

1 AN ACT concerning preventive services.

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

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. Preventive services. 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.  
14 Such 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  
17 limited to, any or all of the following:

- 18 (a) home health services;
- 19 (b) home nursing services;
- 20 (c) homemaker services;
- 21 (d) chore and housekeeping services;
- 22 (e) day care services;
- 23 (f) home-delivered meals;
- 24 (g) education in self-care;
- 25 (h) personal care services;
- 26 (i) adult day health services;
- 27 (j) habilitation services;
- 28 (k) respite care;
- 29 (l) other nonmedical social services that may  
30 enable the person to become self-supporting; or
- 31 (m) clearinghouse for information provided by

1 senior citizen home owners who want to rent rooms to or  
2 share living space with other senior citizens.

3 The Department shall establish eligibility standards for  
4 such services taking into consideration the unique economic  
5 and social needs of the target population for whom they are  
6 to be provided. Such eligibility standards shall be based on  
7 the recipient's ability to pay for services; provided,  
8 however, that in determining the amount and nature of  
9 services for which a person may qualify, consideration shall  
10 not be given to the value of cash, property or other assets  
11 held in the name of the person's spouse pursuant to a written  
12 agreement dividing marital property into equal but separate  
13 shares or pursuant to a transfer of the person's interest in  
14 a home to his spouse, provided that the spouse's share of the  
15 marital property is not made available to the person seeking  
16 such services.

17 Beginning July 1, 2002, the Department shall require as a  
18 condition of eligibility that all applicants and recipients  
19 apply for medical assistance under Article V of the Illinois  
20 Public Aid Code in accordance with rules promulgated by the  
21 Department.

22 The Department shall, in conjunction with the Department  
23 of Public Aid, seek appropriate amendments under Sections  
24 1915 and 1924 of the Social Security Act. The purpose of the  
25 amendments shall be to extend eligibility for home and  
26 community based services under Sections 1915 and 1924 of the  
27 Social Security Act to persons who transfer to or for the  
28 benefit of a spouse those amounts of income and resources  
29 allowed under Section 1924 of the Social Security Act.  
30 Subject to the approval of such amendments, the Department  
31 shall extend the provisions of Section 5-4 of the Illinois  
32 Public Aid Code to persons who, but for the provision of home  
33 or community-based services, would require the level of care  
34 provided in an institution, as is provided for in federal

1 law. Those persons no longer found to be eligible for  
2 receiving noninstitutional services due to changes in the  
3 eligibility criteria shall be given 60 days notice prior to  
4 actual termination. Those persons receiving notice of  
5 termination may contact the Department and request the  
6 determination be appealed at any time during the 60 day  
7 notice period. With the exception of the lengthened notice  
8 and time frame for the appeal request, the appeal process  
9 shall follow the normal procedure. In addition, each person  
10 affected regardless of the circumstances for discontinued  
11 eligibility shall be given notice and the opportunity to  
12 purchase the necessary services through the Community Care  
13 Program. If the individual does not elect to purchase  
14 services, the Department shall advise the individual of  
15 alternative services. The target population identified for  
16 the purposes of this Section are persons age 60 and older  
17 with an identified service need. Priority shall be given to  
18 those who are at imminent risk of institutionalization. The  
19 services shall be provided to eligible persons age 60 and  
20 older to the extent that the cost of the services together  
21 with the other personal maintenance expenses of the persons  
22 are reasonably related to the standards established for care  
23 in a group facility appropriate to the person's condition.  
24 These non-institutional services, pilot projects or  
25 experimental facilities may be provided as part of or in  
26 addition to those authorized by federal law or those funded  
27 and administered by the Department of Human Services. The  
28 Departments of Human Services, Public Aid, Public Health,  
29 Veterans' Affairs, and Commerce and Community Affairs and  
30 other appropriate agencies of State, federal and local  
31 governments shall cooperate with the Department on Aging in  
32 the establishment and development of the non-institutional  
33 services. The Department shall require an annual audit from  
34 all chore/housekeeping and homemaker vendors contracting with

1 the Department under this Section. The annual audit shall  
2 assure that each audited vendor's procedures are in  
3 compliance with Department's financial reporting guidelines  
4 requiring a 27% administrative cost split and a 73% employee  
5 wages and benefits cost split. The audit is a public record  
6 under the Freedom of Information Act. The Department shall  
7 execute, relative to the nursing home prescreening project,  
8 written inter-agency agreements with the Department of Human  
9 Services and the Department of Public Aid, to effect the  
10 following: (1) intake procedures and common eligibility  
11 criteria for those persons who are receiving  
12 non-institutional services; and (2) the establishment and  
13 development of non-institutional services in areas of the  
14 State where they are not currently available or are  
15 undeveloped. On and after July 1, 1996, all nursing home  
16 prescreenings for individuals 60 years of age or older shall  
17 be conducted by the Department.

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

28 The Department, or the Department's authorized  
29 representative, shall recover the amount of moneys expended  
30 for services provided to or in behalf of a person under this  
31 Section by a claim against the person's estate or against the  
32 estate of the person's surviving spouse, but no recovery may  
33 be had until after the death of the surviving spouse, if any,  
34 and then only at such time when there is no surviving child

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

24 The Department shall develop procedures to enhance  
25 availability of services on evenings, weekends, and on an  
26 emergency basis to meet the respite needs of caregivers.  
27 Procedures shall be developed to permit the utilization of  
28 services in successive blocks of 24 hours up to the monthly  
29 maximum established by the Department. Workers providing  
30 these services shall be appropriately trained.

31 Beginning on the effective date of this Amendatory Act of  
32 1991, no person may perform chore/housekeeping and homemaker  
33 services under a program authorized by this Section unless  
34 that person has been issued a certificate of pre-service to

1 do so by his or her employing agency. Information gathered  
2 to effect such certification shall include (i) the person's  
3 name, (ii) the date the person was hired by his or her  
4 current employer, and (iii) the training, including dates and  
5 levels. Persons engaged in the program authorized by this  
6 Section before the effective date of this amendatory Act of  
7 1991 shall be issued a certificate of all pre-service and  
8 in-service training from his or her employer upon submitting  
9 the necessary information. The employing agency shall be  
10 required to retain records of all staff pre-service and  
11 in-service training, and shall provide such records to the  
12 Department upon request and upon termination of the  
13 employer's contract with the Department. In addition, the  
14 employing agency is responsible for the issuance of  
15 certifications of in-service training completed to their  
16 employees.

17 The Department is required to develop a system to ensure  
18 that persons working as homemakers and chore housekeepers  
19 receive increases in their wages when the federal minimum  
20 wage is increased by requiring vendors to certify that they  
21 are meeting the federal minimum wage statute for homemakers  
22 and chore housekeepers. An employer that cannot ensure that  
23 the minimum wage increase is being given to homemakers and  
24 chore housekeepers shall be denied any increase in  
25 reimbursement costs. Beginning July 1, 2003, the vendors  
26 shall receive a rate increase of \$1.37 per hour.

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

32 The requirement for reporting to the General Assembly  
33 shall be satisfied by filing copies of the report with the  
34 Speaker, the Minority Leader and the Clerk of the House of

1 Representatives and the President, the Minority Leader and  
2 the Secretary of the Senate and the Legislative Research  
3 Unit, as required by Section 3.1 of the General Assembly  
4 Organization Act and filing such additional copies with the  
5 State Government Report Distribution Center for the General  
6 Assembly as is required under paragraph (t) of Section 7 of  
7 the State Library Act.

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

20 (Source: P.A. 91-303, eff. 1-1-00; 91-798, eff. 7-9-00;  
21 92-597, eff. 6-28-02.)

22 Section 99. Effective date. This Act takes effect July  
23 1, 2003.