



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2766

Introduced 1/20/2006, by Sen. Gary Forby

#### SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02

from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. Provides that beginning January 1, 2007, the Department shall pay an additional \$1.33 per hour of chore/housekeeping and homemaker service performed by a chore/housekeeping and homemaker service provider vendor to all vendors who certify that they will offer health insurance to all qualifying employees, and their dependents. Requires the amount of funding, for years after 2007, to be adjusted by the amount of which the medical component of the Consumer Price Index exceeds such component for the previous calendar year. Defines a qualifying employee as an employee that provides over 100 hours of chore/housekeeping and homemaker services per month for 3 consecutive months. Requires that chore/housekeeping and homemaker service provider vendors must certify that 50% of their workforce is eligible for coverage as a qualifying employee. Provides that the Department must set minimum standards for a qualifying health plan by rule. Sets forth that provider vendors who fail to offer coverage to all qualifying employees shall be subject to penalties up to and including the requirement to return all moneys paid under this paragraph by the State as prescribed by Department rule.

LRB094 16752 RSP 52023 b

FISCAL NOTE ACT  
MAY APPLY

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 (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 Beginning January 1, 2007, the Department shall pay an  
19 additional \$1.33 per hour of chore/housekeeping and homemaker  
20 services performed by a chore/housekeeping and homemaker  
21 service provider vendor to all vendors who certify that they  
22 will offer health insurance to all (i) qualifying employees as  
23 defined in this paragraph, and (ii) dependents, if any, of  
24 qualifying employees. For years after 2007, the adjusted amount  
25 of funding shall be the hourly amount for the previous calendar  
26 year plus the result of that hourly amount multiplied by the  
27 percentage, if any, by which the medical component of the  
28 Consumer Price Index for the calendar year exceeds such  
29 component for the previous calendar year for each hour of  
30 chore/housekeeping and homemaker services performed pursuant  
31 to the vendor's contract with the Department under this  
32 Section. A qualifying employee is defined as an employee that  
33 provides over 100 hours of chore/housekeeping and homemaker  
34 services per month for 3 consecutive months.  
35 Chore/housekeeping and homemaker service provider vendors must  
36 certify that 50% of their workforce is eligible for coverage as

1 a qualifying employee. The Department shall set minimum  
2 standards for a qualifying health plan by rule. Provider  
3 vendors who fail to offer coverage to all qualifying employees  
4 as defined in this paragraph shall be subject to penalties up  
5 to and including the requirement to return all moneys paid  
6 under this paragraph by the State as prescribed by Department  
7 rule.

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

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

1 1915 and 1924 of the Social Security Act and Section 5-4 of the  
2 Illinois Public Aid Code, who precedes a person receiving  
3 services under this Section in death. All moneys for services  
4 paid to or in behalf of the person under this Section shall be  
5 claimed for recovery from the deceased spouse's estate.  
6 "Homestead", as used in this paragraph, means the dwelling  
7 house and contiguous real estate occupied by a surviving spouse  
8 or relative, as defined by the rules and regulations of the  
9 Department of Healthcare and Family Services Illinois  
10 ~~Department of Public Aid~~, regardless of the value of the  
11 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. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,  
17 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;  
18 revised 12-15-05.)