

1 AN ACT concerning aging.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Act on the Aging is amended by
5 changing 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) adult day services;

22 (f) home-delivered meals;

23 (g) education in self-care;

- 1 (h) personal care services;
- 2 (i) adult day health services;
- 3 (j) habilitation services;
- 4 (k) respite care;
- 5 (k-5) community reintegration services;
- 6 (l) other nonmedical social services that may enable
7 the person to become self-supporting; or
- 8 (m) clearinghouse for information provided by senior
9 citizen home owners who want to rent rooms to or share
10 living space with other senior citizens.

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

24 Beginning July 1, 2002, the Department shall require as a
25 condition of eligibility that all financially eligible
26 applicants and recipients apply for medical assistance under

1 Article V of the Illinois Public Aid Code in accordance with
2 rules promulgated by the Department.

3 The Department shall, in conjunction with the Department of
4 Public Aid (now Department of Healthcare and Family Services),
5 seek appropriate amendments under Sections 1915 and 1924 of the
6 Social Security Act. The purpose of the amendments shall be to
7 extend eligibility for home and community based services under
8 Sections 1915 and 1924 of the Social Security Act to persons
9 who transfer to or for the benefit of a spouse those amounts of
10 income and resources allowed under Section 1924 of the Social
11 Security Act. Subject to the approval of such amendments, the
12 Department shall extend the provisions of Section 5-4 of the
13 Illinois Public Aid Code to persons who, but for the provision
14 of home or community-based services, would require the level of
15 care provided in an institution, as is provided for in federal
16 law. Those persons no longer found to be eligible for receiving
17 noninstitutional services due to changes in the eligibility
18 criteria shall be given 60 days notice prior to actual
19 termination. Those persons receiving notice of termination may
20 contact the Department and request the determination be
21 appealed at any time during the 60 day notice period. With the
22 exception of the lengthened notice and time frame for the
23 appeal request, the appeal process shall follow the normal
24 procedure. In addition, each person affected regardless of the
25 circumstances for discontinued eligibility shall be given
26 notice and the opportunity to purchase the necessary services

1 through the Community Care Program. If the individual does not
2 elect to purchase services, the Department shall advise the
3 individual of alternative services. The target population
4 identified for the purposes of this Section are persons age 60
5 and older with an identified service need. Priority shall be
6 given to those who are at imminent risk of
7 institutionalization. The services shall be provided to
8 eligible persons age 60 and older to the extent that the cost
9 of the services together with the other personal maintenance
10 expenses of the persons are reasonably related to the standards
11 established for care in a group facility appropriate to the
12 person's condition. These non-institutional services, pilot
13 projects or experimental facilities may be provided as part of
14 or in addition to those authorized by federal law or those
15 funded and administered by the Department of Human Services.
16 The Departments of Human Services, Healthcare and Family
17 Services, Public Health, Veterans' Affairs, and Commerce and
18 Economic Opportunity and other appropriate agencies of State,
19 federal and local governments shall cooperate with the
20 Department on Aging in the establishment and development of the
21 non-institutional services. The Department shall require an
22 annual audit from all chore/housekeeping and homemaker vendors
23 contracting with the Department under this Section. The annual
24 audit shall assure that each audited vendor's procedures are in
25 compliance with Department's financial reporting guidelines
26 requiring an administrative and employee wage and benefits cost

1 split as defined in administrative rules. The audit is a public
2 record under the Freedom of Information Act. The Department
3 shall execute, relative to the nursing home prescreening
4 project, written inter-agency agreements with the Department
5 of Human Services and the Department of Healthcare and Family
6 Services, to effect the following: (1) intake procedures and
7 common eligibility criteria for those persons who are receiving
8 non-institutional services; and (2) the establishment and
9 development of non-institutional services in areas of the State
10 where they are not currently available or are undeveloped. On
11 and after July 1, 1996, all nursing home prescreenings for
12 individuals 60 years of age or older shall be conducted by the
13 Department.

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

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

1 The level of such copayment shall be adjusted whenever
2 necessary to reflect any change in the officially designated
3 federal poverty standard.

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

1 claimed for recovery from the deceased spouse's estate.
2 "Homestead", as used in this paragraph, means the dwelling
3 house and contiguous real estate occupied by a surviving spouse
4 or relative, as defined by the rules and regulations of the
5 Department of Healthcare and Family Services, regardless of the
6 value of the property.

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

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

1 staff pre- and in-service training, and shall provide such
2 records to the Department upon request and upon termination of
3 the employer's contract with the Department. In addition, the
4 employing agency is responsible for the issuance of
5 certifications of in-service training completed to their
6 employees.

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

16 The Community Care Program Advisory Committee is created in
17 the Department on Aging. The Director shall appoint individuals
18 to serve in the Committee, who shall serve at their own
19 expense. Members of the Committee must abide by all applicable
20 ethics laws. The Committee shall advise the Department on
21 issues related to the Department's program of services to
22 prevent unnecessary institutionalization. The Committee shall
23 meet on a bi-monthly basis and shall serve to identify and
24 advise the Department on present and potential issues affecting
25 the service delivery network, the program's clients, and the
26 Department and to recommend solution strategies. Persons

1 appointed to the Committee shall be appointed on, but not
2 limited to, their own and their agency's experience with the
3 program, geographic representation, and willingness to serve.
4 The Director shall appoint members to the Committee to
5 represent provider, advocacy, policy research, and other
6 constituencies committed to the delivery of high quality home
7 and community-based services to older adults. Representatives
8 shall be appointed to ensure representation from community care
9 providers including, but not limited to, adult day service
10 providers, homemaker providers, case coordination and case
11 management units, emergency home response providers, statewide
12 trade or labor unions that represent homecare aides and direct
13 care staff, area agencies on aging, adults over age 60,
14 membership organizations representing older adults, and other
15 organizational entities, providers of care, or individuals
16 with demonstrated interest and expertise in the field of home
17 and community care as determined by the Director. ~~The Committee~~
18 ~~shall include, but not be limited to, representatives from the~~
19 ~~following agencies and organizations:~~

20 ~~(a) at least 4 adult day service representatives;~~

21 ~~(b) at least 4 case coordination unit representatives;~~

22 ~~(c) at least 4 representatives from in-home direct care~~
23 ~~service agencies;~~

24 ~~(d) at least 2 representatives of statewide trade or~~
25 ~~labor unions that represent in-home direct care service~~
26 ~~staff;~~

1 ~~(e) at least 2 representatives of Area Agencies on~~
2 ~~Aging;~~

3 ~~(f) at least 2 non-provider representatives from a~~
4 ~~policy, advocacy, research, or other service organization;~~

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

7 ~~(h) at least 2 citizen members 60 years of age or~~
8 ~~older.~~

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

1 written report, as requested by the Committee, regarding issues
2 before the Committee.

3 The Department on Aging and the Department of Human
4 Services shall cooperate in the development and submission of
5 an annual report on programs and services provided under this
6 Section. Such joint report shall be filed with the Governor and
7 the General Assembly on or before September 30 each year.

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

18 Those persons previously found eligible for receiving
19 non-institutional services whose services were discontinued
20 under the Emergency Budget Act of Fiscal Year 1992, and who do
21 not meet the eligibility standards in effect on or after July
22 1, 1992, shall remain ineligible on and after July 1, 1992.
23 Those persons previously not required to cost-share and who
24 were required to cost-share effective March 1, 1992, shall
25 continue to meet cost-share requirements on and after July 1,
26 1992. Beginning July 1, 1992, all clients will be required to

1 meet eligibility, cost-share, and other requirements and will
2 have services discontinued or altered when they fail to meet
3 these requirements.

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

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.