

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. Community Care Program. 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. Such
14 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) (blank); ~~home health services;~~
19 (b) (blank); ~~home nursing services;~~
20 (c) homemaker services;
21 (d) personal assistant services ~~chore and housekeeping~~
22 ~~services;~~
23 (e) adult day services;

- 1 (f) home-delivered meals;
- 2 (g) education in self-care;
- 3 (h) personal care services;
- 4 (i) adult day health services;
- 5 (j) habilitation services;
- 6 (k) respite care;
- 7 (k-5) community reintegration services;
- 8 (k-6) flexible senior services;
- 9 (k-7) medication management;
- 10 (k-8) emergency home response;
- 11 (l) other nonmedical social services that may enable
- 12 the person to become self-supporting; or
- 13 (m) clearinghouse for information provided by senior
- 14 citizen home owners who want to rent rooms to or share
- 15 living space with other senior citizens.

16 The Department shall establish eligibility standards for

17 such services taking into consideration the unique economic and

18 social needs of the target population for whom they are to be

19 provided. Such eligibility standards shall be based on the

20 recipient's ability to pay for services; provided, however,

21 that in determining the amount and nature of services for which

22 a person may qualify, consideration shall not be given to the

23 value of cash, property or other assets held in the name of the

24 person's spouse pursuant to a written agreement dividing

25 marital property into equal but separate shares or pursuant to

26 a transfer of the person's interest in a home to his spouse,

1 provided that the spouse's share of the marital property is not
2 made available to the person seeking such services.

3 Beginning July 1, 2002, the Department shall require as a
4 condition of eligibility that all financially eligible
5 applicants ~~and recipients~~ apply for medical assistance under
6 Article V of the Illinois Public Aid Code in accordance with
7 rules promulgated by the Department.

8 Beginning January 1, 2008, the Department shall require as
9 a condition of eligibility that all new financially eligible
10 applicants apply for and enroll in medical assistance under
11 Article V of the Illinois Public Aid Code in accordance with
12 rules promulgated by the Department.

13 The Department shall, in conjunction with the Department of
14 Public Aid (now Department of Healthcare and Family Services),
15 seek appropriate amendments under Sections 1915 and 1924 of the
16 Social Security Act. The purpose of the amendments shall be to
17 extend eligibility for home and community based services under
18 Sections 1915 and 1924 of the Social Security Act to persons
19 who transfer to or for the benefit of a spouse those amounts of
20 income and resources allowed under Section 1924 of the Social
21 Security Act. Subject to the approval of such amendments, the
22 Department shall extend the provisions of Section 5-4 of the
23 Illinois Public Aid Code to persons who, but for the provision
24 of home or community-based services, would require the level of
25 care provided in an institution, as is provided for in federal
26 law. Those persons no longer found to be eligible for receiving

1 noninstitutional services due to changes in the eligibility
2 criteria shall be given 60 days notice prior to actual
3 termination. Those persons receiving notice of termination may
4 contact the Department and request the determination be
5 appealed at any time during the 60 day notice period. With the
6 exception of the lengthened notice and time frame for the
7 appeal request, the appeal process shall follow the normal
8 procedure. In addition, each person affected regardless of the
9 circumstances for discontinued eligibility shall be given
10 notice and the opportunity to purchase the necessary services
11 through the Community Care Program. If the individual does not
12 elect to purchase services, the Department shall advise the
13 individual of alternative services. The target population
14 identified for the purposes of this Section are persons age 60
15 and older with an identified service need. Priority shall be
16 given to those who are at imminent risk of
17 institutionalization. The services shall be provided to
18 eligible persons age 60 and older to the extent that the cost
19 of the services together with the other personal maintenance
20 expenses of the persons are reasonably related to the standards
21 established for care in a group facility appropriate to the
22 person's condition. These non-institutional services, pilot
23 projects or experimental facilities may be provided as part of
24 or in addition to those authorized by federal law or those
25 funded and administered by the Department of Human Services.
26 The Departments of Human Services, Healthcare and Family

1 Services, Public Health, Veterans' Affairs, and Commerce and
2 Economic Opportunity and other appropriate agencies of State,
3 federal and local governments shall cooperate with the
4 Department on Aging in the establishment and development of the
5 non-institutional services. The Department shall require an
6 annual audit from all chore/housekeeping and homemaker vendors
7 contracting with the Department under this Section. The annual
8 audit shall assure that each audited vendor's procedures are in
9 compliance with Department's financial reporting guidelines
10 requiring an administrative and employee wage and benefits cost
11 split as defined in administrative rules. The audit is a public
12 record under the Freedom of Information Act. The Department
13 shall execute, relative to the nursing home prescreening
14 project, written inter-agency agreements with the Department
15 of Human Services and the Department of Healthcare and Family
16 Services, to effect the following: (1) intake procedures and
17 common eligibility criteria for those persons who are receiving
18 non-institutional services; and (2) the establishment and
19 development of non-institutional services in areas of the State
20 where they are not currently available or are undeveloped. On
21 and after July 1, 1996, all nursing home prescreenings for
22 individuals 60 years of age or older shall be conducted by the
23 Department.

24 As part of the Department on Aging's routine training of
25 case managers and case manager supervisors, the Department may
26 include information on family futures planning for persons who

1 are age 60 or older and who are caregivers of their adult
2 children with developmental disabilities. The content of the
3 training shall be at the Department's discretion.

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

14 The Department, or the Department's authorized
15 representative, shall recover the amount of moneys expended for
16 services provided to or in behalf of a person under this
17 Section by a claim against the person's estate or against the
18 estate of the person's surviving spouse, but no recovery may be
19 had until after the death of the surviving spouse, if any, and
20 then only at such time when there is no surviving child who is
21 under age 21, blind, or permanently and totally disabled. This
22 paragraph, however, shall not bar recovery, at the death of the
23 person, of moneys for services provided to the person or in
24 behalf of the person under this Section to which the person was
25 not entitled; provided that such recovery shall not be enforced
26 against any real estate while it is occupied as a homestead by

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

17 The Department shall increase the effectiveness of the
18 existing Community Care Program by:

19 (1) ensuring that in-home services included in the care
20 plan are available on evenings and weekends;

21 (2) ensuring that care plans contain the services that
22 eligible participants' need based on the number of days in
23 a month, not limited to specific blocks of time, as
24 identified by the comprehensive assessment tool selected
25 by the Department for use statewide, not to exceed the
26 total monthly service cost maximum allowed for each

1 service. The Department shall develop administrative rules
2 to implement this item (2);

3 (3) ensuring that the participants have the right to
4 choose the services contained in their care plan and to
5 direct how those services are provided, based on
6 administrative rules established by the Department;

7 (4) ensuring that the determination of need tool is
8 accurate in determining the participants' level of need; to
9 achieve this, the Department, in conjunction with the Older
10 Adult Services Advisory Committee, shall institute a study
11 of the relationship between the Determination of Need
12 scores, level of need, Service Cost Maximums and the
13 development and utilization of service plans no later than
14 May 1, 2008; findings and recommendations shall be
15 presented to the Governor and the General Assembly no later
16 than January 1, 2009; recommendations shall include all
17 needed changes to the service cost maximums schedule and
18 additional covered services;

19 (5) ensuring that homemakers can provide personal care
20 services that may or may not involve contact with clients,
21 including but not limited to:

22 (A) bathing;

23 (B) grooming;

24 (C) toileting;

25 (D) nail care;

26 (E) transferring;

1 (F) respiratory services;

2 (G) exercise; or

3 (H) positioning;

4 (6) ensuring that homemaker program vendors are not
5 restricted from hiring homemakers who are family members of
6 clients or recommended by clients; the Department may not,
7 by rule or policy, require homemakers who are family
8 members of clients or recommended by clients to accept
9 assignments in homes other than the client; and

10 (7) ensuring that the State may access maximum federal
11 matching funds by seeking approval for the Centers for
12 Medicare and Medicaid Services for modifications to the
13 State's home and community based services waiver and
14 additional waiver opportunities in order to maximize
15 federal matching funds; this shall include, but not be
16 limited to, modification that reflects all changes in the
17 Community Care Program services and all increases in the
18 Services Cost Maximum.

19 By January 1, 2009 or as soon after the end of the Cash and
20 Counseling Demonstration Project as is practicable, the
21 Department may, based on its evaluation of the demonstration
22 project, promulgate rules concerning personal assistant
23 services to include, but need not be limited to,
24 qualifications, employment screening, rights under fair labor
25 standards, training, fiduciary agent, and supervision
26 requirements. All applicants shall be subject to the provisions

1 of the Health Care Worker Background Check Act.

2 The Department shall develop procedures to enhance
3 availability of services on evenings, weekends, and on an
4 emergency basis to meet the respite needs of caregivers.
5 Procedures shall be developed to permit the utilization of
6 services in successive blocks of 24 hours up to the monthly
7 maximum established by the Department. Workers providing these
8 services shall be appropriately trained.

9 Beginning on the effective date of this Amendatory Act of
10 1991, no person may perform chore/housekeeping and homemaker
11 services under a program authorized by this Section unless that
12 person has been issued a certificate of pre-service to do so by
13 his or her employing agency. Information gathered to effect
14 such certification shall include (i) the person's name, (ii)
15 the date the person was hired by his or her current employer,
16 and (iii) the training, including dates and levels. Persons
17 engaged in the program authorized by this Section before the
18 effective date of this amendatory Act of 1991 shall be issued a
19 certificate of all pre- and in-service training from his or her
20 employer upon submitting the necessary information. The
21 employing agency shall be required to retain records of all
22 staff pre- and in-service training, and shall provide such
23 records to the Department upon request and upon termination of
24 the employer's contract with the Department. In addition, the
25 employing agency is responsible for the issuance of
26 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:

- 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

1 expiring terms. The Director shall designate Department staff
2 to provide technical assistance and staff support to the
3 committee. Department representation shall not constitute
4 membership of the committee. All Committee papers, issues,
5 recommendations, reports, and meeting memoranda are advisory
6 only. The Director, or his or her designee, shall make a
7 written report, as requested by the Committee, regarding issues
8 before the Committee.

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

14 The requirement for reporting to the General Assembly shall
15 be satisfied by filing copies of the report with the Speaker,
16 the Minority Leader and the Clerk of the House of
17 Representatives and the President, the Minority Leader and the
18 Secretary of the Senate and the Legislative Research Unit, as
19 required by Section 3.1 of the General Assembly Organization
20 Act and filing such additional copies with the State Government
21 Report Distribution Center for the General Assembly as is
22 required under paragraph (t) of Section 7 of the State Library
23 Act.

24 Those persons previously found eligible for receiving
25 non-institutional services whose services were discontinued
26 under the Emergency Budget Act of Fiscal Year 1992, and who do

1 not meet the eligibility standards in effect on or after July
2 1, 1992, shall remain ineligible on and after July 1, 1992.
3 Those persons previously not required to cost-share and who
4 were required to cost-share effective March 1, 1992, shall
5 continue to meet cost-share requirements on and after July 1,
6 1992. Beginning July 1, 1992, all clients will be required to
7 meet eligibility, cost-share, and other requirements and will
8 have services discontinued or altered when they fail to meet
9 these requirements.

10 For the purposes of this Section, "flexible senior
11 services" refers to services that require one-time or periodic
12 expenditures including, but not limited to, respite care, home
13 modification, assistive technology, housing assistance, and
14 transportation.

15 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,
16 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;
17 94-954, eff. 6-27-06.)