



Sen. Daniel Biss

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1 AMENDMENT TO SENATE BILL 354

2 AMENDMENT NO. _____. Amend Senate Bill 354 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Affordable Long-Term Services and Supports for Illinois
6 Families Act.

7 Section 5. Purpose. The purpose of this Act is to provide
8 security for Illinois families by pooling resources to create a
9 benefit to assist with long-term care costs that otherwise can
10 be an impossible burden for families or become costs to the
11 State's Medical Assistance Program. This Act will also serve to
12 support the State's effort to rebalance long-term care toward
13 investing in home-based and community-based services and
14 supports.

15 Section 10. Definitions. As used in this Act:

1 "Commission" means the Long-Term Services and Supports
2 Trust Commission created in Section 25.

3 "Consumer direction" means an orientation to the delivery
4 of home-based and community-based services under which
5 informed individuals make choices about the services they
6 receive. Individuals can consider their own needs, determine
7 how and by whom these needs should be met, and monitor the
8 quality of services received. Individuals can also
9 independently make all decisions and manage services directly.
10 The unifying principle in consumer-directed long-term services
11 and supports arrangements is that individuals have the primary
12 authority to make choices that work best for them.

13 "Eligible beneficiary" means an Illinois resident with a
14 long-term care need, as established in an assessment by a needs
15 assessor, who is not receiving long-term care services and
16 supports under the State's Medical Assistance Program and, if
17 using Medicare-paid rehabilitation services, has unmet needs
18 under Medicare.

19 "Existing long-term care programs" includes the following
20 programs existing on the effective date of this Act: the
21 Community Care Program, the Home Services Program, the
22 Home-Based Support Services Program, and any other long-term
23 care provided by the State under the Medical Assistance
24 Program.

25 "Home-based and community-based services" includes
26 long-term services and supports that meet the requirements set

1 forth in the Centers for Medicare and Medicaid Services' Home
2 and Community-Based Services Settings Final Rule (CMS
3 2249-F/2296-F), published in the Federal Register on January
4 16, 2014.

5 "Medical assistance" means medical assistance coverage
6 under the Medical Assistance Program.

7 "Medical Assistance Program" means the medical assistance
8 program administered by the Department of Healthcare and Family
9 Services under Article V of the Illinois Public Aid Code.

10 "Long-term care need" means an assessment indicating the
11 need for ongoing assistance in routine life activities
12 consistent with the eligibility threshold for long-term
13 services and supports set in accordance with this Act, on the
14 universal assessment tool procured by the State and described
15 in Section 25 of the Older Adult Services Act.

16 "Long-term services and supports benefit" or "benefit"
17 means an amount available to eligible beneficiaries in a dollar
18 amount per day to pay for the services of a qualified long-term
19 services and supports provider from the Long-Term Services and
20 Supports Trust Fund created in Section 35.

21 "Needs assessor" means an organization employing
22 individuals trained to assess needs using the universal
23 assessment tool described in Section 25 of the Older Adult
24 Services Act. "Needs assessor" includes care coordination
25 units as described in the Illinois Act on the Aging and
26 organizations led by and for people with disabilities such as

1 the Centers for Independent Living.

2 "Person-centered" means delivery of care in which
3 individuals' values and preferences are elicited and, once
4 expressed, guide all aspects of their care, supporting their
5 realistic health and life goals. Person-centered care requires
6 sustained collaboration among individuals, others who are
7 important to them, and relevant care providers, which informs
8 decision-making to the extent that the individual desires.

9 "Qualified long-term services and supports provider" means
10 a provider of one of the types listed in Section 30 that are
11 participating providers in the existing long-term care
12 programs and in accordance with the process set forth in
13 Section 30 have been deemed by the Long-Term Services and
14 Supports Trust Commission to provide safe, consumer-directed
15 or person-centered, and cost-effective long-term services and
16 supports.

17 "Trust Fund" means the Long-Term Services and Supports
18 Trust Fund created in Section 35.

19 "Universal assessment tool" means the universal assessment
20 tool described in Section 25 of the Older Adult Services Act.

21 Section 15. Affordable long-term care services and
22 supports benefit or program; benchmark.

23 (a) By January 1, 2020, Illinois shall have in place a
24 long-term services and supports benefit or program for at least
25 those who have a long-term care need consistent with the level

1 of care criteria in place on the effective date of this Act for
2 existing long-term care programs.

3 (b) Illinois shall create a long-term services and supports
4 benefit for eligible beneficiaries. The benefit shall be a
5 dollar amount available in an amount per day to pay for the
6 services of a qualified long-term services and supports
7 provider. A dedicated Trust Fund for this purpose is created in
8 Section 35.

9 (c) The long-term services and supports benefit is not
10 intended to replace the Community Care Program, Home Services
11 Program, the Home-Based Support Services Program, or any other
12 long-term services and supports provided by the State through
13 the Medical Assistance Program. Maintenance of existing
14 long-term care programs shall help to fulfill the requirement
15 under subsection (a). The long-term services and supports
16 benefit is intended to improve investment in home-based and
17 community-based services in Illinois, including those
18 described in the State's Medicaid waivers and other existing
19 long-term care programs. The existing long-term care programs
20 and the benefit described in this Act may not be used
21 concurrently, but may be used sequentially.

22 (d) No later than January 1, 2025, the long-term services
23 and supports benefit shall be available for eligible
24 beneficiaries. The Long-Term Services and Supports Trust
25 Commission may set an earlier date for the initial availability
26 of the benefit described in Section 25.

1 Section 20. Comprehensive study and actuarial modeling.

2 (a) The Department of Healthcare and Family Services shall
3 commission a comprehensive study of long-term care trends,
4 future projections, and actuarial analysis of a new long-term
5 services and supports benefit. Upon completion of the study,
6 the Department shall prepare a report on the study that
7 includes the following:

8 (1) an extensive analysis of long-term care trends in
9 Illinois, including the number of Illinoisans needing
10 long-term care, the number of paid and unpaid caregivers,
11 the existing long-term care programs' utilization and
12 impact on the State budget; out-of-pocket spending and
13 spend-down to qualify for medical assistance coverage, the
14 financial and health impacts of caregiving on the family,
15 wages of paid caregivers and the effects of compensation on
16 the availability of this workforce, the current market for
17 private long-term care insurance, and a brief assessment of
18 the existing system of long-term services and supports in
19 terms of health, well-being, and the ability of
20 participants to continue living in their communities;

21 (2) an analysis of: long-term care costs and
22 utilization projections through at least 2050 and the
23 estimated impact of such costs and utilization projections
24 on the State budget; increases in the senior population;
25 projections of the number of paid and unpaid caregivers in

1 relation to demand for services; and projections of the
2 impact of housing cost burdens and a lack of affordable
3 housing on seniors and people with disabilities;

4 (3) an actuarial analysis of a new long-term services
5 and supports benefit program, including an analysis of
6 potential tax sources and necessary levels, a vesting
7 period, the maximum daily benefit dollar amount, the total
8 maximum dollar amount of the benefit, and the duration of
9 the benefit; and

10 (4) a qualitative analysis of a new benefit's impact on
11 seniors and people with disabilities, including their
12 families and caregivers, public and private long-term care
13 services, and the State budget.

14 The report must project under multiple possible
15 configurations the numbers of persons covered year over year,
16 utilization rates, total spending, and the Trust Fund's ratio
17 balance and solvency. The Trust Fund must initially be
18 structured to be solvent for 75 years. The report must detail
19 the sensitivity of these projections to the level of care
20 criteria that define long-term care need and examine the
21 feasibility of setting a lower threshold, based on a lower need
22 for ongoing assistance in routine life activities.

23 The report must also detail the amount of out-of-pocket
24 costs avoided, the number of persons who delayed or avoided
25 utilization of medical assistance benefits, an analysis on the
26 projected increased utilization of home-based and

1 community-based services over skilled nursing facilities and
2 savings therewith, and savings to the existing long-term care
3 programs due to the new long-term services and supports
4 benefit.

5 (b) The financing options to be studied in the actuarial
6 analysis shall conform to the main benchmarks listed in Section
7 15.

8 (c) The entity chosen to conduct the actuarial analysis
9 shall be a nationally-recognized organization with experience
10 modeling public and private long-term care financing programs.

11 (d) The study shall be completed before April 1, 2019. Upon
12 completion, the report on the study shall to be delivered to
13 the Long-Term Services and Supports Trust Commission
14 established in Section 25.

15 Section 25. Long-Term Services and Supports Trust
16 Commission.

17 (a) The Long-Term Services and Supports Trust Commission is
18 created on April 1, 2019. The Commission shall include the
19 following members:

20 (1) One member of the Senate appointed by the President
21 of the Senate, and one member of the Senate appointed by
22 the Minority Leader of the Senate.

23 (2) One member of the House of Representatives
24 appointed by the Speaker of the House of Representatives,
25 and one member of the House of Representatives appointed by

1 the Minority Leader of the House of Representatives.

2 (3) The Director of Healthcare and Family Services, or
3 his or her designee.

4 (4) The Director of Aging, or his or her designee.

5 (5) The Secretary of Human Services, or his or her
6 designee.

7 (6) Two individuals who receive long-term services and
8 supports.

9 (7) Two representatives from organizations
10 representing the population receiving long-term services
11 and supports, one of whom is from an organization
12 representing seniors and one of whom is from an
13 organization representing people with disabilities.

14 (8) Two representatives of caregivers, one of whom is a
15 representative of a union representing long-term care
16 workers and one of whom is a family caregiver.

17 (b) Members of the Commission shall be appointed for terms
18 of 2 years, except that the Governor shall appoint the initial
19 members identified in paragraphs (6), (7), and (8) of
20 subsection (a) to staggered terms not to exceed 4 years.
21 Appointments by the Governor shall be subject to the advice and
22 consent of the Senate.

23 (c) On April 1, 2019, the Commission shall receive a report
24 on the completed study of long-term services and supports needs
25 and actuarial modeling. The Commission shall use the study
26 results to set the initial per-day long-term services and

1 supports benefit, the benefit's duration, the formula for an
2 annual adjustment of the benefit amount, the start date for
3 payouts, and other terms as may be necessary, and shall
4 identify a funding mechanism, inclusive of rates of tax, that
5 is consistent with these terms and in a manner that is
6 actuarially sound. The Commission may set the eligibility
7 threshold that defines long-term care need for the new benefit
8 lower, but not higher, than the level of care criteria in place
9 on the effective date of this Act for existing long-term care
10 programs. In setting the initial per-day benefit, the
11 Commission shall primarily consider the cost of home-based and
12 community-based services, and shall address deficiencies in
13 current rates of payment and workers' wages for those services
14 identified as contributing to weaknesses in the system of
15 long-term care services and supports. Within 30 days after the
16 Commission receives the report, the Commission shall submit a
17 separate report to the General Assembly with its recommendation
18 for a funding mechanism for the long-term services and supports
19 benefit.

20 (d) The Commission member from the Department of Healthcare
21 and Family Services shall convene the first meeting. The
22 members shall elect a chair at the first meeting. Meetings of
23 the Commission shall be at the call of the chair, but shall
24 occur no less frequently than annually.

25 (e) Regular duties of the Commission shall include:

26 (1) establishing and following a process for annual

1 adjustment of the long-term services and supports benefit
2 amount based primarily on increases in the cost of
3 home-based and community-based services;

4 (2) monitoring the fiscal condition of the Trust Fund;

5 (3) establishing and monitoring outcomes of procedures
6 for determining that an individual has a long-term care
7 need as defined in this Act;

8 (4) setting standards for qualifying long-term
9 services and supports providers and deciding which types of
10 providers that may qualify under Section 30 meet the
11 definition of qualifying providers;

12 (5) setting standards for organizations to be needs
13 assessors;

14 (6) monitoring the role of the long-term care services
15 and supports benefit in supporting family caregivers,
16 inclusive of reviewing the role of particular features of
17 benefit design or administration and of proposing changes
18 to ensure the benefit supports family caregivers
19 appropriately; and

20 (7) monitoring the role of the long-term care services
21 and supports benefit in recruiting and retaining a
22 caregiving workforce, inclusive of collecting information
23 on the wages, benefits, and working conditions of paid
24 caregivers, and of proposing changes to benefit design or
25 administration to ensure the benefit supports this
26 workforce appropriately.

1 (f) The Department of Healthcare and Family Services shall
2 provide administrative support to the Commission.

3 Section 30. Long-term services and supports providers.

4 (a) The provider types that may become qualified providers
5 by decision of the Commission are: home care or homemaker
6 services providers participating in the Community Care Program
7 or Home Services Program; personal assistants or other
8 independent providers participating in the Home Services
9 Program; adult day programs participating in the Community Care
10 Program or Home Services Program; respite care providers
11 participating in the Home Services Program; home modification
12 or environmental accessibility modification providers
13 participating in the Home Services Program; personal support
14 providers participating as waiver providers in the Medical
15 Assistance Program; community-integrated living arrangements
16 participating as waiver providers in the Medical Assistance
17 Program; supportive living facilities participating in the
18 Medical Assistance Program; and nursing facilities
19 participating as providers in the Medical Assistance Program.

20 (b) Participating providers described in subsection (a)
21 shall be qualified long-term services and supports providers if
22 their provider type is deemed by the Commission to provide
23 safe, consumer-directed or person-centered, and cost-effective
24 long-term services and supports. In making these decisions, the
25 Commission shall evaluate whether home-based and

1 community-based services are consumer-directed, and shall
2 evaluate whether other institutional provider types provide
3 services in a person-centered fashion.

4 (c) Family caregivers may deliver services under this Act
5 if the arrangement complies with the requirements for a type of
6 provider that is a qualified provider as set forth in
7 subsections (a) and (b). If, after the effective date of this
8 Act, the requirements for any type of qualified providers
9 become more restrictive with regard to family caregivers, the
10 Commission shall review whether these changes diminish the
11 ability of the long-term services and support benefit to
12 support family caregiving, in accordance with paragraph (6) of
13 subsection (e) of Section 25.

14 (d) An eligible beneficiary seeking to use the long-term
15 services and supports benefit to pay a qualified provider that
16 is a nursing facility, and nursing facilities seeking payment
17 from the long-term services and supports benefit for services
18 to an eligible beneficiary, shall be subject to additional
19 requirements. An eligible beneficiary seeking to use the
20 long-term services and supports benefit to pay a nursing
21 facility must have an assessment consistent with a
22 determination of need score of 37 or higher or an assessment
23 indicating the same level of need for ongoing assistance in
24 routine life activities on the universal assessment tool. An
25 eligible beneficiary must also secure an exception documented
26 by his or her needs assessor, and approved by the Department of

1 Healthcare and Family Services, that it is not possible for the
2 eligible beneficiary to use the benefit to live at home with
3 home-based and community-based supports. An eligible
4 beneficiary may not use more than 75% of the cumulative total
5 value of the benefit over its duration to pay a nursing
6 facility. In arranging payment, nursing facilities shall
7 submit information on actual costs of direct-care labor being
8 charged, capital costs being charged, and all other costs being
9 charged. The long-term services and supports benefit shall not
10 be used to pay for nursing facility capital costs.

11 Section 35. Long-Term Services and Supports Trust Fund.

12 (a) The Long-Term Services and Supports Trust Fund is
13 created as a special fund in the State treasury for the purpose
14 of receiving funds dedicated to paying the long-term services
15 and supports benefit created under this Act. Dedicated funds
16 shall come from a tax set at rates deemed to be actuarially
17 sound as set forth in subsection (b). All receipts under
18 subsection (b) must be deposited into the Trust Fund. These
19 funds shall be held separate and apart from all public moneys
20 or funds of the State, as provided in this Section, and shall
21 be administered as set forth in Section 40 exclusively for the
22 purposes of this Act. Expenditures from the Trust Fund may be
23 used solely for payment of long-term services and supports
24 benefits and for necessary administrative activities.

25 (b) The benefit shall be paid for through a tax, the nature

1 of which shall be determined by the actuarial study set forth
2 in paragraph (3) of subsection (a) of Section 20. The
3 Commission shall recommend tax rates that are actuarially sound
4 in its report to the General Assembly as required under
5 subsection (c) of Section 25.

6 (c) Funds deposited into the Trust Fund may be used only
7 for the purposes set forth in this Act, and shall not be
8 subject to administrative charges or chargebacks unless
9 otherwise authorized by this Act. The Trust Fund is exempt from
10 any sweep, transfer, or other budgetary maneuver that may
11 result in the use of the Trust Fund's moneys for a purpose
12 other than the purposes set forth in this Act.

13 (d) This Section shall not become operative until
14 legislation is enacted into law by the General Assembly that
15 imposes or authorizes a new tax for the purposes set forth in
16 this Act.

17 Section 40. Administration.

18 (a) The Department of Healthcare and Family Services shall
19 maintain rolls of eligible beneficiaries based in part on
20 assessments of long-term care need performed by needs
21 assessors. The Department of Healthcare and Family Services
22 shall be responsible for making payments from benefits to
23 qualified long-term services and supports providers on behalf
24 of eligible beneficiaries for the provision of services to
25 those beneficiaries.

1 (b) The Department of Healthcare and Family Services shall
2 maintain a list of qualified long-term services and supports
3 providers. This list shall conform to determinations made by
4 the Commission as to which types of providers appear on the
5 list. Within each type of provider, the particular providers
6 that qualify shall be those participating in the existing
7 long-term care programs.

8 (c) The Department of Healthcare and Family Services shall
9 assist the Commission in monitoring the solvency and financial
10 status of the Trust Fund.

11 (d) The Department of Healthcare and Family Services shall
12 prepare and distribute written or electronic materials to
13 eligible beneficiaries, family caregivers, seniors, and the
14 public at large as necessary to inform or update them regarding
15 the long-term services and supports benefit.

16 (e) The Department on Aging shall maintain a statewide
17 network of needs assessors and shall be charged with
18 reimbursing the needs assessors for eligibility assessment
19 services.

20 (f) This Section shall not become operative until (i)
21 legislation is enacted into law by the General Assembly that
22 imposes or authorizes a new tax for the purposes set forth in
23 this Act and (ii) the Trust Fund in Section 35 has been
24 created.

25 Section 45. The State Finance Act is amended by adding

1 Section 5.886 as follows:

2 (30 ILCS 105/5.886 new)

3 Sec. 5.886. The Long-Term Services and Supports Trust Fund.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".