

1 AN ACT concerning preventive services.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Act on the Aging is amended by
5 changing Section 4.02 as follows:

6 (20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

7 Sec. 4.02. The Department shall establish a program of
8 services to prevent unnecessary institutionalization of
9 persons age 60 and older in need of long term care or who are
10 established as persons who suffer from Alzheimer's disease or a
11 related disorder under the Alzheimer's Disease Assistance Act,
12 thereby enabling them to remain in their own homes or in other
13 living arrangements. Such preventive services, which may be
14 coordinated with other programs for the aged and monitored by
15 area agencies on aging in cooperation with the Department, may
16 include, but are not limited to, any or all of the following:

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

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

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

19 The Department shall, in conjunction with the Department of
20 Public Aid, seek appropriate amendments under Sections 1915 and
21 1924 of the Social Security Act. The purpose of the amendments
22 shall be to extend eligibility for home and community based
23 services under Sections 1915 and 1924 of the Social Security
24 Act to persons who transfer to or for the benefit of a spouse
25 those amounts of income and resources allowed under Section
26 1924 of the Social Security Act. Subject to the approval of
27 such amendments, the Department shall extend the provisions of
28 Section 5-4 of the Illinois Public Aid Code to persons who, but
29 for the provision of home or community-based services, would
30 require the level of care provided in an institution, as is
31 provided for in federal law. Those persons no longer found to
32 be eligible for receiving noninstitutional services due to
33 changes in the eligibility criteria shall be given 60 days
34 notice prior to actual termination. Those persons receiving
35 notice of termination may contact the Department and request
36 the determination be appealed at any time during the 60 day

1 notice period. With the exception of the lengthened notice and
2 time frame for the appeal request, the appeal process shall
3 follow the normal procedure. In addition, each person affected
4 regardless of the circumstances for discontinued eligibility
5 shall be given notice and the opportunity to purchase the
6 necessary services through the Community Care Program. If the
7 individual does not elect to purchase services, the Department
8 shall advise the individual of alternative services. The target
9 population identified for the purposes of this Section are
10 persons age 60 and older with an identified service need.
11 Priority shall be given to those who are at imminent risk of
12 institutionalization. The services shall be provided to
13 eligible persons age 60 and older to the extent that the cost
14 of the services together with the other personal maintenance
15 expenses of the persons are reasonably related to the standards
16 established for care in a group facility appropriate to the
17 person's condition. These non-institutional services, pilot
18 projects or experimental facilities may be provided as part of
19 or in addition to those authorized by federal law or those
20 funded and administered by the Department of Human Services.
21 The Departments of Human Services, Public Aid, Public Health,
22 Veterans' Affairs, and Commerce and Economic Opportunity
23 ~~Community Affairs~~ and other appropriate agencies of State,
24 federal and local governments shall cooperate with the
25 Department on Aging in the establishment and development of the
26 non-institutional services. The Department shall require an
27 annual audit from all chore/housekeeping and homemaker vendors
28 contracting with the Department under this Section. The annual
29 audit shall assure that each audited vendor's procedures are in
30 compliance with Department's financial reporting guidelines
31 requiring a 27% administrative cost split and a 73% employee
32 wages and benefits cost split. The audit is a public record
33 under the Freedom of Information Act. The Department shall
34 execute, relative to the nursing home prescreening project,
35 written inter-agency agreements with the Department of Human
36 Services and the Department of Public Aid, to effect the

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

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

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
27 person, of moneys for services provided to the person or in
28 behalf of the person under this Section to which the person was
29 not entitled; provided that such recovery shall not be enforced
30 against any real estate while it is occupied as a homestead by
31 the surviving spouse or other dependent, if no claims by other
32 creditors have been filed against the estate, or, if such
33 claims have been filed, they remain dormant for failure of
34 prosecution or failure of the claimant to compel administration
35 of the estate for the purpose of payment. This paragraph shall
36 not bar recovery from the estate of a spouse, under Sections

1 1915 and 1924 of the Social Security Act and Section 5-4 of the
2 Illinois Public Aid Code, who precedes a person receiving
3 services under this Section in death. All moneys for services
4 paid to or in behalf of the person under this Section shall be
5 claimed for recovery from the deceased spouse's estate.
6 "Homestead", as used in this paragraph, means the dwelling
7 house and contiguous real estate occupied by a surviving spouse
8 or relative, as defined by the rules and regulations of the
9 Illinois Department of Public Aid, regardless of the value of
10 the property.

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

18 Beginning on the effective date of this Amendatory Act of
19 1991, no person may perform chore/housekeeping and homemaker
20 services under a program authorized by this Section unless that
21 person has been issued a certificate of pre-service to do so by
22 his or her employing agency. Information gathered to effect
23 such certification shall include (i) the person's name, (ii)
24 the date the person was hired by his or her current employer,
25 and (iii) the training, including dates and levels. Persons
26 engaged in the program authorized by this Section before the
27 effective date of this amendatory Act of 1991 shall be issued a
28 certificate of all pre-service and in-service training from his
29 or her employer upon submitting the necessary information. The
30 employing agency shall be required to retain records of all
31 staff pre-service and in-service training, and shall provide
32 such records to the Department upon request and upon
33 termination of the employer's contract with the Department. In
34 addition, the employing agency is responsible for the issuance
35 of certifications of in-service training completed to their
36 employees.

1 The Department is required to develop a system to ensure
2 that persons working as homemakers and chore housekeepers
3 receive increases in their wages when the federal minimum wage
4 is increased by requiring vendors to certify that they are
5 meeting the federal minimum wage statute for homemakers and
6 chore housekeepers. An employer that cannot ensure that the
7 minimum wage increase is being given to homemakers and chore
8 housekeepers shall be denied any increase in reimbursement
9 costs.

10 Beginning July 1, 2004, the vendors shall receive a rate
11 increase of \$1.16 per hour if at least \$0.86 of that increase
12 is used to increase the wages of homemakers and chore
13 housekeepers. Vendors receiving this increase must submit
14 proof to the Department, either (i) by an audited supplemental
15 to the Direct Service Workers cost report that substantiates
16 expenditures or (ii) by the terms of a collective bargaining
17 agreement, that they have increased homemakers' and chore
18 housekeepers' wages by \$0.86 per hour.

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

24 The requirement for reporting to the General Assembly shall
25 be satisfied by filing copies of the report with the Speaker,
26 the Minority Leader and the Clerk of the House of
27 Representatives and the President, the Minority Leader and the
28 Secretary of the Senate and the Legislative Research Unit, as
29 required by Section 3.1 of the General Assembly Organization
30 Act and filing such additional copies with the State Government
31 Report Distribution Center for the General Assembly as is
32 required under paragraph (t) of Section 7 of the State Library
33 Act.

34 Those persons previously found eligible for receiving
35 non-institutional services whose services were discontinued
36 under the Emergency Budget Act of Fiscal Year 1992, and who do

1 not meet the eligibility standards in effect on or after July
2 1, 1992, shall remain ineligible on and after July 1, 1992.
3 Those persons previously not required to cost-share and who
4 were required to cost-share effective March 1, 1992, shall
5 continue to meet cost-share requirements on and after July 1,
6 1992. Beginning July 1, 1992, all clients will be required to
7 meet eligibility, cost-share, and other requirements and will
8 have services discontinued or altered when they fail to meet
9 these requirements.

10 (Source: P.A. 92-597, eff. 6-28-02; 93-85, eff. 1-1-04; revised
11 12-6-03.)

12 Section 99. Effective date. This Act takes effect on July
13 1, 2004.