

SB0390



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0390

Introduced 2/7/2007, by Sen. William Delgado

SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.01
20 ILCS 105/4.02

from Ch. 23, par. 6104.01
from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. Replaces the term "homemaker" with the term "home care aide". Effective immediately.

LRB095 10548 CMK 30766 b

A BILL FOR

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 Sections 4.01, 4.02, 4.02e, 4.03, 4.12, 8.07, and 9 as
6 follows:

7 (20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

8 Sec. 4.01. Additional powers and duties of the Department.

9 In addition to powers and duties otherwise provided by law, the
10 Department shall have the following powers and duties:

11 (1) To evaluate all programs, services, and facilities for
12 the aged and for minority senior citizens within the State and
13 determine the extent to which present public or private
14 programs, services and facilities meet the needs of the aged.

15 (2) To coordinate and evaluate all programs, services, and
16 facilities for the Aging and for minority senior citizens
17 presently furnished by State agencies and make appropriate
18 recommendations regarding such services, programs and
19 facilities to the Governor and/or the General Assembly.

20 (3) To function as the sole State agency to develop a
21 comprehensive plan to meet the needs of the State's senior
22 citizens and the State's minority senior citizens.

23 (4) To receive and disburse State and federal funds made

1 available directly to the Department including those funds made
2 available under the Older Americans Act and the Senior
3 Community Service Employment Program for providing services
4 for senior citizens and minority senior citizens or for
5 purposes related thereto, and shall develop and administer any
6 State Plan for the Aging required by federal law.

7 (5) To solicit, accept, hold, and administer in behalf of
8 the State any grants or legacies of money, securities, or
9 property to the State of Illinois for services to senior
10 citizens and minority senior citizens or purposes related
11 thereto.

12 (6) To provide consultation and assistance to communities,
13 area agencies on aging, and groups developing local services
14 for senior citizens and minority senior citizens.

15 (7) To promote community education regarding the problems
16 of senior citizens and minority senior citizens through
17 institutes, publications, radio, television and the local
18 press.

19 (8) To cooperate with agencies of the federal government in
20 studies and conferences designed to examine the needs of senior
21 citizens and minority senior citizens and to prepare programs
22 and facilities to meet those needs.

23 (9) To establish and maintain information and referral
24 sources throughout the State when not provided by other
25 agencies.

26 (10) To provide the staff support as may reasonably be

1 required by the Council and the Coordinating Committee of State
2 Agencies Serving Older Persons.

3 (11) To make and enforce rules and regulations necessary
4 and proper to the performance of its duties.

5 (12) To establish and fund programs or projects or
6 experimental facilities that are specially designed as
7 alternatives to institutional care.

8 (13) To develop a training program to train the counselors
9 presently employed by the Department's aging network to provide
10 Medicare beneficiaries with counseling and advocacy in
11 Medicare, private health insurance, and related health care
12 coverage plans. The Department shall report to the General
13 Assembly on the implementation of the training program on or
14 before December 1, 1986.

15 (14) To make a grant to an institution of higher learning
16 to study the feasibility of establishing and implementing an
17 affirmative action employment plan for the recruitment,
18 hiring, training and retraining of persons 60 or more years old
19 for jobs for which their employment would not be precluded by
20 law.

21 (15) To present one award annually in each of the
22 categories of community service, education, the performance
23 and graphic arts, and the labor force to outstanding Illinois
24 senior citizens and minority senior citizens in recognition of
25 their individual contributions to either community service,
26 education, the performance and graphic arts, or the labor

1 force. The awards shall be presented to four senior citizens
2 and minority senior citizens selected from a list of 44
3 nominees compiled annually by the Department. Nominations
4 shall be solicited from senior citizens' service providers,
5 area agencies on aging, senior citizens' centers, and senior
6 citizens' organizations. The Department shall consult with the
7 Coordinating Committee of State Agencies Serving Older Persons
8 to determine which of the nominees shall be the recipient in
9 each category of community service. The Department shall
10 establish a central location within the State to be designated
11 as the Senior Illinoisans Hall of Fame for the public display
12 of all the annual awards, or replicas thereof.

13 (16) To establish multipurpose senior centers through area
14 agencies on aging and to fund those new and existing
15 multipurpose senior centers through area agencies on aging, the
16 establishment and funding to begin in such areas of the State
17 as the Department shall designate by rule and as specifically
18 appropriated funds become available.

19 (17) To develop the content and format of the
20 acknowledgment regarding non-recourse reverse mortgage loans
21 under Section 6.1 of the Illinois Banking Act; to provide
22 independent consumer information on reverse mortgages and
23 alternatives; and to refer consumers to independent counseling
24 services with expertise in reverse mortgages.

25 (18) To develop a pamphlet in English and Spanish which may
26 be used by physicians licensed to practice medicine in all of

1 its branches pursuant to the Medical Practice Act of 1987,
2 pharmacists licensed pursuant to the Pharmacy Practice Act of
3 1987, and Illinois residents 65 years of age or older for the
4 purpose of assisting physicians, pharmacists, and patients in
5 monitoring prescriptions provided by various physicians and to
6 aid persons 65 years of age or older in complying with
7 directions for proper use of pharmaceutical prescriptions. The
8 pamphlet may provide space for recording information including
9 but not limited to the following:

10 (a) name and telephone number of the patient;

11 (b) name and telephone number of the prescribing
12 physician;

13 (c) date of prescription;

14 (d) name of drug prescribed;

15 (e) directions for patient compliance; and

16 (f) name and telephone number of dispensing pharmacy.

17 In developing the pamphlet, the Department shall consult
18 with the Illinois State Medical Society, the Center for
19 Minority Health Services, the Illinois Pharmacists Association
20 and senior citizens organizations. The Department shall
21 distribute the pamphlets to physicians, pharmacists and
22 persons 65 years of age or older or various senior citizen
23 organizations throughout the State.

24 (19) To conduct a study by April 1, 1994 of the feasibility
25 of implementing the Senior Companion Program throughout the
26 State for the fiscal year beginning July 1, 1994.

1 (20) With respect to contracts in effect on July 1, 1994,
2 the Department shall increase the grant amounts so that the
3 reimbursement rates paid through the community care program for
4 chore housekeeping services and home care aides ~~homemakers~~ are
5 at the same rate, which shall be the higher of the 2 rates
6 currently paid. With respect to all contracts entered into,
7 renewed, or extended on or after July 1, 1994, the
8 reimbursement rates paid through the community care program for
9 chore housekeeping services and home care aides ~~homemakers~~
10 shall be the same.

11 (21) From funds appropriated to the Department from the
12 Meals on Wheels Fund, a special fund in the State treasury that
13 is hereby created, and in accordance with State and federal
14 guidelines and the intrastate funding formula, to make grants
15 to area agencies on aging, designated by the Department, for
16 the sole purpose of delivering meals to homebound persons 60
17 years of age and older.

18 (22) To distribute, through its area agencies on aging,
19 information alerting seniors on safety issues regarding
20 emergency weather conditions, including extreme heat and cold,
21 flooding, tornadoes, electrical storms, and other severe storm
22 weather. The information shall include all necessary
23 instructions for safety and all emergency telephone numbers of
24 organizations that will provide additional information and
25 assistance.

26 (23) To develop guidelines for the organization and

1 implementation of Volunteer Services Credit Programs to be
2 administered by Area Agencies on Aging or community based
3 senior service organizations. The Department shall hold public
4 hearings on the proposed guidelines for public comment,
5 suggestion, and determination of public interest. The
6 guidelines shall be based on the findings of other states and
7 of community organizations in Illinois that are currently
8 operating volunteer services credit programs or demonstration
9 volunteer services credit programs. The Department shall offer
10 guidelines for all aspects of the programs including, but not
11 limited to, the following:

12 (a) types of services to be offered by volunteers;

13 (b) types of services to be received upon the
14 redemption of service credits;

15 (c) issues of liability for the volunteers and the
16 administering organizations;

17 (d) methods of tracking service credits earned and
18 service credits redeemed;

19 (e) issues of time limits for redemption of service
20 credits;

21 (f) methods of recruitment of volunteers;

22 (g) utilization of community volunteers, community
23 service groups, and other resources for delivering
24 services to be received by service credit program clients;

25 (h) accountability and assurance that services will be
26 available to individuals who have earned service credits;

1 and

2 (i) volunteer screening and qualifications.

3 The Department shall submit a written copy of the guidelines to
4 the General Assembly by July 1, 1998.

5 (Source: P.A. 92-651, eff. 7-11-02.)

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) home care aide ~~homemaker~~ services;
- 20 (d) chore and housekeeping services;
- 21 (e) adult day services;
- 22 (f) home-delivered meals;
- 23 (g) education in self-care;
- 24 (h) personal care services;
- 25 (i) adult day health services;

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

9 The Department shall establish eligibility standards for

10 such services taking into consideration the unique economic and

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

12 provided. Such eligibility standards shall be based on the

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

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

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

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

17 person's spouse pursuant to a written agreement dividing

18 marital property into equal but separate shares or pursuant to

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

20 provided that the spouse's share of the marital property is not

21 made available to the person seeking such services.

22 Beginning July 1, 2002, the Department shall require as a

23 condition of eligibility that all financially eligible

24 applicants and recipients apply for medical assistance under

25 Article V of the Illinois Public Aid Code in accordance with

26 rules promulgated by the Department.

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

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

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

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

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

1 federal poverty standard.

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

1 house and contiguous real estate occupied by a surviving spouse
2 or relative, as defined by the rules and regulations of the
3 Department of Healthcare and Family Services, regardless of the
4 value of the property.

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

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

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

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

14 The Community Care Program Advisory Committee is created in
15 the Department on Aging. The Director shall appoint individuals
16 to serve in the Committee, who shall serve at their own
17 expense. Members of the Committee must abide by all applicable
18 ethics laws. The Committee shall advise the Department on
19 issues related to the Department's program of services to
20 prevent unnecessary institutionalization. The Committee shall
21 meet on a bi-monthly basis and shall serve to identify and
22 advise the Department on present and potential issues affecting
23 the service delivery network, the program's clients, and the
24 Department and to recommend solution strategies. Persons
25 appointed to the Committee shall be appointed on, but not
26 limited to, their own and their agency's experience with the

1 program, geographic representation, and willingness to serve.
2 The Committee shall include, but not be limited to,
3 representatives from the following agencies and organizations:

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

5 (b) at least 4 case coordination unit representatives;

6 (c) at least 4 representatives from in-home direct care
7 service agencies;

8 (d) at least 2 representatives of statewide trade or
9 labor unions that represent in-home direct care service
10 staff;

11 (e) at least 2 representatives of Area Agencies on
12 Aging;

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

15 (g) at least 2 representatives from a statewide
16 membership organization for senior citizens; and

17 (h) at least 2 citizen members 60 years of age or
18 older.

19 Nominations may be presented from any agency or State
20 association with interest in the program. The Director, or his
21 or her designee, shall serve as the permanent co-chair of the
22 advisory committee. One other co-chair shall be nominated and
23 approved by the members of the committee on an annual basis.
24 Committee members' terms of appointment shall be for 4 years
25 with one-quarter of the appointees' terms expiring each year.
26 At no time may a member serve more than one consecutive term in

1 any capacity on the committee. The Department shall fill
2 vacancies that have a remaining term of over one year, and this
3 replacement shall occur through the annual replacement of
4 expiring terms. The Director shall designate Department staff
5 to provide technical assistance and staff support to the
6 committee. Department representation shall not constitute
7 membership of the committee. All Committee papers, issues,
8 recommendations, reports, and meeting memoranda are advisory
9 only. The Director, or his or her designee, shall make a
10 written report, as requested by the Committee, regarding issues
11 before the Committee.

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

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

1 Those persons previously found eligible for receiving
2 non-institutional services whose services were discontinued
3 under the Emergency Budget Act of Fiscal Year 1992, and who do
4 not meet the eligibility standards in effect on or after July
5 1, 1992, shall remain ineligible on and after July 1, 1992.
6 Those persons previously not required to cost-share and who
7 were required to cost-share effective March 1, 1992, shall
8 continue to meet cost-share requirements on and after July 1,
9 1992. Beginning July 1, 1992, all clients will be required to
10 meet eligibility, cost-share, and other requirements and will
11 have services discontinued or altered when they fail to meet
12 these requirements.

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

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.