

1 AN ACT in relation to aging.

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. The Department shall establish a program of
8 services to prevent unnecessary institutionalization of
9 persons age 60 and older in need of long term care or who are
10 established as persons who suffer from Alzheimer's disease or
11 a related disorder under the Alzheimer's Disease Assistance
12 Act, thereby enabling them to remain in their own homes or in
13 other living arrangements. Such preventive services, which
14 may be coordinated with other programs for the aged and
15 monitored by area agencies on aging in cooperation with the
16 Department, may include, but are not limited to, any or all
17 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. The eligibility standards must include a
7 provision that, to be eligible for services under this
8 Section, a person may not have assets (other than
9 specifically exempt assets) totaling more than \$20,000 if:

10 (1) the person is unmarried; or

11 (2) the person is married and the Department
12 determines that:

13 (A) the person's spouse receives services under
14 this Section; or

15 (B) the person's spouse resides in a skilled
16 nursing or intermediate long-term care facility that
17 is subject to licensure by the Department of Public
18 Health under the Nursing Home Care Act; or

19 (C) the person's spouse does not reside on a
20 permanent basis with the person and does not receive
21 support from or give support to the person; or

22 (D) the person has been abandoned by his or her
23 spouse; or

24 (E) the person has been the subject of a report
25 of abuse (as defined in the Elder Abuse and Neglect
26 Act) by his or her spouse.

27 Notwithstanding the preceding paragraph, the eligibility
28 standards must also include a provision that, to be eligible
29 for services under this Section, a person who is married and
30 whose spouse does not receive services under this Section may
31 not have assets (other than specifically exempt assets)
32 totaling more than the asset disregard amount used by the
33 Department of Public Aid in determining eligibility for
34 medical assistance under Article V of the Illinois Public Aid

1 Code.

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

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

18 The Department shall, in conjunction with the Department
19 of Public Aid, seek appropriate amendments under Sections
20 1915 and 1924 of the Social Security Act. The purpose of the
21 amendments shall be to extend eligibility for home and
22 community based services under Sections 1915 and 1924 of the
23 Social Security Act to persons who transfer to or for the
24 benefit of a spouse those amounts of income and resources
25 allowed under Section 1924 of the Social Security Act.
26 Subject to the approval of such amendments, the Department
27 shall extend the provisions of Section 5-4 of the Illinois
28 Public Aid Code to persons who, but for the provision of home
29 or community-based services, would require the level of care
30 provided in an institution, as is provided for in federal
31 law. Those persons no longer found to be eligible for
32 receiving noninstitutional services due to changes in the
33 eligibility criteria shall be given 60 days notice prior to
34 actual termination. Those persons receiving notice of

1 termination may contact the Department and request the
2 determination be appealed at any time during the 60 day
3 notice period. With the exception of the lengthened notice
4 and time frame for the appeal request, the appeal process
5 shall follow the normal procedure. In addition, each person
6 affected regardless of the circumstances for discontinued
7 eligibility shall be given notice and the opportunity to
8 purchase the necessary services through the Community Care
9 Program. If the individual does not elect to purchase
10 services, the Department shall advise the individual of
11 alternative services. The target population identified for
12 the purposes of this Section are persons age 60 and older
13 with an identified service need. Priority shall be given to
14 those who are at imminent risk of institutionalization. The
15 services shall be provided to eligible persons age 60 and
16 older to the extent that the cost of the services together
17 with the other personal maintenance expenses of the persons
18 are reasonably related to the standards established for care
19 in a group facility appropriate to the person's condition.
20 These non-institutional services, pilot projects or
21 experimental facilities may be provided as part of or in
22 addition to those authorized by federal law or those funded
23 and administered by the Department of Human Services. The
24 Departments of Human Services, Public Aid, Public Health,
25 Veterans' Affairs, and Commerce and Community Affairs and
26 other appropriate agencies of State, federal and local
27 governments shall cooperate with the Department on Aging in
28 the establishment and development of the non-institutional
29 services. The Department shall require an annual audit from
30 all chore/housekeeping and homemaker vendors contracting with
31 the Department under this Section. The annual audit shall
32 assure that each audited vendor's procedures are in
33 compliance with Department's financial reporting guidelines
34 requiring a 27% administrative cost split and a 73% employee

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

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

24 The Department, or the Department's authorized
25 representative, shall recover the amount of moneys expended
26 for services provided to or in behalf of a person under this
27 Section by a claim against the person's estate or against the
28 estate of the person's surviving spouse, but no recovery may
29 be had until after the death of the surviving spouse, if any,
30 and then only at such time when there is no surviving child
31 who is under age 21, blind, or permanently and totally
32 disabled. This paragraph, however, shall not bar recovery,
33 at the death of the person, of moneys for services provided
34 to the person or in behalf of the person under this Section

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

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

27 Beginning on the effective date of this Amendatory Act of
28 1991, no person may perform chore/housekeeping and homemaker
29 services under a program authorized by this Section unless
30 that person has been issued a certificate of pre-service to
31 do so by his or her employing agency. Information gathered
32 to effect such certification shall include (i) the person's
33 name, (ii) the date the person was hired by his or her
34 current employer, and (iii) the training, including dates and

1 levels. Persons engaged in the program authorized by this
2 Section before the effective date of this amendatory Act of
3 1991 shall be issued a certificate of all pre- and in-service
4 training from his or her employer upon submitting the
5 necessary information. The employing agency shall be
6 required to retain records of all staff pre- and in-service
7 training, and shall provide such records to the Department
8 upon request and upon termination of the employer's contract
9 with the Department. In addition, the employing agency is
10 responsible for the issuance of certifications of in-service
11 training completed to their employees.

12 The Department is required to develop a system to ensure
13 that persons working as homemakers and chore housekeepers
14 receive increases in their wages when the federal minimum
15 wage is increased by requiring vendors to certify that they
16 are meeting the federal minimum wage statute for homemakers
17 and chore housekeepers. An employer that cannot ensure that
18 the minimum wage increase is being given to homemakers and
19 chore housekeepers shall be denied any increase in
20 reimbursement costs.

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

26 The requirement for reporting to the General Assembly
27 shall be satisfied by filing copies of the report with the
28 Speaker, the Minority Leader and the Clerk of the House of
29 Representatives and the President, the Minority Leader and
30 the Secretary of the Senate and the Legislative Research
31 Unit, as required by Section 3.1 of the General Assembly
32 Organization Act and filing such additional copies with the
33 State Government Report Distribution Center for the General
34 Assembly as is required under paragraph (t) of Section 7 of

1 the State Library Act.

2 Those persons previously found eligible for receiving
3 non-institutional services whose services were discontinued
4 under the Emergency Budget Act of Fiscal Year 1992, and who
5 do not meet the eligibility standards in effect on or after
6 July 1, 1992, shall remain ineligible on and after July 1,
7 1992. Those persons previously not required to cost-share
8 and who were required to cost-share effective March 1, 1992,
9 shall continue to meet cost-share requirements on and after
10 July 1, 1992. Beginning July 1, 1992, all clients will be
11 required to meet eligibility, cost-share, and other
12 requirements and will have services discontinued or altered
13 when they fail to meet these requirements.

14 (Source: P.A. 91-303, eff. 1-1-00; 91-798, eff. 7-9-00;
15 92-597, eff. 6-28-02.)

16 Section 99. Effective date. This Act takes effect on
17 January 1, 2004.