



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5380

by Rep. Luis Arroyo

SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02
20 ILCS 2405/3

from Ch. 23, par. 6104.02
from Ch. 23, par. 3434

Amends the Illinois Act on the Aging. In provisions concerning the Department on Aging's Community Care Program, provides that in no case shall home care aides be paid an hourly wage that is less than \$10.25. Amends the Disabled Persons Rehabilitation Act. In provisions concerning the Department of Human Services' Home Services Program, provides that in no case shall the Department pay personal assistants an hourly wage that is less than \$10.25 (instead of less than the federal minimum wage).

LRB098 16527 JLS 51595 b

FISCAL NOTE ACT
MAY APPLY

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. Community Care Program. The Department shall
8 establish a program of services to prevent unnecessary
9 institutionalization of persons age 60 and older in need of
10 long term care or who are established as persons who suffer
11 from Alzheimer's disease or a related disorder under the
12 Alzheimer's Disease Assistance Act, thereby enabling them to
13 remain in their own homes or in other living arrangements. Such
14 preventive services, which may be coordinated with other
15 programs for the aged and monitored by area agencies on aging
16 in cooperation with the Department, may include, but are not
17 limited to, any or all of the following:

18 (a) (blank);

19 (b) (blank);

20 (c) home care aide services;

21 (d) personal assistant services;

22 (e) adult day services;

23 (f) home-delivered meals;

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

15 The Department shall establish eligibility standards for
16 such services. In determining the amount and nature of services
17 for which a person may qualify, consideration shall not be
18 given to the value of cash, property or other assets held in
19 the name of the person's spouse pursuant to a written agreement
20 dividing marital property into equal but separate shares or
21 pursuant to a transfer of the person's interest in a home to
22 his spouse, provided that the spouse's share of the marital
23 property is not made available to the person seeking such
24 services.

25 Beginning January 1, 2008, the Department shall require as
26 a condition of eligibility that all new financially eligible

1 applicants apply for and enroll in medical assistance under
2 Article V of the Illinois Public Aid Code in accordance with
3 rules promulgated by the Department.

4 The Department shall, in conjunction with the Department of
5 Public Aid (now Department of Healthcare and Family Services),
6 seek appropriate amendments under Sections 1915 and 1924 of the
7 Social Security Act. The purpose of the amendments shall be to
8 extend eligibility for home and community based services under
9 Sections 1915 and 1924 of the Social Security Act to persons
10 who transfer to or for the benefit of a spouse those amounts of
11 income and resources allowed under Section 1924 of the Social
12 Security Act. Subject to the approval of such amendments, the
13 Department shall extend the provisions of Section 5-4 of the
14 Illinois Public Aid Code to persons who, but for the provision
15 of home or community-based services, would require the level of
16 care provided in an institution, as is provided for in federal
17 law. Those persons no longer found to be eligible for receiving
18 noninstitutional services due to changes in the eligibility
19 criteria shall be given 45 days notice prior to actual
20 termination. Those persons receiving notice of termination may
21 contact the Department and request the determination be
22 appealed at any time during the 45 day notice period. The
23 target population identified for the purposes of this Section
24 are persons age 60 and older with an identified service need.
25 Priority shall be given to those who are at imminent risk of
26 institutionalization. The services shall be provided to

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

1 who are receiving non-institutional services; and (2) the
2 establishment and development of non-institutional services in
3 areas of the State where they are not currently available or
4 are undeveloped. On and after July 1, 1996, all nursing home
5 prescreenings for individuals 60 years of age or older shall be
6 conducted by the Department.

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

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

23 The Department, or the Department's authorized
24 representative, may recover the amount of moneys expended for
25 services provided to or in behalf of a person under this
26 Section by a claim against the person's estate or against the

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

26 The Department shall increase the effectiveness of the

1 existing Community Care Program by:

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

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

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

16 (4) ensuring that the determination of need tool is
17 accurate in determining the participants' level of need; to
18 achieve this, the Department, in conjunction with the Older
19 Adult Services Advisory Committee, shall institute a study
20 of the relationship between the Determination of Need
21 scores, level of need, service cost maximums, and the
22 development and utilization of service plans no later than
23 May 1, 2008; findings and recommendations shall be
24 presented to the Governor and the General Assembly no later
25 than January 1, 2009; recommendations shall include all
26 needed changes to the service cost maximums schedule and

1 additional covered services;

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

5 (A) bathing;

6 (B) grooming;

7 (C) toileting;

8 (D) nail care;

9 (E) transferring;

10 (F) respiratory services;

11 (G) exercise; or

12 (H) positioning;

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

19 (7) ensuring that the State may access maximum federal
20 matching funds by seeking approval for the Centers for
21 Medicare and Medicaid Services for modifications to the
22 State's home and community based services waiver and
23 additional waiver opportunities, including applying for
24 enrollment in the Balance Incentive Payment Program by May
25 1, 2013, in order to maximize federal matching funds; this
26 shall include, but not be limited to, modification that

1 reflects all changes in the Community Care Program services
2 and all increases in the services cost maximum;

3 (8) ensuring that the determination of need tool
4 accurately reflects the service needs of individuals with
5 Alzheimer's disease and related dementia disorders;

6 (9) ensuring that services are authorized accurately
7 and consistently for the Community Care Program (CCP); the
8 Department shall implement a Service Authorization policy
9 directive; the purpose shall be to ensure that eligibility
10 and services are authorized accurately and consistently in
11 the CCP program; the policy directive shall clarify service
12 authorization guidelines to Care Coordination Units and
13 Community Care Program providers no later than May 1, 2013;

14 (10) working in conjunction with Care Coordination
15 Units, the Department of Healthcare and Family Services,
16 the Department of Human Services, Community Care Program
17 providers, and other stakeholders to make improvements to
18 the Medicaid claiming processes and the Medicaid
19 enrollment procedures or requirements as needed,
20 including, but not limited to, specific policy changes or
21 rules to improve the up-front enrollment of participants in
22 the Medicaid program and specific policy changes or rules
23 to insure more prompt submission of bills to the federal
24 government to secure maximum federal matching dollars as
25 promptly as possible; the Department on Aging shall have at
26 least 3 meetings with stakeholders by January 1, 2014 in

1 order to address these improvements;

2 (11) requiring home care service providers to comply
3 with the rounding of hours worked provisions under the
4 federal Fair Labor Standards Act (FLSA) and as set forth in
5 29 CFR 785.48(b) by May 1, 2013;

6 (12) implementing any necessary policy changes or
7 promulgating any rules, no later than January 1, 2014, to
8 assist the Department of Healthcare and Family Services in
9 moving as many participants as possible, consistent with
10 federal regulations, into coordinated care plans if a care
11 coordination plan that covers long term care is available
12 in the recipient's area; and

13 (13) maintaining fiscal year 2014 rates at the same
14 level established on January 1, 2013.

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

24 The Department shall develop procedures to enhance
25 availability of services on evenings, weekends, and on an
26 emergency basis to meet the respite needs of caregivers.

1 Procedures shall be developed to permit the utilization of
2 services in successive blocks of 24 hours up to the monthly
3 maximum established by the Department. Workers providing these
4 services shall be appropriately trained.

5 Beginning on the effective date of this Amendatory Act of
6 1991, no person may perform chore/housekeeping and home care
7 aide services under a program authorized by this Section unless
8 that person has been issued a certificate of pre-service to do
9 so by his or her employing agency. Information gathered to
10 effect such certification shall include (i) the person's name,
11 (ii) the date the person was hired by his or her current
12 employer, and (iii) the training, including dates and levels.
13 Persons engaged in the program authorized by this Section
14 before the effective date of this amendatory Act of 1991 shall
15 be issued a certificate of all pre- and in-service training
16 from his or her employer upon submitting the necessary
17 information. The employing agency shall be required to retain
18 records of all staff pre- and in-service training, and shall
19 provide such records to the Department upon request and upon
20 termination of the employer's contract with the Department. In
21 addition, the employing agency is responsible for the issuance
22 of certifications of in-service training completed to their
23 employees.

24 The Department is required to develop a system to ensure
25 that persons working as home care aides and personal assistants
26 receive increases in their wages when the federal minimum wage

1 is increased by requiring vendors to certify that they are
2 meeting the federal minimum wage statute for home care aides
3 and personal assistants. An employer that cannot ensure that
4 the minimum wage increase is being given to home care aides and
5 personal assistants shall be denied any increase in
6 reimbursement costs. Notwithstanding any other provision of
7 this Section, in no case shall home care aides be paid an
8 hourly wage that is less than \$10.25.

9 The Community Care Program Advisory Committee is created in
10 the Department on Aging. The Director shall appoint individuals
11 to serve in the Committee, who shall serve at their own
12 expense. Members of the Committee must abide by all applicable
13 ethics laws. The Committee shall advise the Department on
14 issues related to the Department's program of services to
15 prevent unnecessary institutionalization. The Committee shall
16 meet on a bi-monthly basis and shall serve to identify and
17 advise the Department on present and potential issues affecting
18 the service delivery network, the program's clients, and the
19 Department and to recommend solution strategies. Persons
20 appointed to the Committee shall be appointed on, but not
21 limited to, their own and their agency's experience with the
22 program, geographic representation, and willingness to serve.
23 The Director shall appoint members to the Committee to
24 represent provider, advocacy, policy research, and other
25 constituencies committed to the delivery of high quality home
26 and community-based services to older adults. Representatives

1 shall be appointed to ensure representation from community care
2 providers including, but not limited to, adult day service
3 providers, homemaker providers, case coordination and case
4 management units, emergency home response providers, statewide
5 trade or labor unions that represent home care aides and direct
6 care staff, area agencies on aging, adults over age 60,
7 membership organizations representing older adults, and other
8 organizational entities, providers of care, or individuals
9 with demonstrated interest and expertise in the field of home
10 and community care as determined by the Director.

11 Nominations may be presented from any agency or State
12 association with interest in the program. The Director, or his
13 or her designee, shall serve as the permanent co-chair of the
14 advisory committee. One other co-chair shall be nominated and
15 approved by the members of the committee on an annual basis.
16 Committee members' terms of appointment shall be for 4 years
17 with one-quarter of the appointees' terms expiring each year. A
18 member shall continue to serve until his or her replacement is
19 named. The Department shall fill vacancies that have a
20 remaining term of over one year, and this replacement shall
21 occur through the annual replacement of expiring terms. The
22 Director shall designate Department staff to provide technical
23 assistance and staff support to the committee. Department
24 representation shall not constitute membership of the
25 committee. All Committee papers, issues, recommendations,
26 reports, and meeting memoranda are advisory only. The Director,

1 or his or her designee, shall make a written report, as
2 requested by the Committee, regarding issues before the
3 Committee.

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

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

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

1 1992. Beginning July 1, 1992, all clients will be required to
2 meet eligibility, cost-share, and other requirements and will
3 have services discontinued or altered when they fail to meet
4 these requirements.

5 For the purposes of this Section, "flexible senior
6 services" refers to services that require one-time or periodic
7 expenditures including, but not limited to, respite care, home
8 modification, assistive technology, housing assistance, and
9 transportation.

10 The Department shall implement an electronic service
11 verification based on global positioning systems or other
12 cost-effective technology for the Community Care Program no
13 later than January 1, 2014.

14 The Department shall require, as a condition of
15 eligibility, enrollment in the medical assistance program
16 under Article V of the Illinois Public Aid Code (i) beginning
17 August 1, 2013, if the Auditor General has reported that the
18 Department has failed to comply with the reporting requirements
19 of Section 2-27 of the Illinois State Auditing Act; or (ii)
20 beginning June 1, 2014, if the Auditor General has reported
21 that the Department has not undertaken the required actions
22 listed in the report required by subsection (a) of Section 2-27
23 of the Illinois State Auditing Act.

24 The Department shall delay Community Care Program services
25 until an applicant is determined eligible for medical
26 assistance under Article V of the Illinois Public Aid Code (i)

1 beginning August 1, 2013, if the Auditor General has reported
2 that the Department has failed to comply with the reporting
3 requirements of Section 2-27 of the Illinois State Auditing
4 Act; or (ii) beginning June 1, 2014, if the Auditor General has
5 reported that the Department has not undertaken the required
6 actions listed in the report required by subsection (a) of
7 Section 2-27 of the Illinois State Auditing Act.

8 The Department shall implement co-payments for the
9 Community Care Program at the federally allowable maximum level
10 (i) beginning August 1, 2013, if the Auditor General has
11 reported that the Department has failed to comply with the
12 reporting requirements of Section 2-27 of the Illinois State
13 Auditing Act; or (ii) beginning June 1, 2014, if the Auditor
14 General has reported that the Department has not undertaken the
15 required actions listed in the report required by subsection
16 (a) of Section 2-27 of the Illinois State Auditing Act.

17 The Department shall provide a bi-monthly report on the
18 progress of the Community Care Program reforms set forth in
19 this amendatory Act of the 98th General Assembly to the
20 Governor, the Speaker of the House of Representatives, the
21 Minority Leader of the House of Representatives, the President
22 of the Senate, and the Minority Leader of the Senate.

23 The Department shall conduct a quarterly review of Care
24 Coordination Unit performance and adherence to service
25 guidelines. The quarterly review shall be reported to the
26 Speaker of the House of Representatives, the Minority Leader of

1 the House of Representatives, the President of the Senate, and
2 the Minority Leader of the Senate. The Department shall collect
3 and report longitudinal data on the performance of each care
4 coordination unit. Nothing in this paragraph shall be construed
5 to require the Department to identify specific care
6 coordination units.

7 In regard to community care providers, failure to comply
8 with Department on Aging policies shall be cause for
9 disciplinary action, including, but not limited to,
10 disqualification from serving Community Care Program clients.
11 Each provider, upon submission of any bill or invoice to the
12 Department for payment for services rendered, shall include a
13 notarized statement, under penalty of perjury pursuant to
14 Section 1-109 of the Code of Civil Procedure, that the provider
15 has complied with all Department policies.

16 (Source: P.A. 97-333, eff. 8-12-11; 98-8, eff. 5-3-13.)

17 Section 10. The Disabled Persons Rehabilitation Act is
18 amended by changing Section 3 as follows:

19 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

20 (Text of Section from P.A. 97-732 and 97-1019)

21 Sec. 3. Powers and duties. The Department shall have the
22 powers and duties enumerated herein:

23 (a) To co-operate with the federal government in the
24 administration of the provisions of the federal Rehabilitation

1 Act of 1973, as amended, of the Workforce Investment Act of
2 1998, and of the federal Social Security Act to the extent and
3 in the manner provided in these Acts.

4 (b) To prescribe and supervise such courses of vocational
5 training and provide such other services as may be necessary
6 for the habilitation and rehabilitation of persons with one or
7 more disabilities, including the administrative activities
8 under subsection (e) of this Section, and to co-operate with
9 State and local school authorities and other recognized
10 agencies engaged in habilitation, rehabilitation and
11 comprehensive rehabilitation services; and to cooperate with
12 the Department of Children and Family Services regarding the
13 care and education of children with one or more disabilities.

14 (c) (Blank).

15 (d) To report in writing, to the Governor, annually on or
16 before the first day of December, and at such other times and
17 in such manner and upon such subjects as the Governor may
18 require. The annual report shall contain (1) a statement of the
19 existing condition of comprehensive rehabilitation services,
20 habilitation and rehabilitation in the State; (2) a statement
21 of suggestions and recommendations with reference to the
22 development of comprehensive rehabilitation services,
23 habilitation and rehabilitation in the State; and (3) an
24 itemized statement of the amounts of money received from
25 federal, State and other sources, and of the objects and
26 purposes to which the respective items of these several amounts

1 have been devoted.

2 (e) (Blank).

3 (f) To establish a program of services to prevent the
4 unnecessary institutionalization of persons in need of long
5 term care and who meet the criteria for blindness or disability
6 as defined by the Social Security Act, thereby enabling them to
7 remain in their own homes. Such preventive services include any
8 or all of the following:

9 (1) personal assistant services;

10 (2) homemaker services;

11 (3) home-delivered meals;

12 (4) adult day care services;

13 (5) respite care;

14 (6) home modification or assistive equipment;

15 (7) home health services;

16 (8) electronic home response;

17 (9) brain injury behavioral/cognitive services;

18 (10) brain injury habilitation;

19 (11) brain injury pre-vocational services; or

20 (12) brain injury supported employment.

21 The Department shall establish eligibility standards for
22 such services taking into consideration the unique economic and
23 social needs of the population for whom they are to be
24 provided. Such eligibility standards may be based on the
25 recipient's ability to pay for services; provided, however,
26 that any portion of a person's income that is equal to or less

1 than the "protected income" level shall not be considered by
2 the Department in determining eligibility. The "protected
3 income" level shall be determined by the Department, shall
4 never be less than the federal poverty standard, and shall be
5 adjusted each year to reflect changes in the Consumer Price
6 Index For All Urban Consumers as determined by the United
7 States Department of Labor. The standards must provide that a
8 person may not have more than \$10,000 in assets to be eligible
9 for the services, and the Department may increase or decrease
10 the asset limitation by rule. The Department may not decrease
11 the asset level below \$10,000.

12 The services shall be provided, as established by the
13 Department by rule, to eligible persons to prevent unnecessary
14 or premature institutionalization, to the extent that the cost
15 of the services, together with the other personal maintenance
16 expenses of the persons, are reasonably related to the
17 standards established for care in a group facility appropriate
18 to their condition. These non-institutional services, pilot
19 projects or experimental facilities may be provided as part of
20 or in addition to those authorized by federal law or those
21 funded and administered by the Illinois Department on Aging.
22 The Department shall set rates and fees for services in a fair
23 and equitable manner. Services identical to those offered by
24 the Department on Aging shall be paid at the same rate.

25 Personal assistants shall be paid at a rate negotiated
26 between the State and an exclusive representative of personal

1 assistants under a collective bargaining agreement. In no case
2 shall the Department pay personal assistants an hourly wage
3 that is less than \$10.25 ~~the federal minimum wage~~.

4 Solely for the purposes of coverage under the Illinois
5 Public Labor Relations Act (5 ILCS 315/), personal assistants
6 providing services under the Department's Home Services
7 Program shall be considered to be public employees and the
8 State of Illinois shall be considered to be their employer as
9 of the effective date of this amendatory Act of the 93rd
10 General Assembly, but not before. The State shall engage in
11 collective bargaining with an exclusive representative of
12 personal assistants working under the Home Services Program
13 concerning their terms and conditions of employment that are
14 within the State's control. Nothing in this paragraph shall be
15 understood to limit the right of the persons receiving services
16 defined in this Section to hire and fire personal assistants or
17 supervise them within the limitations set by the Home Services
18 Program. The State shall not be considered to be the employer
19 of personal assistants for any purposes not specifically
20 provided in this amendatory Act of the 93rd General Assembly,
21 including but not limited to, purposes of vicarious liability
22 in tort and purposes of statutory retirement or health
23 insurance benefits. Personal assistants shall not be covered by
24 the State Employees Group Insurance Act of 1971 (5 ILCS 375/).

25 The Department shall execute, relative to nursing home
26 prescreening, as authorized by Section 4.03 of the Illinois Act

1 on the Aging, written inter-agency agreements with the
2 Department on Aging and the Department of Healthcare and Family
3 Services, to effect the intake procedures and eligibility
4 criteria for those persons who may need long term care. On and
5 after July 1, 1996, all nursing home prescreenings for
6 individuals 18 through 59 years of age shall be conducted by
7 the Department, or a designee of the Department.

8 The Department is authorized to establish a system of
9 recipient cost-sharing for services provided under this
10 Section. The cost-sharing shall be based upon the recipient's
11 ability to pay for services, but in no case shall the
12 recipient's share exceed the actual cost of the services
13 provided. Protected income shall not be considered by the
14 Department in its determination of the recipient's ability to
15 pay a share of the cost of services. The level of cost-sharing
16 shall be adjusted each year to reflect changes in the
17 "protected income" level. The Department shall deduct from the
18 recipient's share of the cost of services any money expended by
19 the recipient for disability-related expenses.

20 To the extent permitted under the federal Social Security
21 Act, the Department, or the Department's authorized
22 representative, may recover the amount of moneys expended for
23 services provided to or in behalf of a person under this
24 Section by a claim against the person's estate or against the
25 estate of the person's surviving spouse, but no recovery may be
26 had until after the death of the surviving spouse, if any, and

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

24 The Department shall submit an annual report on programs
25 and services provided under this Section. The report shall be
26 filed with the Governor and the General Assembly on or before

1 March 30 each year.

2 The requirement for reporting to the General Assembly shall
3 be satisfied by filing copies of the report with the Speaker,
4 the Minority Leader and the Clerk of the House of
5 Representatives and the President, the Minority Leader and the
6 Secretary of the Senate and the Legislative Research Unit, as
7 required by Section 3.1 of the General Assembly Organization
8 Act, and filing additional copies with the State Government
9 Report Distribution Center for the General Assembly as required
10 under paragraph (t) of Section 7 of the State Library Act.

11 (g) To establish such subdivisions of the Department as
12 shall be desirable and assign to the various subdivisions the
13 responsibilities and duties placed upon the Department by law.

14 (h) To cooperate and enter into any necessary agreements
15 with the Department of Employment Security for the provision of
16 job placement and job referral services to clients of the
17 Department, including job service registration of such clients
18 with Illinois Employment Security offices and making job
19 listings maintained by the Department of Employment Security
20 available to such clients.

21 (i) To possess all powers reasonable and necessary for the
22 exercise and administration of the powers, duties and
23 responsibilities of the Department which are provided for by
24 law.

25 (j) (Blank).

26 (k) (Blank).

1 (1) To establish, operate and maintain a Statewide Housing
2 Clearinghouse of information on available, government
3 subsidized housing accessible to disabled persons and
4 available privately owned housing accessible to disabled
5 persons. The information shall include but not be limited to
6 the location, rental requirements, access features and
7 proximity to public transportation of available housing. The
8 Clearinghouse shall consist of at least a computerized database
9 for the storage and retrieval of information and a separate or
10 shared toll free telephone number for use by those seeking
11 information from the Clearinghouse. Department offices and
12 personnel throughout the State shall also assist in the
13 operation of the Statewide Housing Clearinghouse. Cooperation
14 with local, State and federal housing managers shall be sought
15 and extended in order to frequently and promptly update the
16 Clearinghouse's information.

17 (m) To assure that the names and case records of persons
18 who received or are receiving services from the Department,
19 including persons receiving vocational rehabilitation, home
20 services, or other services, and those attending one of the
21 Department's schools or other supervised facility shall be
22 confidential and not be open to the general public. Those case
23 records and reports or the information contained in those
24 records and reports shall be disclosed by the Director only to
25 proper law enforcement officials, individuals authorized by a
26 court, the General Assembly or any committee or commission of

1 the General Assembly, and other persons and for reasons as the
2 Director designates by rule. Disclosure by the Director may be
3 only in accordance with other applicable law.

4 (Source: P.A. 97-732, eff. 6-30-12; 97-1019, eff. 8-17-12;
5 revised 8-23-12.)

6 (Text of Section from P.A. 97-732 and 97-1158)

7 Sec. 3. ~~Powers and duties. The Department shall have the~~
8 ~~powers and duties enumerated herein:~~

9 ~~(a) To co operate with the federal government in the~~
10 ~~administration of the provisions of the federal Rehabilitation~~
11 ~~Act of 1973, as amended, of the Workforce Investment Act of~~
12 ~~1998, and of the federal Social Security Act to the extent and~~
13 ~~in the manner provided in these Acts.~~

14 ~~(b) To prescribe and supervise such courses of vocational~~
15 ~~training and provide such other services as may be necessary~~
16 ~~for the habilitation and rehabilitation of persons with one or~~
17 ~~more disabilities, including the administrative activities~~
18 ~~under subsection (c) of this Section, and to co operate with~~
19 ~~State and local school authorities and other recognized~~
20 ~~agencies engaged in habilitation, rehabilitation and~~
21 ~~comprehensive rehabilitation services; and to cooperate with~~
22 ~~the Department of Children and Family Services regarding the~~
23 ~~care and education of children with one or more disabilities.~~

24 ~~(c) (Blank).~~

25 ~~(d) To report in writing, to the Governor, annually on or~~

1 ~~before the first day of December, and at such other times and~~
2 ~~in such manner and upon such subjects as the Governor may~~
3 ~~require. The annual report shall contain (1) a statement of the~~
4 ~~existing condition of comprehensive rehabilitation services,~~
5 ~~habilitation and rehabilitation in the State; (2) a statement~~
6 ~~of suggestions and recommendations with reference to the~~
7 ~~development of comprehensive rehabilitation services,~~
8 ~~habilitation and rehabilitation in the State; and (3) an~~
9 ~~itemized statement of the amounts of money received from~~
10 ~~federal, State and other sources, and of the objects and~~
11 ~~purposes to which the respective items of these several amounts~~
12 ~~have been devoted.~~

13 ~~(c) (Blank).~~

14 ~~(f) To establish a program of services to prevent~~
15 ~~unnecessary institutionalization of persons with Alzheimer's~~
16 ~~disease and related disorders or persons in need of long term~~
17 ~~care who are established as blind or disabled as defined by the~~
18 ~~Social Security Act, thereby enabling them to remain in their~~
19 ~~own homes or other living arrangements. Such preventive~~
20 ~~services may include, but are not limited to, any or all of the~~
21 ~~following:~~

22 ~~———— (1) home health services;~~

23 ~~———— (2) home nursing services;~~

24 ~~———— (3) homemaker services;~~

25 ~~———— (4) chore and housekeeping services;~~

26 ~~———— (5) day care services;~~

1 ~~_____ (6) home delivered meals;~~
2 ~~_____ (7) education in self care;~~
3 ~~_____ (8) personal care services;~~
4 ~~_____ (9) adult day health services;~~
5 ~~_____ (10) habilitation services;~~
6 ~~_____ (11) respite care; or~~
7 ~~_____ (12) other nonmedical social services that may enable~~
8 ~~the person to become self supporting.~~

9 ~~The Department shall establish eligibility standards for~~
10 ~~such services taking into consideration the unique economic and~~
11 ~~social needs of the population for whom they are to be~~
12 ~~provided. Such eligibility standards may be based on the~~
13 ~~recipient's ability to pay for services; provided, however,~~
14 ~~that any portion of a person's income that is equal to or less~~
15 ~~than the "protected income" level shall not be considered by~~
16 ~~the Department in determining eligibility. The "protected~~
17 ~~income" level shall be determined by the Department, shall~~
18 ~~never be less than the federal poverty standard, and shall be~~
19 ~~adjusted each year to reflect changes in the Consumer Price~~
20 ~~Index For All Urban Consumers as determined by the United~~
21 ~~States Department of Labor. The standards must provide that a~~
22 ~~person may have not more than \$10,000 in assets to be eligible~~
23 ~~for the services, and the Department may increase the asset~~
24 ~~limitation by rule. Additionally, in determining the amount and~~
25 ~~nature of services for which a person may qualify,~~
26 ~~consideration shall not be given to the value of cash, property~~

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

7 ~~The services shall be provided to eligible persons to~~
8 ~~prevent unnecessary or premature institutionalization, to the~~
9 ~~extent that the cost of the services, together with the other~~
10 ~~personal maintenance expenses of the persons, are reasonably~~
11 ~~related to the standards established for care in a group~~
12 ~~facility appropriate to their condition. These~~
13 ~~non-institutional services, pilot projects or experimental~~
14 ~~facilities may be provided as part of or in addition to those~~
15 ~~authorized by federal law or those funded and administered by~~
16 ~~the Illinois Department on Aging. The Department shall set~~
17 ~~rates and fees for services in a fair and equitable manner.~~
18 ~~Services identical to those offered by the Department on Aging~~
19 ~~shall be paid at the same rate.~~

20 ~~Personal care attendants shall be paid:~~

21 ~~_____ (i) A \$5 per hour minimum rate beginning July 1, 1995.~~

22 ~~_____ (ii) A \$5.30 per hour minimum rate beginning July 1,~~
23 ~~1997.~~

24 ~~_____ (iii) A \$5.40 per hour minimum rate beginning July 1,~~
25 ~~1998.~~

26 ~~Solely for the purposes of coverage under the Illinois~~

1 ~~Public Labor Relations Act (5 ILCS 315/), personal care~~
2 ~~attendants and personal assistants providing services under~~
3 ~~the Department's Home Services Program shall be considered to~~
4 ~~be public employees, and the State of Illinois shall be~~
5 ~~considered to be their employer as of the effective date of~~
6 ~~this amendatory Act of the 93rd General Assembly, but not~~
7 ~~before. Solely for the purposes of coverage under the Illinois~~
8 ~~Public Labor Relations Act, home care and home health workers~~
9 ~~who function as personal care attendants, personal assistants,~~
10 ~~and individual maintenance home health workers and who also~~
11 ~~provide services under the Department's Home Services Program~~
12 ~~shall be considered to be public employees, no matter whether~~
13 ~~the State provides such services through direct~~
14 ~~fee-for-service arrangements, with the assistance of a managed~~
15 ~~care organization or other intermediary, or otherwise, and the~~
16 ~~State of Illinois shall be considered to be the employer of~~
17 ~~those persons as of the effective date of this amendatory Act~~
18 ~~of the 97th General Assembly, but not before except as~~
19 ~~otherwise provided under this subsection (f). The State shall~~
20 ~~engage in collective bargaining with an exclusive~~
21 ~~representative of home care and home health workers who~~
22 ~~function as personal care attendants, personal assistants, and~~
23 ~~individual maintenance home health workers working under the~~
24 ~~Home Services Program concerning their terms and conditions of~~
25 ~~employment that are within the State's control. Nothing in this~~
26 ~~paragraph shall be understood to limit the right of the persons~~

1 ~~receiving services defined in this Section to hire and fire~~
2 ~~home care and home health workers who function as personal care~~
3 ~~attendants, personal assistants, and individual maintenance~~
4 ~~home health workers working under the Home Services Program or~~
5 ~~to supervise them within the limitations set by the Home~~
6 ~~Services Program. The State shall not be considered to be the~~
7 ~~employer of home care and home health workers who function as~~
8 ~~personal care attendants, personal assistants, and individual~~
9 ~~maintenance home health workers working under the Home Services~~
10 ~~Program for any purposes not specifically provided in Public~~
11 ~~Act 93-204 or this amendatory Act of the 97th General Assembly,~~
12 ~~including but not limited to, purposes of vicarious liability~~
13 ~~in tort and purposes of statutory retirement or health~~
14 ~~insurance benefits. Home care and home health workers who~~
15 ~~function as personal care attendants, personal assistants, and~~
16 ~~individual maintenance home health workers and who also provide~~
17 ~~services under the Department's Home Services Program shall not~~
18 ~~be covered by the State Employees Group Insurance Act of 1971~~
19 ~~(5 ILCS 375/).~~

20 ~~The Department shall execute, relative to the nursing home~~
21 ~~prescreening project, as authorized by Section 4.03 of the~~
22 ~~Illinois Act on the Aging, written inter-agency agreements with~~
23 ~~the Department on Aging and the Department of Public Aid (now~~
24 ~~Department of Healthcare and Family Services), to effect the~~
25 ~~following: (i) intake procedures and common eligibility~~
26 ~~criteria for those persons who are receiving non institutional~~

1 ~~services; and (ii) the establishment and development of~~
2 ~~non-institutional services in areas of the State where they are~~
3 ~~not currently available or are undeveloped. On and after July~~
4 ~~1, 1996, all nursing home prescreenings for individuals 18~~
5 ~~through 59 years of age shall be conducted by the Department.~~

6 ~~The Department is authorized to establish a system of~~
7 ~~recipient cost sharing for services provided under this~~
8 ~~Section. The cost sharing shall be based upon the recipient's~~
9 ~~ability to pay for services, but in no case shall the~~
10 ~~recipient's share exceed the actual cost of the services~~
11 ~~provided. Protected income shall not be considered by the~~
12 ~~Department in its determination of the recipient's ability to~~
13 ~~pay a share of the cost of services. The level of cost sharing~~
14 ~~shall be adjusted each year to reflect changes in the~~
15 ~~"protected income" level. The Department shall deduct from the~~
16 ~~recipient's share of the cost of services any money expended by~~
17 ~~the recipient for disability related expenses.~~

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

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

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

26 ~~The requirement for reporting to the General Assembly shall~~

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

9 ~~(g) To establish such subdivisions of the Department as~~
10 ~~shall be desirable and assign to the various subdivisions the~~
11 ~~responsibilities and duties placed upon the Department by law.~~

12 ~~(h) To cooperate and enter into any necessary agreements~~
13 ~~with the Department of Employment Security for the provision of~~
14 ~~job placement and job referral services to clients of the~~
15 ~~Department, including job service registration of such clients~~
16 ~~with Illinois Employment Security offices and making job~~
17 ~~listings maintained by the Department of Employment Security~~
18 ~~available to such clients.~~

19 ~~(i) To possess all powers reasonable and necessary for the~~
20 ~~exercise and administration of the powers, duties and~~
21 ~~responsibilities of the Department which are provided for by~~
22 ~~law.~~

23 ~~(j) To establish a procedure whereby new providers of~~
24 ~~personal care attendant services shall submit vouchers to the~~
25 ~~State for payment two times during their first month of~~
26 ~~employment and one time per month thereafter. In no case shall~~

1 ~~the Department pay personal care attendants an hourly wage that~~
2 ~~is less than the federal minimum wage.~~

3 ~~(k) To provide adequate notice to providers of chore and~~
4 ~~housekeeping services informing them that they are entitled to~~
5 ~~an interest payment on bills which are not promptly paid~~
6 ~~pursuant to Section 3 of the State Prompt Payment Act.~~

7 ~~(l) To establish, operate and maintain a Statewide Housing~~
8 ~~Clearinghouse of information on available, government~~
9 ~~subsidized housing accessible to disabled persons and~~
10 ~~available privately owned housing accessible to disabled~~
11 ~~persons. The information shall include but not be limited to~~
12 ~~the location, rental requirements, access features and~~
13 ~~proximity to public transportation of available housing. The~~
14 ~~Clearinghouse shall consist of at least a computerized database~~
15 ~~for the storage and retrieval of information and a separate or~~
16 ~~shared toll free telephone number for use by those seeking~~
17 ~~information from the Clearinghouse. Department offices and~~
18 ~~personnel throughout the State shall also assist in the~~
19 ~~operation of the Statewide Housing Clearinghouse. Cooperation~~
20 ~~with local, State and federal housing managers shall be sought~~
21 ~~and extended in order to frequently and promptly update the~~
22 ~~Clearinghouse's information.~~

23 ~~(m) To assure that the names and case records of persons~~
24 ~~who received or are receiving services from the Department,~~
25 ~~including persons receiving vocational rehabilitation, home~~
26 ~~services, or other services, and those attending one of the~~

1 ~~Department's schools or other supervised facility shall be~~
2 ~~confidential and not be open to the general public. Those case~~
3 ~~records and reports or the information contained in those~~
4 ~~records and reports shall be disclosed by the Director only to~~
5 ~~proper law enforcement officials, individuals authorized by a~~
6 ~~court, the General Assembly or any committee or commission of~~
7 ~~the General Assembly, and other persons and for reasons as the~~
8 ~~Director designates by rule. Disclosure by the Director may be~~
9 ~~only in accordance with other applicable law.~~

10 (Source: P.A. 97-732, eff. 6-30-12; 97-1158, eff. 1-29-13;
11 revised 2-21-13.)