

1 AN ACT concerning the Department on Aging.

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 non-exempt asset eligible
19 applicants ~~and-recipients~~ apply for medical assistance under
20 Article V of the Illinois Public Aid Code in accordance with
21 rules promulgated by the 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.

25 The Department on Aging and the Department of Human
26 Services shall cooperate in the development and submission of
27 an annual report on programs and services provided under this
28 Section. Such joint report shall be filed with the Governor
29 and the General Assembly on or before September 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 such additional copies with the
3 State Government Report Distribution Center for the General
4 Assembly as is required under paragraph (t) of Section 7 of
5 the State Library Act.

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

18 (Source: P.A. 91-303, eff. 1-1-00; 91-798, eff. 7-9-00;
19 92-597, eff. 6-28-02.)