



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4421

Introduced 1/21/2022, by Rep. Michelle Mussman

SYNOPSIS AS INTRODUCED:

20 ILCS 2405/3

from Ch. 23, par. 3434

Amends the Rehabilitation of Persons with Disabilities Act. In provisions concerning the Department of Human Services' Home Services Program, provides that subject to federal approval the Department shall allow a recipient's spouse to serve as his or her provider of personal care or similar services. Effective immediately.

LRB102 22795 KTG 31944 b

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 cooperate with the federal government in the
10 administration of the provisions of the federal
11 Rehabilitation Act of 1973, as amended by the Workforce
12 Innovation and Opportunity Act, and of the federal Social
13 Security Act to the extent and in the manner provided in
14 these Acts.

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

1 Illinois State Board of Education, and others regarding
2 the education of children with one or more disabilities.

3 (c) (Blank).

4 (d) To report in writing, to the Governor, annually on
5 or before the first day of December, and at such other
6 times and in such manner and upon such subjects as the
7 Governor may require. The annual report shall contain (1)
8 information on the programs and activities dedicated to
9 vocational rehabilitation, independent living, and other
10 community services and supports administered by the
11 Director; (2) information on the development of vocational
12 rehabilitation services, independent living services, and
13 supporting services administered by the Director in the
14 State; and (3) information detailing the amounts of money
15 received from federal, State, and other sources, and of
16 the objects and purposes to which the respective items of
17 these several amounts have been devoted.

18 (e) (Blank).

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

25 (1) personal assistant services;

26 (2) homemaker services;

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

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

1 or decrease the asset limitation by rule. The Department
2 may not decrease the asset level below \$10,000. Subject to
3 federal approval, the Department shall allow a recipient's
4 spouse to serve as his or her provider of personal care or
5 similar services.

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

20 Except as otherwise provided in this paragraph,
21 personal assistants shall be paid at a rate negotiated
22 between the State and an exclusive representative of
23 personal assistants under a collective bargaining
24 agreement. In no case shall the Department pay personal
25 assistants an hourly wage that is less than the federal
26 minimum wage. Within 30 days after July 6, 2017 (the

1 effective date of Public Act 100-23), the hourly wage paid
2 to personal assistants and individual maintenance home
3 health workers shall be increased by \$0.48 per hour.

4 Solely for the purposes of coverage under the Illinois
5 Public Labor Relations Act, personal assistants providing
6 services under the Department's Home Services Program
7 shall be considered to be public employees and the State
8 of Illinois shall be considered to be their employer as of
9 July 16, 2003 (the effective date of Public Act 93-204),
10 but not before. Solely for the purposes of coverage under
11 the Illinois Public Labor Relations Act, home care and
12 home health workers who function as personal assistants
13 and individual maintenance home health workers and who
14 also provide services under the Department's Home Services
15 Program shall be considered to be public employees, no
16 matter whether the State provides such services through
17 direct fee-for-service arrangements, with the assistance
18 of a managed care organization or other intermediary, or
19 otherwise, and the State of Illinois shall be considered
20 to be the employer of those persons as of January 29, 2013
21 (the effective date of Public Act 97-1158), but not before
22 except as otherwise provided under this subsection (f).
23 The State shall engage in collective bargaining with an
24 exclusive representative of home care and home health
25 workers who function as personal assistants and individual
26 maintenance home health workers working under the Home

1 Services Program concerning their terms and conditions of
2 employment that are within the State's control. Nothing in
3 this paragraph shall be understood to limit the right of
4 the persons receiving services defined in this Section to
5 hire and fire home care and home health workers who
6 function as personal assistants and individual maintenance
7 home health workers working under the Home Services
8 Program or to supervise them within the limitations set by
9 the Home Services Program. The State shall not be
10 considered to be the employer of home care and home health
11 workers who function as personal assistants and individual
12 maintenance home health workers working under the Home
13 Services Program for any purposes not specifically
14 provided in Public Act 93-204 or Public Act 97-1158,
15 including but not limited to, purposes of vicarious
16 liability in tort and purposes of statutory retirement or
17 health insurance benefits. Home care and home health
18 workers who function as personal assistants and individual
19 maintenance home health workers and who also provide
20 services under the Department's Home Services Program
21 shall not be covered by the State Employees Group
22 Insurance Act of 1971.

23 The Department shall execute, relative to nursing home
24 prescreening, as authorized by Section 4.03 of the
25 Illinois Act on the Aging, written inter-agency agreements
26 with the Department on Aging and the Department of

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

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

20 To the extent permitted under the federal Social
21 Security Act, the Department, or the Department's
22 authorized representative, may recover the amount of
23 moneys expended for services provided to or in behalf of a
24 person under this Section by a claim against the person's
25 estate or against the estate of the person's surviving
26 spouse, but no recovery may be had until after the death of

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

1 (g) To establish such subdivisions of the Department
2 as shall be desirable and assign to the various
3 subdivisions the responsibilities and duties placed upon
4 the Department by law.

5 (h) To cooperate and enter into any necessary
6 agreements with the Department of Employment Security for
7 the provision of job placement and job referral services
8 to clients of the Department, including job service
9 registration of such clients with Illinois Employment
10 Security offices and making job listings maintained by the
11 Department of Employment Security available to such
12 clients.

13 (i) To possess all powers reasonable and necessary for
14 the exercise and administration of the powers, duties and
15 responsibilities of the Department which are provided for
16 by law.

17 (j) (Blank).

18 (k) (Blank).

19 (l) To establish, operate, and maintain a Statewide
20 Housing Clearinghouse of information on available
21 government subsidized housing accessible to persons with
22 disabilities and available privately owned housing
23 accessible to persons with disabilities. The information
24 shall include, but not be limited to, the location, rental
25 requirements, access features and proximity to public
26 transportation of available housing. The Clearinghouse

1 shall consist of at least a computerized database for the
2 storage and retrieval of information and a separate or
3 shared toll free telephone number for use by those seeking
4 information from the Clearinghouse. Department offices and
5 personnel throughout the State shall also assist in the
6 operation of the Statewide Housing Clearinghouse.
7 Cooperation with local, State, and federal housing
8 managers shall be sought and extended in order to
9 frequently and promptly update the Clearinghouse's
10 information.

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

25 (Source: P.A. 102-264, eff. 8-6-21.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.