in a home care
16 consumer's service plan, the State of Illinois and any of its
17 departments, including the Department, shall not limit the
18 number of weekly hours worked by personal assistants or other
19 individual providers in the Department's Home Services
20 Program. Nothing in this paragraph limits the Department's
21 authority in any other statute to disqualify an individual from
22 providing services in the Department's Home Services Program
23 for reasons other than the number of weekly hours worked by the
24 individual.

25 The Department shall execute, relative to nursing home
26 prescreening, as authorized by Section 4.03 of the Illinois Act

1 on the Aging, written inter-agency agreements with the
2 Department on Aging and the Department of Healthcare and Family
3 Services, to effect the intake procedures and eligibility
4 criteria for those persons who may need long term care. On and
5 after July 1, 1996, all nursing home prescreenings for
6 individuals 18 through 59 years of age shall be conducted by
7 the Department, or a designee of the Department.

8 The Department is authorized to establish a system of
9 recipient cost-sharing for services provided under this
10 Section. The cost-sharing shall be based upon the recipient's
11 ability to pay for services, but in no case shall the
12 recipient's share exceed the actual cost of the services
13 provided. Protected income shall not be considered by the
14 Department in its determination of the recipient's ability to
15 pay a share of the cost of services. The level of cost-sharing
16 shall be adjusted each year to reflect changes in the
17 "protected income" level. The Department shall deduct from the
18 recipient's share of the cost of services any money expended by
19 the recipient for disability-related expenses.

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

24 The Department shall submit an annual report on programs
25 and services provided under this Section. The report shall be
26 filed with the Governor and the General Assembly on or before

1 March 30 each year.

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

11 (g) To establish such subdivisions of the Department as
12 shall be desirable and assign to the various subdivisions the
13 responsibilities and duties placed upon the Department by law.

14 (h) To cooperate and enter into any necessary agreements
15 with the Department of Employment Security for the provision of
16 job placement and job referral services to clients of the
17 Department, including job service registration of such clients
18 with Illinois Employment Security offices and making job
19 listings maintained by the Department of Employment Security
20 available to such clients.

21 (i) To possess all powers reasonable and necessary for the
22 exercise and administration of the powers, duties and
23 responsibilities of the Department which are provided for by
24 law.

25 (j) (Blank).

26 (k) (Blank).

1 (1) To establish, operate and maintain a Statewide Housing
2 Clearinghouse of information on available, government
3 subsidized housing accessible to persons with disabilities and
4 available privately owned housing accessible to persons with
5 disabilities. The information shall include but not be limited
6 to the location, rental requirements, access features and
7 proximity to public transportation of available housing. The
8 Clearinghouse shall consist of at least a computerized database
9 for the storage and retrieval of information and a separate or
10 shared toll free telephone number for use by those seeking
11 information from the Clearinghouse. Department offices and
12 personnel throughout the State shall also assist in the
13 operation of the Statewide Housing Clearinghouse. Cooperation
14 with local, State and federal housing managers shall be sought
15 and extended in order to frequently and promptly update the
16 Clearinghouse's information.

17 (m) To assure that the names and case records of persons
18 who received or are receiving services from the Department,
19 including persons receiving vocational rehabilitation, home
20 services, or other services, and those attending one of the
21 Department's schools or other supervised facility shall be
22 confidential and not be open to the general public. Those case
23 records and reports or the information contained in those
24 records and reports shall be disclosed by the Director only to
25 proper law enforcement officials, individuals authorized by a
26 court, the General Assembly or any committee or commission of

1 the General Assembly, and other persons and for reasons as the
2 Director designates by rule. Disclosure by the Director may be
3 only in accordance with other applicable law.

4 (Source: P.A. 98-1004, eff. 8-18-14; 99-143, eff. 7-27-15.)