



Rep. Julie Hamos

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09500HB5703ham003

LRB095 17678 DRJ 49735 a

1 AMENDMENT TO HOUSE BILL 5703

2 AMENDMENT NO. _____. Amend House Bill 5703 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Act on the Aging is amended by
5 changing Sections 4.02 and 4.12 as follows:

6 (20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

7 (Text of Section before amendment by P.A. 95-565)

8 Sec. 4.02. The Department shall establish a program of
9 services to prevent unnecessary institutionalization of
10 persons age 60 and older in need of long term care or who are
11 established as persons who suffer from Alzheimer's disease or a
12 related disorder under the Alzheimer's Disease Assistance Act,
13 thereby enabling them to remain in their own homes or in other
14 living arrangements. Such preventive services, which may be
15 coordinated with other programs for the aged and monitored by
16 area agencies on aging in cooperation with the Department, may

1 include, but are not limited to, any or all of the following:

2 (a) home health services;

3 (b) home nursing services;

4 (c) home care aide services;

5 (d) chore and housekeeping services;

6 (e) adult day services;

7 (f) home-delivered meals;

8 (g) education in self-care;

9 (h) personal care services;

10 (i) adult day health services;

11 (j) habilitation services;

12 (k) respite care;

13 (k-5) community reintegration services;

14 (l) other nonmedical social services that may enable
15 the person to become self-supporting; or

16 (m) clearinghouse for information provided by senior
17 citizen home owners who want to rent rooms to or share
18 living space with other senior citizens.

19 The Department shall establish eligibility standards for
20 such services taking into consideration the unique economic and
21 social needs of the target population for whom they are to be
22 provided. Such eligibility standards shall be based on the
23 recipient's ability to pay for services; provided, however,
24 that in determining the amount and nature of services for which
25 a person may qualify, consideration shall not be given to the
26 value of cash, property or other assets held in the name of the

1 person's spouse pursuant to a written agreement dividing
2 marital property into equal but separate shares or pursuant to
3 a transfer of the person's interest in a home to his spouse,
4 provided that the spouse's share of the marital property is not
5 made available to the person seeking such services.

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

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

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

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

22 As part of the Department on Aging's routine training of
23 care coordinators and care coordinator supervisors ~~case~~
24 ~~managers and case manager supervisors~~, the Department may
25 include information on family futures planning for persons who
26 are age 60 or older and who are caregivers of their adult

1 children with developmental disabilities. The content of the
2 training shall be at the Department's discretion.

3 The Department's case management program shall be a fully
4 integrated care coordination program. The care coordination
5 program shall incorporate the concepts of client direction and
6 consumer focus and shall take into account the client's needs
7 and preferences. Comprehensive care coordination shall include
8 activities such as: (1) comprehensive assessment of the client;
9 (2) development and implementation of a service plan with the
10 client to mobilize the formal and informal resources and
11 services identified in the assessment to meet the needs of the
12 client, including coordination of the resources and services
13 with (A) any other plans that exist for various formal
14 services, such as hospital discharge plans, and (B) the
15 information and assistance services; (3) coordination and
16 monitoring of formal service delivery and monitoring of
17 informal service delivery, regardless of the funding source, to
18 ensure that services specified in the plan are being provided;
19 (4) assistance with the completion of applications for
20 services, referrals to non-government funded services, health
21 promotion, and ensuring continuity of care across care
22 settings; (5) periodic reassessment and revision of the
23 client's care plan, if necessary, to reflect any changes in the
24 client's needs; and (6) in accordance with the wishes of the
25 client, advocacy on behalf of the client for needed services or
26 resources.

1 A comprehensive assessment shall be performed, using a
2 holistic tool identified by the Department and supported by an
3 electronic intake assessment and care planning system linked to
4 a central location. The comprehensive assessment process shall
5 include a face to face interview in the client's home or
6 temporary overnight abode and shall determine the level of
7 physical, functional, cognitive, psycho-social, financial, and
8 social needs of the client. Assessment interviews shall
9 accommodate the scheduling needs of the client and the client's
10 representative or representatives, who shall participate at
11 the discretion of the client. The Department shall provide
12 guidelines for determining the conditions under which a
13 comprehensive assessment shall be performed and the activities
14 of care coordination offered to each care recipient. The care
15 plan shall include the needs identified by the assessment and
16 incorporate the goals and preferences of the client. Care plans
17 shall also include all services needed by the client regardless
18 of the funding source and delineate between services provided,
19 services unavailable, and services refused by the client. Case
20 coordination units shall be reimbursed for care coordination in
21 a manner reflective of the actual cost of providing care
22 coordination. By July 1, 2009, the Department shall develop a
23 rate structure, after collection and review of information from
24 case coordination units and advocates for care recipients,
25 regarding the activities of coordination provided. The
26 Department shall reevaluate the rate structure every other year

1 thereafter.

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

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

1 claims have been filed, they remain dormant for failure of
2 prosecution or failure of the claimant to compel administration
3 of the estate for the purpose of payment. This paragraph shall
4 not bar recovery from the estate of a spouse, under Sections
5 1915 and 1924 of the Social Security Act and Section 5-4 of the
6 Illinois Public Aid Code, who precedes a person receiving
7 services under this Section in death. All moneys for services
8 paid to or in behalf of the person under this Section shall be
9 claimed for recovery from the deceased spouse's estate.
10 "Homestead", as used in this paragraph, means the dwelling
11 house and contiguous real estate occupied by a surviving spouse
12 or relative, as defined by the rules and regulations of the
13 Department of Healthcare and Family Services, regardless of the
14 value of the property.

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

22 Beginning on the effective date of this Amendatory Act of
23 1991, no person may perform chore/housekeeping and home care
24 aide services under a program authorized by this Section unless
25 that person has been issued a certificate of pre-service to do
26 so by his or her employing agency. Information gathered to

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

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

24 The Community Care Program Advisory Committee is created in
25 the Department on Aging. The Director shall appoint individuals
26 to serve in the Committee, who shall serve at their own

1 expense. Members of the Committee must abide by all applicable
2 ethics laws. The Committee shall advise the Department on
3 issues related to the Department's program of services to
4 prevent unnecessary institutionalization. The Committee shall
5 meet on a bi-monthly basis and shall serve to identify and
6 advise the Department on present and potential issues affecting
7 the service delivery network, the program's clients, and the
8 Department and to recommend solution strategies. Persons
9 appointed to the Committee shall be appointed on, but not
10 limited to, their own and their agency's experience with the
11 program, geographic representation, and willingness to serve.
12 The Director shall appoint members to the Committee to
13 represent provider, advocacy, policy research, and other
14 constituencies committed to the delivery of high quality home
15 and community-based services to older adults. Representatives
16 shall be appointed to ensure representation from community care
17 providers including, but not limited to, adult day service
18 providers, homemaker providers, case coordination and case
19 management units, emergency home response providers, statewide
20 trade or labor unions that represent home care ~~homecare~~ aides
21 and direct care staff, area agencies on aging, adults over age
22 60, membership organizations representing older adults, and
23 other organizational entities, providers of care, or
24 individuals with demonstrated interest and expertise in the
25 field of home and community care as determined by the Director.

26 Nominations may be presented from any agency or State

1 association with interest in the program. The Director, or his
2 or her designee, shall serve as the permanent co-chair of the
3 advisory committee. One other co-chair shall be nominated and
4 approved by the members of the committee on an annual basis.
5 Committee members' terms of appointment shall be for 4 years
6 with one-quarter of the appointees' terms expiring each year. A
7 member shall continue to serve until his or her replacement is
8 named. The Department shall fill vacancies that have a
9 remaining term of over one year, and this replacement shall
10 occur through the annual replacement of expiring terms. The
11 Director shall designate Department staff to provide technical
12 assistance and staff support to the committee. Department
13 representation shall not constitute membership of the
14 committee. All Committee papers, issues, recommendations,
15 reports, and meeting memoranda are advisory only. The Director,
16 or his or her designee, shall make a written report, as
17 requested by the Committee, regarding issues before the
18 Committee.

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

24 The requirement for reporting to the General Assembly shall
25 be satisfied by filing copies of the report with the Speaker,
26 the Minority Leader and the Clerk of the House of

1 Representatives and the President, the Minority Leader and the
2 Secretary of the Senate and the Legislative Research Unit, as
3 required by Section 3.1 of the General Assembly Organization
4 Act and filing such additional copies with the State Government
5 Report Distribution Center for the General Assembly as is
6 required under paragraph (t) of Section 7 of the State Library
7 Act.

8 Those persons previously found eligible for receiving
9 non-institutional services whose services were discontinued
10 under the Emergency Budget Act of Fiscal Year 1992, and who do
11 not meet the eligibility standards in effect on or after July
12 1, 1992, shall remain ineligible on and after July 1, 1992.
13 Those persons previously not required to cost-share and who
14 were required to cost-share effective March 1, 1992, shall
15 continue to meet cost-share requirements on and after July 1,
16 1992. Beginning July 1, 1992, all clients will be required to
17 meet eligibility, cost-share, and other requirements and will
18 have services discontinued or altered when they fail to meet
19 these requirements.

20 Notwithstanding any other rulemaking authority that may
21 exist, neither the Governor nor any agency or agency head under
22 the jurisdiction of the Governor has any authority to make or
23 promulgate rules to implement or enforce the provisions of this
24 amendatory Act of the 95th General Assembly. If, however, the
25 Governor believes that rules are necessary to implement or
26 enforce the provisions of this amendatory Act of the 95th

1 General Assembly, the Governor may suggest rules to the General
2 Assembly by filing them with the Clerk of the House and
3 Secretary of the Senate and by requesting that the General
4 Assembly authorize such rulemaking by law, enact those
5 suggested rules into law, or take any other appropriate action
6 in the General Assembly's discretion. Nothing contained in this
7 amendatory Act of the 95th General Assembly shall be
8 interpreted to grant rulemaking authority under any other
9 Illinois statute where such authority is not otherwise
10 explicitly given. For the purposes of this amendatory Act of
11 the 95th General Assembly, "rules" is given the meaning
12 contained in Section 1-70 of the Illinois Administrative
13 Procedure Act, and "agency" and "agency head" are given the
14 meanings contained in Sections 1-20 and 1-25 of the Illinois
15 Administrative Procedure Act to the extent that such
16 definitions apply to agencies or agency heads under the
17 jurisdiction of the Governor.

18 (Source: P.A. 94-48, eff. 7-1-05; 94-269, eff. 7-19-05; 94-336,
19 eff. 7-26-05; 94-954, eff. 6-27-06; 95-298, eff. 8-20-07;
20 95-473, eff. 8-27-07; revised 10-30-07.)

21 (Text of Section after amendment by P.A. 95-565)

22 Sec. 4.02. Community Care Program. The Department shall
23 establish a program of services to prevent unnecessary
24 institutionalization of persons age 60 and older in need of
25 long term care or who are established as persons who suffer

1 from Alzheimer's disease or a related disorder under the
2 Alzheimer's Disease Assistance Act, thereby enabling them to
3 remain in their own homes or in other living arrangements. Such
4 preventive services, which may be coordinated with other
5 programs for the aged and monitored by area agencies on aging
6 in cooperation with the Department, may include, but are not
7 limited to, any or all of the following:

8 (a) (blank);

9 (b) (blank);

10 (c) home care aide services;

11 (d) personal assistant services;

12 (e) adult day services;

13 (f) home-delivered meals;

14 (g) education in self-care;

15 (h) personal care services;

16 (i) adult day health services;

17 (j) habilitation services;

18 (k) respite care;

19 (k-5) community reintegration services;

20 (k-6) flexible senior services;

21 (k-7) medication management;

22 (k-8) emergency home response;

23 (l) other nonmedical social services that may enable
24 the person to become self-supporting; or

25 (m) clearinghouse for information provided by senior
26 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 apply for medical assistance under Article V of the
18 Illinois Public Aid Code in accordance with rules promulgated
19 by the Department.

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

25 The Department shall, in conjunction with the Department of
26 Public Aid (now Department of Healthcare and Family Services),

1 seek appropriate amendments under Sections 1915 and 1924 of the
2 Social Security Act. The purpose of the amendments shall be to
3 extend eligibility for home and community based services under
4 Sections 1915 and 1924 of the Social Security Act to persons
5 who transfer to or for the benefit of a spouse those amounts of
6 income and resources allowed under Section 1924 of the Social
7 Security Act. Subject to the approval of such amendments, the
8 Department shall extend the provisions of Section 5-4 of the
9 Illinois Public Aid Code to persons who, but for the provision
10 of home or community-based services, would require the level of
11 care provided in an institution, as is provided for in federal
12 law. Those persons no longer found to be eligible for receiving
13 noninstitutional services due to changes in the eligibility
14 criteria shall be given 60 days notice prior to actual
15 termination. Those persons receiving notice of termination may
16 contact the Department and request the determination be
17 appealed at any time during the 60 day notice period. With the
18 exception of the lengthened notice and time frame for the
19 appeal request, the appeal process shall follow the normal
20 procedure. In addition, each person affected regardless of the
21 circumstances for discontinued eligibility shall be given
22 notice and the opportunity to purchase the necessary services
23 through the Community Care Program. If the individual does not
24 elect to purchase services, the Department shall advise the
25 individual of alternative services. The target population
26 identified for the purposes of this Section are persons age 60

1 and older with an identified service need. Priority shall be
2 given to those who are at imminent risk of
3 institutionalization. The services shall be provided to
4 eligible persons age 60 and older to the extent that the cost
5 of the services together with the other personal maintenance
6 expenses of the persons are reasonably related to the standards
7 established for care in a group facility appropriate to the
8 person's condition. These non-institutional services, pilot
9 projects or experimental facilities may be provided as part of
10 or in addition to those authorized by federal law or those
11 funded and administered by the Department of Human Services.
12 The Departments of Human Services, Healthcare and Family
13 Services, Public Health, Veterans' Affairs, and Commerce and
14 Economic Opportunity and other appropriate agencies of State,
15 federal and local governments shall cooperate with the
16 Department on Aging in the establishment and development of the
17 non-institutional services. The Department shall require an
18 annual audit from all ~~chore/housekeeping and~~ home care aide
19 vendors contracting with the Department under this Section. The
20 annual audit shall assure that each audited vendor's procedures
21 are in compliance with Department's financial reporting
22 guidelines requiring an administrative and employee wage and
23 benefits cost split as defined in administrative rules. The
24 audit is a public record under the Freedom of Information Act.
25 The Department shall execute, relative to the nursing home
26 prescreening project, written inter-agency agreements with the

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

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

17 The Department's case management program shall be a fully
18 integrated care coordination program. The care coordination
19 program shall incorporate the concepts of client direction and
20 consumer focus and shall take into account the client's needs
21 and preferences. Comprehensive care coordination shall include
22 activities such as: (1) comprehensive assessment of the client;
23 (2) development and implementation of a service plan with the
24 client to mobilize the formal and informal resources and
25 services identified in the assessment to meet the needs of the
26 client, including coordination of the resources and services

1 with (A) any other plans that exist for various formal
2 services, such as hospital discharge plans, and (B) the
3 information and assistance services; (3) coordination and
4 monitoring of formal service delivery and monitoring of
5 informal service delivery, regardless of the funding source, to
6 ensure that services specified in the plan are being provided;
7 (4) assistance with the completion of applications for
8 services, referrals to non-government funded services, health
9 promotion, and ensuring continuity of care across care
10 settings; (5) periodic reassessment and revision of the
11 client's care plan, if necessary, to reflect any changes in the
12 client's needs; and (6) in accordance with the wishes of the
13 client, advocacy on behalf of the client for needed services or
14 resources.

15 A comprehensive assessment shall be performed, using a
16 holistic tool identified by the Department and supported by an
17 electronic intake assessment and care planning system linked to
18 a central location. The comprehensive assessment process shall
19 include a face to face interview in the client's home or
20 temporary overnight abode and shall determine the level of
21 physical, functional, cognitive, psycho-social, financial, and
22 social needs of the client. Assessment interviews shall
23 accommodate the scheduling needs of the client and the client's
24 representative or representatives, who shall participate at
25 the discretion of the client. The Department shall provide
26 guidelines for determining the conditions under which a

1 comprehensive assessment shall be performed and the activities
2 of care coordination offered to each care recipient. The care
3 plan shall include the needs identified by the assessment and
4 incorporate the goals and preferences of the client. Care plans
5 shall also include all services needed by the client regardless
6 of the funding source and delineate between services provided,
7 services unavailable, and services refused by the client. Case
8 coordination units shall be reimbursed for care coordination in
9 a manner reflective of the actual cost of providing care
10 coordination. By July 1, 2009, the Department shall develop a
11 rate structure, after collection and review of information from
12 case coordination units and advocates for care recipients,
13 regarding the activities of coordination provided. The
14 Department shall reevaluate the rate structure every other year
15 thereafter.

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

26 The Department, or the Department's authorized

1 representative, shall recover the amount of moneys expended for
2 services provided to or in behalf of a person under this
3 Section by a claim against the person's estate or against the
4 estate of the person's surviving spouse, but no recovery may be
5 had until after the death of the surviving spouse, if any, and
6 then only at such time when there is no surviving child who is
7 under age 21, blind, or permanently and totally disabled. This
8 paragraph, however, shall not bar recovery, at the death of the
9 person, of moneys for services provided to the person or in
10 behalf of the person under this Section to which the person was
11 not entitled; provided that such recovery shall not be enforced
12 against any real estate while it is occupied as a homestead by
13 the surviving spouse or other dependent, if no claims by other
14 creditors have been filed against the estate, or, if such
15 claims have been filed, they remain dormant for failure of
16 prosecution or failure of the claimant to compel administration
17 of the estate for the purpose of payment. This paragraph shall
18 not bar recovery from the estate of a spouse, under Sections
19 1915 and 1924 of the Social Security Act and Section 5-4 of the
20 Illinois Public Aid Code, who precedes a person receiving
21 services under this Section in death. All moneys for services
22 paid to or in behalf of the person under this Section shall be
23 claimed for recovery from the deceased spouse's estate.
24 "Homestead", as used in this paragraph, means the dwelling
25 house and contiguous real estate occupied by a surviving spouse
26 or relative, as defined by the rules and regulations of the

1 Department of Healthcare and Family Services, regardless of the
2 value of the property.

3 The Department shall increase the effectiveness of the
4 existing Community Care Program by:

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

7 (2) ensuring that care plans contain the services that
8 eligible participants ~~participants~~ need based on the
9 number of days in a month, not limited to specific blocks
10 of time, as identified by the comprehensive assessment tool
11 selected by the Department for use statewide, not to exceed
12 the total monthly service cost maximum allowed for each
13 service; ~~the.~~ The Department shall develop administrative
14 rules to implement this item (2);

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

19 (4) ensuring that the determination of need tool is
20 accurate in determining the participants' level of need; to
21 achieve this, the Department, in conjunction with the Older
22 Adult Services Advisory Committee, shall institute a study
23 of the relationship between the Determination of Need
24 scores, level of need, service cost maximums, and the
25 development and utilization of service plans no later than
26 May 1, 2008; findings and recommendations shall be

1 presented to the Governor and the General Assembly no later
2 than January 1, 2009; recommendations shall include all
3 needed changes to the service cost maximums schedule and
4 additional covered services;

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

8 (A) bathing;

9 (B) grooming;

10 (C) toileting;

11 (D) nail care;

12 (E) transferring;

13 (F) respiratory services;

14 (G) exercise; or

15 (H) positioning;

16 (6) ensuring that homemaker program vendors are not
17 restricted from hiring homemakers who are family members of
18 clients or recommended by clients; the Department may not,
19 by rule or policy, require homemakers who are family
20 members of clients or recommended by clients to accept
21 assignments in homes other than the client; and

22 (7) ensuring that the State may access maximum federal
23 matching funds by seeking approval for the Centers for
24 Medicare and Medicaid Services for modifications to the
25 State's home and community based services waiver and
26 additional waiver opportunities in order to maximize

1 federal matching funds; this shall include, but not be
2 limited to, modification that reflects all changes in the
3 Community Care Program services and all increases in the
4 services cost maximum.

5 By January 1, 2009 or as soon after the end of the Cash and
6 Counseling Demonstration Project as is practicable, the
7 Department may, based on its evaluation of the demonstration
8 project, promulgate rules concerning personal assistant
9 services, to include, but need not be limited to,
10 qualifications, employment screening, rights under fair labor
11 standards, training, fiduciary agent, and supervision
12 requirements. All applicants shall be subject to the provisions
13 of the Health Care Worker Background Check Act.

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

21 Beginning on the effective date of this Amendatory Act of
22 1991, no person may perform chore/housekeeping and home care
23 aide services under a program authorized by this Section unless
24 that person has been issued a certificate of pre-service to do
25 so by his or her employing agency. Information gathered to
26 effect such certification shall include (i) the person's name,

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

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

23 The Community Care Program Advisory Committee is created in
24 the Department on Aging. The Director shall appoint individuals
25 to serve in the Committee, who shall serve at their own
26 expense. Members of the Committee must abide by all applicable

1 ethics laws. The Committee shall advise the Department on
2 issues related to the Department's program of services to
3 prevent unnecessary institutionalization. The Committee shall
4 meet on a bi-monthly basis and shall serve to identify and
5 advise the Department on present and potential issues affecting
6 the service delivery network, the program's clients, and the
7 Department and to recommend solution strategies. Persons
8 appointed to the Committee shall be appointed on, but not
9 limited to, their own and their agency's experience with the
10 program, geographic representation, and willingness to serve.
11 The Director shall appoint members to the Committee to
12 represent provider, advocacy, policy research, and other
13 constituencies committed to the delivery of high quality home
14 and community-based services to older adults. Representatives
15 shall be appointed to ensure representation from community care
16 providers including, but not limited to, adult day service
17 providers, homemaker providers, case coordination and case
18 management units, emergency home response providers, statewide
19 trade or labor unions that represent home care ~~homecare~~ aides
20 and direct care staff, area agencies on aging, adults over age
21 60, membership organizations representing older adults, and
22 other organizational entities, providers of care, or
23 individuals with demonstrated interest and expertise in the
24 field of home and community care as determined by the Director.

25 Nominations may be presented from any agency or State
26 association with interest in the program. The Director, or his

1 or her designee, shall serve as the permanent co-chair of the
2 advisory committee. One other co-chair shall be nominated and
3 approved by the members of the committee on an annual basis.
4 Committee members' terms of appointment shall be for 4 years
5 with one-quarter of the appointees' terms expiring each year. A
6 member shall continue to serve until his or her replacement is
7 named. The Department shall fill vacancies that have a
8 remaining term of over one year, and this replacement shall
9 occur through the annual replacement of expiring terms. The
10 Director shall designate Department staff to provide technical
11 assistance and staff support to the committee. Department
12 representation shall not constitute membership of the
13 committee. All Committee papers, issues, recommendations,
14 reports, and meeting memoranda are advisory only. The Director,
15 or his or her designee, shall make a written report, as
16 requested by the Committee, regarding issues before the
17 Committee.

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

23 The requirement for reporting to the General Assembly shall
24 be satisfied by filing copies of the report with the Speaker,
25 the Minority Leader and the Clerk of the House of
26 Representatives and the President, the Minority Leader and the

1 Secretary of the Senate and the Legislative Research Unit, as
2 required by Section 3.1 of the General Assembly Organization
3 Act and filing such additional copies with the State Government
4 Report Distribution Center for the General Assembly as is
5 required under paragraph (t) of Section 7 of the State Library
6 Act.

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

19 For the purposes of this Section, "flexible senior
20 services" refers to services that require one-time or periodic
21 expenditures including, but not limited to, respite care, home
22 modification, assistive technology, housing assistance, and
23 transportation.

24 Notwithstanding any other rulemaking authority that may
25 exist, neither the Governor nor any agency or agency head under
26 the jurisdiction of the Governor has any authority to make or

1 promulgate rules to implement or enforce the provisions of this
2 amendatory Act of the 95th General Assembly. If, however, the
3 Governor believes that rules are necessary to implement or
4 enforce the provisions of this amendatory Act of the 95th
5 General Assembly, the Governor may suggest rules to the General
6 Assembly by filing them with the Clerk of the House and
7 Secretary of the Senate and by requesting that the General
8 Assembly authorize such rulemaking by law, enact those
9 suggested rules into law, or take any other appropriate action
10 in the General Assembly's discretion. Nothing contained in this
11 amendatory Act of the 95th General Assembly shall be
12 interpreted to grant rulemaking authority under any other
13 Illinois statute where such authority is not otherwise
14 explicitly given. For the purposes of this amendatory Act of
15 the 95th General Assembly, "rules" is given the meaning
16 contained in Section 1-70 of the Illinois Administrative
17 Procedure Act, and "agency" and "agency head" are given the
18 meanings contained in Sections 1-20 and 1-25 of the Illinois
19 Administrative Procedure Act to the extent that such
20 definitions apply to agencies or agency heads under the
21 jurisdiction of the Governor.

22 (Source: P.A. 94-48, eff. 7-1-05; 94-269, eff. 7-19-05; 94-336,
23 eff. 7-26-05; 94-954, eff. 6-27-06; 95-298, eff. 8-20-07;
24 95-473, eff. 8-27-07; 95-565, eff. 6-1-08; revised 10-30-07.)

1 Sec. 4.12. Assistance to nursing home residents.

2 (a) The Department on Aging shall assist eligible nursing
3 home residents and their families to select long-term care
4 options that meet their needs and reflect their preferences. At
5 any time during the process, the resident or his or her
6 representative may decline further assistance.

7 (b) To provide assistance, the Department shall develop a
8 program of transition services with follow-up in selected areas
9 of the State, to be expanded statewide as funding becomes
10 available. The program shall be developed in consultation with
11 nursing homes, care coordinators ~~case managers~~, Area Agencies
12 on Aging, and others interested in the well-being of frail
13 elderly Illinois residents. The Department shall establish
14 administrative rules pursuant to the Illinois Administrative
15 Procedure Act with respect to resident eligibility, assessment
16 of the resident's health, cognitive, social, and financial
17 needs, development of comprehensive service transition plans,
18 and the level of services that must be available prior to
19 transition of a resident into the community.

20 (c) Notwithstanding any other rulemaking authority that
21 may exist, neither the Governor nor any agency or agency head
22 under the jurisdiction of the Governor has any authority to
23 make or promulgate rules to implement or enforce the provisions
24 of this amendatory Act of the 95th General Assembly. If,
25 however, the Governor believes that rules are necessary to
26 implement or enforce the provisions of this amendatory Act of

1 the 95th General Assembly, the Governor may suggest rules to
2 the General Assembly by filing them with the Clerk of the House
3 and Secretary of the Senate and by requesting that the General
4 Assembly authorize such rulemaking by law, enact those
5 suggested rules into law, or take any other appropriate action
6 in the General Assembly's discretion. Nothing contained in this
7 amendatory Act of the 95th General Assembly shall be
8 interpreted to grant rulemaking authority under any other
9 Illinois statute where such authority is not otherwise
10 explicitly given. For the purposes of this amendatory Act of
11 the 95th General Assembly, "rules" is given the meaning
12 contained in Section 1-70 of the Illinois Administrative
13 Procedure Act, and "agency" and "agency head" are given the
14 meanings contained in Sections 1-20 and 1-25 of the Illinois
15 Administrative Procedure Act to the extent that such
16 definitions apply to agencies or agency heads under the
17 jurisdiction of the Governor.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 Section 10. The Older Adult Services Act is amended by
20 changing Section 25 as follows:

21 (320 ILCS 42/25)

22 Sec. 25. Older adult services restructuring. No later than
23 January 1, 2005, the Department shall commence the process of
24 restructuring the older adult services delivery system.

1 Priority shall be given to both the expansion of services and
2 the development of new services in priority service areas.
3 Subject to the availability of funding, the restructuring shall
4 include, but not be limited to, the following:

5 (1) Planning. The Department shall develop a plan to
6 restructure the State's service delivery system for older
7 adults. The plan shall include a schedule for the
8 implementation of the initiatives outlined in this Act and all
9 other initiatives identified by the participating agencies to
10 fulfill the purposes of this Act. Financing for older adult
11 services shall be based on the principle that "money follows
12 the individual". The plan shall also identify potential
13 impediments to delivery system restructuring and include any
14 known regulatory or statutory barriers.

15 (2) Comprehensive care coordination ~~case management~~. The
16 Department shall implement a statewide system of holistic
17 comprehensive case management. The system shall include the
18 identification and implementation of a universal,
19 comprehensive assessment tool to be used statewide to determine
20 the level of physical, functional, cognitive, psycho-social,
21 social ~~socialization~~, and financial needs of older adults. This
22 tool shall be supported by an electronic intake, assessment,
23 and care planning system linked to a central location.
24 "Comprehensive care coordination ~~case management~~" shall
25 include activities such ~~includes services and coordination~~
26 ~~such~~ as (i) comprehensive assessment of the older adult

1 ~~(including the physical, functional, cognitive, psycho-social,~~
2 ~~and social needs of the individual);~~ (ii) development and
3 implementation of a service plan with the older adult to
4 mobilize the formal and family resources and services
5 identified in the assessment to meet the needs of the older
6 adult, including coordination of the resources and services
7 with any other plans that exist for various formal services,
8 such as hospital discharge plans, and with the information and
9 assistance services; (iii) coordination and monitoring of
10 formal and informal family service delivery, regardless of the
11 funding source, including coordination and monitoring to
12 ensure that services specified in the plan are being provided;
13 (iv) assistance with completion of applications for services,
14 referrals to non-government funded services, health promotion,
15 and ensuring continuity of care across care settings; (v)
16 periodic reassessment and revision of the status of the older
17 adult with the older adult or, if necessary, the older adult's
18 designated representative; and (vi) ~~(v)~~ in accordance with the
19 wishes of the older adult, advocacy on behalf of the older
20 adult for needed services or resources.

21 (3) Coordinated point of entry. The Department shall
22 implement and publicize a statewide coordinated point of entry
23 using a uniform name, identity, logo, and toll-free number.

24 (4) Public web site. The Department shall develop a public
25 web site that provides links to available services, resources,
26 and reference materials concerning caregiving, diseases, and

1 best practices for use by professionals, older adults, and
2 family caregivers.

3 (5) Expansion of older adult services. The Department shall
4 expand older adult services that promote independence and
5 permit older adults to remain in their own homes and
6 communities.

7 (6) Consumer-directed home and community-based services.
8 The Department shall expand the range of service options
9 available to permit older adults to exercise maximum choice and
10 control over their care.

11 (7) Comprehensive delivery system. The Department shall
12 expand opportunities for older adults to receive services in
13 systems that integrate acute and chronic care.

14 (8) Enhanced transition and follow-up services. The
15 Department shall implement a program of transition from one
16 residential setting to another and follow-up services,
17 regardless of residential setting, pursuant to rules with
18 respect to (i) resident eligibility, (ii) assessment of the
19 resident's health, cognitive, social, and financial needs,
20 (iii) development of transition plans, and (iv) the level of
21 services that must be available before transitioning a resident
22 from one setting to another.

23 (9) Family caregiver support. The Department shall develop
24 strategies for public and private financing of services that
25 supplement and support family caregivers.

26 (10) Quality standards and quality improvement. The

1 Department shall establish a core set of uniform quality
2 standards for all providers that focus on outcomes and take
3 into consideration consumer choice and satisfaction, and the
4 Department shall require each provider to implement a
5 continuous quality improvement process to address consumer
6 issues. The continuous quality improvement process must
7 benchmark performance, be person-centered and data-driven, and
8 focus on consumer satisfaction.

9 (11) Workforce. The Department shall develop strategies to
10 attract and retain a qualified and stable worker pool, provide
11 living wages and benefits, and create a work environment that
12 is conducive to long-term employment and career development.
13 Resources such as grants, education, and promotion of career
14 opportunities may be used.

15 (12) Coordination of services. The Department shall
16 identify methods to better coordinate service networks to
17 maximize resources and minimize duplication of services and
18 ease of application.

19 (13) Barriers to services. The Department shall identify
20 barriers to the provision, availability, and accessibility of
21 services and shall implement a plan to address those barriers.
22 The plan shall: (i) identify barriers, including but not
23 limited to, statutory and regulatory complexity, reimbursement
24 issues, payment issues, and labor force issues; (ii) recommend
25 changes to State or federal laws or administrative rules or
26 regulations; (iii) recommend application for federal waivers

1 to improve efficiency and reduce cost and paperwork; (iv)
2 develop innovative service delivery models; and (v) recommend
3 application for federal or private service grants.

4 (14) Reimbursement and funding. The Department shall
5 investigate and evaluate costs and payments by defining costs
6 to implement a uniform, audited provider cost reporting system
7 to be considered by all Departments in establishing payments.
8 To the extent possible, multiple cost reporting mandates shall
9 not be imposed.

10 (15) Medicaid nursing home cost containment and Medicare
11 utilization. The Department of Healthcare and Family Services
12 (formerly Department of Public Aid), in collaboration with the
13 Department on Aging and the Department of Public Health and in
14 consultation with the Advisory Committee, shall propose a plan
15 to contain Medicaid nursing home costs and maximize Medicare
16 utilization. The plan must not impair the ability of an older
17 adult to choose among available services. The plan shall
18 include, but not be limited to, (i) techniques to maximize the
19 use of the most cost-effective services without sacrificing
20 quality and (ii) methods to identify and serve older adults in
21 need of minimal services to remain independent, but who are
22 likely to develop a need for more extensive services in the
23 absence of those minimal services.

24 (16) Bed reduction. The Department of Public Health shall
25 implement a nursing home conversion program to reduce the
26 number of Medicaid-certified nursing home beds in areas with

1 excess beds. The Department of Healthcare and Family Services
2 shall investigate changes to the Medicaid nursing facility
3 reimbursement system in order to reduce beds. Such changes may
4 include, but are not limited to, incentive payments that will
5 enable facilities to adjust to the restructuring and expansion
6 of services required by the Older Adult Services Act, including
7 adjustments for the voluntary closure or layaway of nursing
8 home beds certified under Title XIX of the federal Social
9 Security Act. Any savings shall be reallocated to fund
10 home-based or community-based older adult services pursuant to
11 Section 20.

12 (17) Financing. The Department shall investigate and
13 evaluate financing options for older adult services and shall
14 make recommendations in the report required by Section 15
15 concerning the feasibility of these financing arrangements.
16 These arrangements shall include, but are not limited to:

17 (A) private long-term care insurance coverage for
18 older adult services;

19 (B) enhancement of federal long-term care financing
20 initiatives;

21 (C) employer benefit programs such as medical savings
22 accounts for long-term care;

23 (D) individual and family cost-sharing options;

24 (E) strategies to reduce reliance on government
25 programs;

26 (F) fraudulent asset divestiture and financial

1 planning prevention; and

2 (G) methods to supplement and support family and
3 community caregiving.

4 (18) Older Adult Services Demonstration Grants. The
5 Department shall implement a program of demonstration grants
6 that will assist in the restructuring of the older adult
7 services delivery system, and shall provide funding for
8 innovative service delivery models and system change and
9 integration initiatives pursuant to subsection (g) of Section
10 20.

11 (19) Bed need methodology update. For the purposes of
12 determining areas with excess beds, the Departments shall
13 provide information and assistance to the Health Facilities
14 Planning Board to update the Bed Need Methodology for Long-Term
15 Care to update the assumptions used to establish the
16 methodology to make them consistent with modern older adult
17 services.

18 (20) Affordable housing. The Departments shall utilize the
19 recommendations of Illinois' Annual Comprehensive Housing
20 Plan, as developed by the Affordable Housing Task Force through
21 the Governor's Executive Order 2003-18, in their efforts to
22 address the affordable housing needs of older adults.

23 The Older Adult Services Advisory Committee shall
24 investigate innovative and promising practices operating as
25 demonstration or pilot projects in Illinois and in other
26 states. The Department on Aging shall provide the Older Adult

1 Services Advisory Committee with a list of all demonstration or
2 pilot projects funded by the Department on Aging, including
3 those specified by rule, law, policy memorandum, or funding
4 arrangement. The Committee shall work with the Department on
5 Aging to evaluate the viability of expanding these programs
6 into other areas of the State.

7 Notwithstanding any other rulemaking authority that may
8 exist, neither the Governor nor any agency or agency head under
9 the jurisdiction of the Governor has any authority to make or
10 promulgate rules to implement or enforce the provisions of this
11 amendatory Act of the 95th General Assembly. If, however, the
12 Governor believes that rules are necessary to implement or
13 enforce the provisions of this amendatory Act of the 95th
14 General Assembly, the Governor may suggest rules to the General
15 Assembly by filing them with the Clerk of the House and
16 Secretary of the Senate and by requesting that the General
17 Assembly authorize such rulemaking by law, enact those
18 suggested rules into law, or take any other appropriate action
19 in the General Assembly's discretion. Nothing contained in this
20 amendatory Act of the 95th General Assembly shall be
21 interpreted to grant rulemaking authority under any other
22 Illinois statute where such authority is not otherwise
23 explicitly given. For the purposes of this amendatory Act of
24 the 95th General Assembly, "rules" is given the meaning
25 contained in Section 1-70 of the Illinois Administrative
26 Procedure Act, and "agency" and "agency head" are given the

1 meanings contained in Sections 1-20 and 1-25 of the Illinois
2 Administrative Procedure Act to the extent that such
3 definitions apply to agencies or agency heads under the
4 jurisdiction of the Governor.

5 (Source: P.A. 93-1031, eff. 8-27-04; 94-236, eff. 7-14-05;
6 94-766, eff. 1-1-07.)

7 (320 ILCS 60/Act rep.)

8 Section 15. The Community Senior Services and Resources Act
9 is repealed.

10 (320 ILCS 65/16 rep.)

11 Section 20. The Family Caregiver Act is amended by
12 repealing Section 16.

13 Section 95. No acceleration or delay. Where this Act makes
14 changes in a statute that is represented in this Act by text
15 that is not yet or no longer in effect (for example, a Section
16 represented by multiple versions), the use of that text does
17 not accelerate or delay the taking effect of (i) the changes
18 made by this Act or (ii) provisions derived from any other
19 Public Act.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."