

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 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 a
11 related disorder under the Alzheimer's Disease Assistance Act,
12 thereby enabling them to remain in their own homes or in other
13 living arrangements. Such preventive services, which may be
14 coordinated with other programs for the aged and monitored by
15 area agencies on aging in cooperation with the Department, may
16 include, but are not limited to, any or all of the following:

- 17 (a) home health services;
- 18 (b) home nursing services;
- 19 (c) homemaker services;
- 20 (d) chore and housekeeping services;
- 21 (e) day care services;
- 22 (f) home-delivered meals;
- 23 (g) education in self-care;
- 24 (h) personal care services;
- 25 (i) adult day health services;
- 26 (j) habilitation services;
- 27 (k) respite care;
- 28 (k-5) community reintegration services;
- 29 (l) other nonmedical social services that may enable
30 the person to become self-supporting; or
- 31 (m) clearinghouse for information provided by senior
32 citizen home owners who want to rent rooms to or share

1 living space with other senior citizens.

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

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

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

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

1 Department of Public Aid, to effect the following: (1) intake
2 procedures and common eligibility criteria for those persons
3 who are receiving non-institutional services; and (2) the
4 establishment and development of non-institutional services in
5 areas of the State where they are not currently available or
6 are undeveloped. On and after July 1, 1996, all nursing home
7 prescreenings for individuals 60 years of age or older shall be
8 conducted by the Department.

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

19 The Department, or the Department's authorized
20 representative, shall recover the amount of moneys expended for
21 services provided to or in behalf of a person under this
22 Section by a claim against the person's estate or against the
23 estate of the person's surviving spouse, but no recovery may be
24 had until after the death of the surviving spouse, if any, and
25 then only at such time when there is no surviving child who is
26 under age 21, blind, or permanently and totally disabled. This
27 paragraph, however, shall not bar recovery, at the death of the
28 person, of moneys for services provided to the person or in
29 behalf of the person under this Section to which the person was
30 not entitled; provided that such recovery shall not be enforced
31 against any real estate while it is occupied as a homestead by
32 the surviving spouse or other dependent, if no claims by other
33 creditors have been filed against the estate, or, if such
34 claims have been filed, they remain dormant for failure of
35 prosecution or failure of the claimant to compel administration
36 of the estate for the purpose of payment. This paragraph shall

1 not bar recovery from the estate of a spouse, under Sections
2 1915 and 1924 of the Social Security Act and Section 5-4 of the
3 Illinois Public Aid Code, who precedes a person receiving
4 services under this Section in death. All moneys for services
5 paid to or in behalf of the person under this Section shall be
6 claimed for recovery from the deceased spouse's estate.
7 "Homestead", as used in this paragraph, means the dwelling
8 house and contiguous real estate occupied by a surviving spouse
9 or relative, as defined by the rules and regulations of the
10 Illinois Department of Public Aid, regardless of the value of
11 the property.

12 The Department shall develop procedures to enhance
13 availability of services on evenings, weekends, and on an
14 emergency basis to meet the respite needs of caregivers.
15 Procedures shall be developed to permit the utilization of
16 services in successive blocks of 24 hours up to the monthly
17 maximum established by the Department. Workers providing these
18 services shall be appropriately trained.

19 Beginning on the effective date of this Amendatory Act of
20 1991, no person may perform chore/housekeeping and homemaker
21 services under a program authorized by this Section unless that
22 person has been issued a certificate of pre-service to do so by
23 his or her employing agency. Information gathered to effect
24 such certification shall include (i) the person's name, (ii)
25 the date the person was hired by his or her current employer,
26 and (iii) the training, including dates and levels. Persons
27 engaged in the program authorized by this Section before the
28 effective date of this amendatory Act of 1991 shall be issued a
29 certificate of all pre- and in-service training from his or her
30 employer upon submitting the necessary information. The
31 employing agency shall be required to retain records of all
32 staff pre- and in-service training, and shall provide such
33 records to the Department upon request and upon termination of
34 the employer's contract with the Department. In addition, the
35 employing agency is responsible for the issuance of
36 certifications of in-service training completed to their

1 employees.

2 The Department is required to develop a system to ensure
3 that persons working as homemakers and chore housekeepers
4 receive increases in their wages when the federal minimum wage
5 is increased by requiring vendors to certify that they are
6 meeting the federal minimum wage statute for homemakers and
7 chore housekeepers. An employer that cannot ensure that the
8 minimum wage increase is being given to homemakers and chore
9 housekeepers shall be denied any increase in reimbursement
10 costs.

11 The Community Care Program Advisory Committee is created in
12 the Department on Aging. The Director shall appoint individuals
13 to serve in the Committee, who shall serve at their own
14 expense. Members of the Committee must abide by all applicable
15 ethics laws. The Committee shall advise the Department on
16 issues related to the Department's program of services to
17 prevent unnecessary institutionalization. The Committee shall
18 meet on a bi-monthly basis and shall serve to identify and
19 advise the Department on present and potential issues affecting
20 the service delivery network, the program's clients, and the
21 Department and to recommend solution strategies. Persons
22 appointed to the Committee shall be appointed on, but not
23 limited to, their own and their agency's experience with the
24 program, geographic representation, and willingness to serve.
25 The Committee shall include, but not be limited to,
26 representatives from the following agencies and organizations:

27 (a) at least 4 adult day service representatives;
28 (b) at least 4 case coordination unit representatives;
29 (c) at least 4 representatives from in-home direct care
30 service agencies;

31 (d) at least 2 representatives of statewide trade or
32 labor unions that represent in-home direct care service
33 staff;

34 (e) at least 2 representatives of Area Agencies on
35 Aging;

36 (f) at least 2 non-provider representatives from a

1 policy, advocacy, research, or other service organization;

2 (g) at least 2 representatives from a statewide
3 membership organization for senior citizens; and

4 (h) at least 2 citizen members 60 years of age or
5 older.

6 Nominations may be presented from any agency or State
7 association with interest in the program. The Director, or his
8 or her designee, shall serve as the permanent co-chair of the
9 advisory committee. One other co-chair shall be nominated and
10 approved by the members of the committee on an annual basis.
11 Committee members' terms of appointment shall be for 4 years
12 with one-quarter of the appointees' terms expiring each year.
13 At no time may a member serve more than one consecutive term in
14 any capacity on the committee. The Department shall fill
15 vacancies that have a remaining term of over one year, and this
16 replacement shall occur through the annual replacement of
17 expiring terms. The Director shall designate Department staff
18 to provide technical assistance and staff support to the
19 committee. Department representation shall not constitute
20 membership of the committee. All Committee papers, issues,
21 recommendations, reports, and meeting memoranda are advisory
22 only. The Director, or his or her designee, shall make a
23 written report, as requested by the Committee, regarding issues
24 before the Committee.

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

30 The requirement for reporting to the General Assembly shall
31 be satisfied by filing copies of the report with the Speaker,
32 the Minority Leader and the Clerk of the House of
33 Representatives and the President, the Minority Leader and the
34 Secretary of the Senate and the Legislative Research Unit, as
35 required by Section 3.1 of the General Assembly Organization
36 Act and filing such additional copies with the State Government

1 Report Distribution Center for the General Assembly as is
2 required under paragraph (t) of Section 7 of the State Library
3 Act.

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

16 (Source: P.A. 92-597, eff. 6-28-02; 93-85, eff. 1-1-04; 93-902,
17 eff. 8-10-04.)

18 Section 99. Effective date. This Act takes effect July 1,
19 2005.