

SB2448



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2448

Introduced 1/18/2006, by Sen. Gary Forby

SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02
20 ILCS 105/4.02e

from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. Authorizes the Department to certify "adult day health services", as well as "adult day services". Defines terms. Makes other changes. Effective immediately.

LRB094 18090 HLH 53395 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning 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 Sections 4.02 and 4.02e 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) adult 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 (now Department of Healthcare and Family Services),
22 seek appropriate amendments under Sections 1915 and 1924 of the
23 Social Security Act. The purpose of the amendments shall be to
24 extend eligibility for home and community based services under
25 Sections 1915 and 1924 of the Social Security Act to persons
26 who transfer to or for the benefit of a spouse those amounts of
27 income and resources allowed under Section 1924 of the Social
28 Security Act. Subject to the approval of such amendments, the
29 Department shall extend the provisions of Section 5-4 of the
30 Illinois Public Aid Code to persons who, but for the provision
31 of home or community-based services, would require the level of
32 care provided in an institution, as is provided for in federal
33 law. Those persons no longer found to be eligible for receiving
34 noninstitutional services due to changes in the eligibility
35 criteria shall be given 60 days notice prior to actual
36 termination. Those persons receiving notice of termination may

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

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

12 As part of the Department on Aging's routine training of
13 case managers and case manager supervisors, the Department may
14 include information on family futures planning for persons who
15 are age 60 or older and who are caregivers of their adult
16 children with developmental disabilities. The content of the
17 training shall be at the Department's discretion.

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

28 The Department, or the Department's authorized
29 representative, shall recover the amount of moneys expended for
30 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 be
33 had until after the death of the surviving spouse, if any, and
34 then only at such time when there is no surviving child who is
35 under age 21, blind, or permanently and totally disabled. This
36 paragraph, however, shall not bar recovery, at the death of the

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

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

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

1 engaged in the program authorized by this Section before the
2 effective date of this amendatory Act of 1991 shall be issued a
3 certificate of all pre- and in-service training from his or her
4 employer upon submitting the necessary information. The
5 employing agency shall be required to retain records of all
6 staff pre- and in-service training, and shall provide such
7 records to the Department upon request and upon termination of
8 the employer's contract with the Department. In addition, the
9 employing agency is responsible for the issuance of
10 certifications of in-service training completed to their
11 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 wage
15 is increased by requiring vendors to certify that they are
16 meeting the federal minimum wage statute for homemakers and
17 chore housekeepers. An employer that cannot ensure that the
18 minimum wage increase is being given to homemakers and chore
19 housekeepers shall be denied any increase in reimbursement
20 costs.

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

- 1 (a) at least 4 adult day service representatives;
- 2 (b) at least 4 case coordination unit representatives;
- 3 (c) at least 4 representatives from in-home direct care
4 service agencies;
- 5 (d) at least 2 representatives of statewide trade or
6 labor unions that represent in-home direct care service
7 staff;
- 8 (e) at least 2 representatives of Area Agencies on
9 Aging;
- 10 (f) at least 2 non-provider representatives from a
11 policy, advocacy, research, or other service organization;
- 12 (g) at least 2 representatives from a statewide
13 membership organization for senior citizens; and
- 14 (h) at least 2 citizen members 60 years of age or
15 older.

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

35 The Department on Aging and the Department of Human
36 Services shall cooperate in the development and submission of

1 an annual report on programs and services provided under this
2 Section. Such joint report shall be filed with the Governor and
3 the General Assembly on or before September 30 each year.

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

14 Those persons previously found eligible for receiving
15 non-institutional services whose services were discontinued
16 under the Emergency Budget Act of Fiscal Year 1992, and who do
17 not meet the eligibility standards in effect on or after July
18 1, 1992, shall remain ineligible on and after July 1, 1992.
19 Those persons previously not required to cost-share and who
20 were required to cost-share effective March 1, 1992, shall
21 continue to meet cost-share requirements on and after July 1,
22 1992. Beginning July 1, 1992, all clients will be required to
23 meet eligibility, cost-share, and other requirements and will
24 have services discontinued or altered when they fail to meet
25 these requirements.

26 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,
27 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;
28 revised 12-15-05.)

29 (20 ILCS 105/4.02e)

30 Sec. 4.02e. Adult day service program certification. For
31 the purpose of long term care insurance payouts to clients of
32 the Department's program of services to prevent unnecessary
33 institutionalization established in Section 4.02 of this Act, a
34 contract with the Department for the procurement of adult day
35 services or adult day health services ~~service~~ shall constitute

1 certification by the Department of the adult day service
2 program. For the purposes of this Act ~~Section~~, "adult day
3 services" and "adult day center" ~~service~~ means the direct care
4 and supervision of adults aged 60 and over in a community-based
5 setting for the purpose of providing personal attention and
6 promoting social, physical, and emotional well-being in a
7 structured setting. For the purposes of this Act, "adult day
8 health services" means the direct care and supervision of
9 adults aged 60 and over in a community-based setting for the
10 purpose of providing medical supervision, personal attention,
11 and promoting social, physical, and emotional well-being in a
12 structured setting.

13 (Source: P.A. 94-421, eff. 8-2-05.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.