

1 AN ACT regarding preventative services administration.

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
11 a related disorder under the Alzheimer's Disease Assistance
12 Act, thereby enabling them to remain in their own homes or in
13 other living arrangements. Such preventive services, which
14 may be coordinated with other programs for the aged and
15 monitored by area agencies on aging in cooperation with the
16 Department, may include, but are not limited to, any or all
17 of the following:

- 18 (a) home health services;
- 19 (b) home nursing services;
- 20 (c) homemaker services;
- 21 (d) chore and housekeeping services;
- 22 (e) day care services;
- 23 (f) home-delivered meals;
- 24 (g) education in self-care;
- 25 (h) personal care services;
- 26 (i) adult day health services;
- 27 (j) habilitation services;
- 28 (k) respite care;
- 29 (l) other nonmedical social services that may
30 enable the person to become self-supporting; or
- 31 (m) clearinghouse for information provided by

1 senior citizen home owners who want to rent rooms to or
2 share living space with other senior citizens.

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

17 Beginning July 1, 2002, the Department shall require as a
18 condition of eligibility that all applicants and recipients
19 apply for medical assistance under Article V of the Illinois
20 Public Aid Code in accordance with rules promulgated by the
21 Department.

22 The Department shall, in conjunction with the Department
23 of Public Aid, seek appropriate amendments under Sections
24 1915 and 1924 of the Social Security Act. The purpose of the
25 amendments shall be to extend eligibility for home and
26 community based services under Sections 1915 and 1924 of the
27 Social Security Act to persons who transfer to or for the
28 benefit of a spouse those amounts of income and resources
29 allowed under Section 1924 of the Social Security Act.
30 Subject to the approval of such amendments, the Department
31 shall extend the provisions of Section 5-4 of the Illinois
32 Public Aid Code to persons who, but for the provision of home
33 or community-based services, would require the level of care
34 provided in an institution, as is provided for in federal

1 law. Those persons no longer found to be eligible for
2 receiving noninstitutional services due to changes in the
3 eligibility criteria shall be given 60 days notice prior to
4 actual termination. Those persons receiving notice of
5 termination may contact the Department and request the
6 determination be appealed at any time during the 60 day
7 notice period. With the exception of the lengthened notice
8 and time frame for the appeal request, the appeal process
9 shall follow the normal procedure. In addition, each person
10 affected regardless of the circumstances for discontinued
11 eligibility shall be given notice and the opportunity to
12 purchase the necessary services through the Community Care
13 Program. If the individual does not elect to purchase
14 services, the Department shall advise the individual of
15 alternative services. The target population identified for
16 the purposes of this Section are persons age 60 and older
17 with an identified service need. Priority shall be given to
18 those who are at imminent risk of institutionalization. The
19 services shall be provided to eligible persons age 60 and
20 older to the extent that the cost of the services together
21 with the other personal maintenance expenses of the persons
22 are reasonably related to the standards established for care
23 in a group facility appropriate to the person's condition.
24 These non-institutional services, pilot projects or
25 experimental facilities may be provided as part of or in
26 addition to those authorized by federal law or those funded
27 and administered by the Department of Human Services. The
28 Departments of Human Services, Public Aid, Public Health,
29 Veterans' Affairs, and Commerce and Community Affairs and
30 other appropriate agencies of State, federal and local
31 governments shall cooperate with the Department on Aging in
32 the establishment and development of the non-institutional
33 services. The Department shall require an annual audit from
34 all chore/housekeeping and homemaker vendors contracting with

1 the Department under this Section. The annual audit shall
2 assure that each audited vendor's procedures are in
3 compliance with Department's financial reporting guidelines
4 requiring a 27% administrative cost split and a 73% employee
5 wages and benefits cost split. The audit is a public record
6 under the Freedom of Information Act. The Department shall
7 execute, relative to the nursing home prescreening project,
8 written inter-agency agreements with the Department of Human
9 Services and the Department of Public Aid, to effect the
10 following: (1) intake procedures and common eligibility
11 criteria for those persons who are receiving
12 non-institutional services; and (2) the establishment and
13 development of non-institutional services in areas of the
14 State where they are not currently available or are
15 undeveloped. On and after July 1, 1996, all nursing home
16 prescreenings for individuals 60 years of age or older shall
17 be conducted by the Department.

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

28 The Department, or the Department's authorized
29 representative, shall recover the amount of moneys expended
30 for services provided to or in behalf of a person under this
31 Section by a claim against the person's estate or against the
32 estate of the person's surviving spouse, but no recovery may
33 be had until after the death of the surviving spouse, if any,
34 and then only at such time when there is no surviving child

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

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.
27 Procedures shall be developed to permit the utilization of
28 services in successive blocks of 24 hours up to the monthly
29 maximum established by the Department. Workers providing
30 these services shall be appropriately trained.

31 Beginning on the effective date of this Amendatory Act of
32 1991, no person may perform chore/housekeeping and homemaker
33 services under a program authorized by this Section unless
34 that person has been issued a certificate of pre-service to

1 do so by his or her employing agency. Information gathered
2 to effect such certification shall include (i) the person's
3 name, (ii) the date the person was hired by his or her
4 current employer, and (iii) the training, including dates and
5 levels. Persons engaged in the program authorized by this
6 Section before the effective date of this amendatory Act of
7 1991 shall be issued a certificate of all pre- and in-service
8 training from his or her employer upon submitting the
9 necessary information. The employing agency shall be
10 required to retain records of all staff pre- and in-service
11 training, and shall provide such records to the Department
12 upon request and upon termination of the employer's contract
13 with the Department. In addition, the employing agency is
14 responsible for the issuance of certifications of in-service
15 training completed to their employees.

16 The Department is required to develop a system to ensure
17 that persons working as homemakers and chore housekeepers
18 receive increases in their wages when the federal minimum
19 wage is increased by requiring vendors to certify that they
20 are meeting the federal minimum wage statute for homemakers
21 and chore housekeepers. An employer that cannot ensure that
22 the minimum wage increase is being given to homemakers and
23 chore housekeepers shall be denied any increase in
24 reimbursement costs. Beginning July 1, 2003, the vendors
25 shall receive a rate increase of at least 3% but no more than
26 5% on July 1 of each year based on the percentage change in
27 the consumer price index-u during the preceding 12-month
28 calendar year. "Consumer price index-u" means the index
29 published by the Bureau of Labor Statistics of the United
30 States Department of Labor that measures the average change
31 in prices of goods and services purchased by all urban
32 consumers, United States city average, all items, 1982-84
33 =100. If this index is no longer published, the Department
34 shall use a comparable substitute index as determined by

1 rule.

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

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

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

29 (Source: P.A. 91-303, eff. 1-1-00; 91-798, eff. 7-9-00;
30 92-597, eff. 6-28-02.)

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

1 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

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

4 (a) To co-operate with the federal government in the
5 administration of the provisions of the federal
6 Rehabilitation Act of 1973, as amended, of the Workforce
7 Investment Act of 1998, and of the federal Social Security
8 Act to the extent and in the manner provided in these Acts.

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

20 (c) (Blank).

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

34 (e) (Blank).

1 (f) To establish a program of services to prevent
2 unnecessary institutionalization of persons with Alzheimer's
3 disease and related disorders or persons in need of long term
4 care who are established as blind or disabled as defined by
5 the Social Security Act, thereby enabling them to remain in
6 their own homes or other living arrangements. Such preventive
7 services may include, but are not limited to, any or all of
8 the following:

- 9 (1) home health services;
- 10 (2) home nursing services;
- 11 (3) homemaker services;
- 12 (4) chore and housekeeping services;
- 13 (5) day care services;
- 14 (6) home-delivered meals;
- 15 (7) education in self-care;
- 16 (8) personal care services;
- 17 (9) adult day health services;
- 18 (10) habilitation services;
- 19 (11) respite care; or
- 20 (12) other nonmedical social services that may
21 enable the person to become self-supporting.

22 The Department shall establish eligibility standards for
23 such services taking into consideration the unique economic
24 and social needs of the population for whom they are to be
25 provided. Such eligibility standards may be based on the
26 recipient's ability to pay for services; provided, however,
27 that any portion of a person's income that is equal to or
28 less than the "protected income" level shall not be
29 considered by the Department in determining eligibility. The
30 "protected income" level shall be determined by the
31 Department, shall never be less than the federal poverty
32 standard, and shall be adjusted each year to reflect changes
33 in the Consumer Price Index For All Urban Consumers as
34 determined by the United States Department of Labor.

1 Additionally, in determining the amount and nature of
2 services for which a person may qualify, consideration shall
3 not be given to the value of cash, property or other assets
4 held in the name of the person's spouse pursuant to a written
5 agreement dividing marital property into equal but separate
6 shares or pursuant to a transfer of the person's interest in
7 a home to his spouse, provided that the spouse's share of the
8 marital property is not made available to the person seeking
9 such services.

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

20 Personal care attendants shall be paid:

21 (i) A \$5 per hour minimum rate beginning July 1,
22 1995.

23 (ii) A \$5.30 per hour minimum rate beginning July
24 1, 1997.

25 (iii) A \$5.40 per hour minimum rate beginning July
26 1, 1998.

27 Beginning July 1, 2003, personal care attendants shall
28 receive an automatic cost of living allowance of at least 3%
29 but no more than 5% on July 1 of each year based on the
30 percentage change in the consumer price index-u during the
31 preceding 12-month calendar year. "Consumer price index-u"
32 means the index published by the Bureau of Labor Statistics
33 of the United States Department of Labor that measures the
34 average change in prices of goods and services purchased by

1 all urban consumers, United States city average, all items,
2 1982-84 = 100. If this index is no longer published, the
3 Department shall use a comparable substitute index as
4 determined by rule.

5 The Department shall execute, relative to the nursing
6 home prescreening project, as authorized by Section 4.03 of
7 the Illinois Act on the Aging, written inter-agency
8 agreements with the Department on Aging and the Department of
9 Public Aid, to effect the following: (i) intake procedures
10 and common eligibility criteria for those persons who are
11 receiving non-institutional services; and (ii) the
12 establishment and development of non-institutional services
13 in areas of the State where they are not currently available
14 or are undeveloped. On and after July 1, 1996, all nursing
15 home prescreenings for individuals 18 through 59 years of age
16 shall be conducted by the Department.

17 The Department is authorized to establish a system of
18 recipient cost-sharing for services provided under this
19 Section. The cost-sharing shall be based upon the
20 recipient's ability to pay for services, but in no case shall
21 the recipient's share exceed the actual cost of the services
22 provided. Protected income shall not be considered by the
23 Department in its determination of the recipient's ability to
24 pay a share of the cost of services. The level of
25 cost-sharing shall be adjusted each year to reflect changes
26 in the "protected income" level. The Department shall deduct
27 from the recipient's share of the cost of services any money
28 expended by the recipient for disability-related expenses.

29 The Department, or the Department's authorized
30 representative, shall recover the amount of moneys expended
31 for services provided to or in behalf of a person under this
32 Section by a claim against the person's estate or against the
33 estate of the person's surviving spouse, but no recovery may
34 be had until after the death of the surviving spouse, if any,

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

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

30 The requirement for reporting to the General Assembly
31 shall be satisfied by filing copies of the report with the
32 Speaker, the Minority Leader and the Clerk of the House of
33 Representatives and the President, the Minority Leader and
34 the Secretary of the Senate and the Legislative Research

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

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

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

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

21 (j) To establish a procedure whereby new providers of
22 personal care attendant services shall submit vouchers to the
23 State for payment two times during their first month of
24 employment and one time per month thereafter. In no case
25 shall the Department pay personal care attendants an hourly
26 wage that is less than the federal minimum wage.

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

31 (l) To establish, operate and maintain a Statewide
32 Housing Clearinghouse of information on available, government
33 subsidized housing accessible to disabled persons and
34 available privately owned housing accessible to disabled

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

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

27 (Source: P.A. 91-540, eff. 8-13-99; 92-84, eff. 7-1-02.)

28 Section 99. Effective date. This Act takes effect July
29 1, 2003.