

SB0591



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0591

Introduced 2/8/2007, by Sen. Louis S. Viverito

SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02

from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. Provides that services provided, under the program established by the Department on Aging to prevent unnecessary institutionalization of persons age 60 and older in need of long term care or who are established as persons who suffer from Alzheimer's disease or a related disorder, shall be consumer directed and client focused. Effective immediately.

LRB095 10550 CMK 30768 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 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 Services provided shall be consumer directed and client
12 focused, as defined by Section 10 of the Older Adult Services
13 Act.

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

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

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

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

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

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

23 The Department is authorized to establish a system of
24 recipient copayment for services provided under this Section,
25 such copayment to be based upon the recipient's ability to pay
26 but in no case to exceed the actual cost of the services

1 provided. Additionally, any portion of a person's income which
2 is equal to or less than the federal poverty standard shall not
3 be considered by the Department in determining the copayment.
4 The level of such copayment shall be adjusted whenever
5 necessary to reflect any change in the officially designated
6 federal poverty standard.

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

1 Illinois Public Aid Code, who precedes a person receiving
2 services under this Section in death. All moneys for services
3 paid to or in behalf of the person under this Section shall be
4 claimed for recovery from the deceased spouse's estate.
5 "Homestead", as used in this paragraph, means the dwelling
6 house and contiguous real estate occupied by a surviving spouse
7 or relative, as defined by the rules and regulations of the
8 Department of Healthcare and Family Services, regardless of the
9 value of the property.

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

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

1 certificate of all pre- and in-service training from his or her
2 employer upon submitting the necessary information. The
3 employing agency shall be required to retain records of all
4 staff pre- and in-service training, and shall provide such
5 records to the Department upon request and upon termination of
6 the employer's contract with the Department. In addition, the
7 employing agency is responsible for the issuance of
8 certifications of in-service training completed to their
9 employees.

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

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

1 advise the Department on present and potential issues affecting
2 the service delivery network, the program's clients, and the
3 Department and to recommend solution strategies. Persons
4 appointed to the Committee shall be appointed on, but not
5 limited to, their own and their agency's experience with the
6 program, geographic representation, and willingness to serve.
7 The Committee shall include, but not be limited to,
8 representatives from the following agencies and organizations:

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

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

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

13 (d) at least 2 representatives of statewide trade or
14 labor unions that represent in-home direct care service
15 staff;

16 (e) at least 2 representatives of Area Agencies on
17 Aging;

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

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

22 (h) at least 2 citizen members 60 years of age or
23 older.

24 Nominations may be presented from any agency or State
25 association with interest in the program. The Director, or his
26 or her designee, shall serve as the permanent co-chair of the

1 advisory committee. One other co-chair shall be nominated and
2 approved by the members of the committee on an annual basis.
3 Committee members' terms of appointment shall be for 4 years
4 with one-quarter of the appointees' terms expiring each year.
5 At no time may a member serve more than one consecutive term in
6 any capacity on the committee. The Department shall fill
7 vacancies that have a remaining term of over one year, and this
8 replacement shall occur through the annual replacement of
9 expiring terms. The Director shall designate Department staff
10 to provide technical assistance and staff support to the
11 committee. Department representation shall not constitute
12 membership of the committee. All Committee papers, issues,
13 recommendations, reports, and meeting memoranda are advisory
14 only. The Director, or his or her designee, shall make a
15 written report, as requested by the Committee, regarding issues
16 before the Committee.

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

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

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

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

18 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,
19 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;
20 94-954, eff. 6-27-06.)

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