



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/04/04, by Karen May

SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02

from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. In provisions for a community care program of services to prevent unnecessary institutionalization of persons age 60 and older, provides that the Department on Aging's eligibility standards for the services must include a provision that, to be eligible for services, a person may not have assets totaling more than \$15,000 in FY05, \$17,500 in FY06, and \$20,000 in FY07 if (i) the person is unmarried or (ii) the person is married and the person or the person's spouse meets certain criteria. Provides that if the person is married and the person's spouse does not receive community care services, the person may not have assets totaling more than the asset disregard amount used by the Department of Public Aid in determining eligibility for medical assistance under the Illinois Public Aid Code. Provides that a person who does not meet the eligibility standards for services to prevent unnecessary institutionalization because of excess assets may establish eligibility for those services by paying a monthly amount to the Department on Aging as a spend-down or deductible. Effective immediately.

LRB093 19942 DRJ 45686 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT in relation to 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 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. The eligibility standards must include a provision
5 that, to be eligible for services under this Section, a person
6 may not have assets (other than specifically exempt assets)
7 totaling more than \$15,000 in the State fiscal year beginning
8 July 1, 2004, \$17,500 in the State fiscal year beginning July
9 1, 2005, and \$20,000 in the State fiscal year beginning July 1,
10 2006 if:

11 (1) the person is unmarried; or

12 (2) the person is married and the Department determines

13 that:

14 (A) the person's spouse receives services under
15 this Section; or

16 (B) the person's spouse resides in a skilled
17 nursing or intermediate long-term care facility that
18 is subject to licensure by the Department of Public
19 Health under the Nursing Home Care Act; or

20 (C) the person's spouse does not reside on a
21 permanent basis with the person and does not receive
22 support from or give support to the person; or

23 (D) the person has been abandoned by his or her
24 spouse; or

25 (E) the person has been the subject of a report of
26 abuse (as defined in the Elder Abuse and Neglect Act)
27 by his or her spouse.

28 Notwithstanding the preceding paragraph, the eligibility
29 standards must include a provision that, to be eligible for
30 services under this Section, a person who is married and whose
31 spouse does not receive services under this Section may not
32 have assets (other than specifically exempt assets) totaling
33 more than the asset disregard amount used by the Department of
34 Public Aid in determining eligibility for medical assistance
35 under Article V of the Illinois Public Aid Code. A person who
36 does not meet the eligibility standards for services under this

1 Section because of excess assets may establish eligibility for
2 those services by paying a monthly amount to the Department as
3 a spend-down or deductible. The Department shall establish
4 appropriate procedures to permit payment of such amounts as a
5 spend-down or deductible.

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

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

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

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

1 written inter-agency agreements with the Department of Human
2 Services and the Department of Public Aid, to effect the
3 following: (1) intake procedures and common eligibility
4 criteria for those persons who are receiving non-institutional
5 services; and (2) the establishment and development of
6 non-institutional services in areas of the State where they are
7 not currently available or are undeveloped. On and after July
8 1, 1996, all nursing home prescreenings for individuals 60
9 years of age or older shall be conducted by the Department.

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

20 The Department, or the Department's authorized
21 representative, shall recover the amount of moneys expended for
22 services provided to or in behalf of a person under this
23 Section by a claim against the person's estate or against the
24 estate of the person's surviving spouse, but no recovery may be
25 had until after the death of the surviving spouse, if any, and
26 then only at such time when there is no surviving child who is
27 under age 21, blind, or permanently and totally disabled. This
28 paragraph, however, shall not bar recovery, at the death of the
29 person, of moneys for services provided to the person or in
30 behalf of the person under this Section to which the person was
31 not entitled; provided that such recovery shall not be enforced
32 against any real estate while it is occupied as a homestead by
33 the surviving spouse or other dependent, if no claims by other
34 creditors have been filed against the estate, or, if such
35 claims have been filed, they remain dormant for failure of
36 prosecution or failure of the claimant to compel administration

1 of the estate for the purpose of payment. This paragraph shall
2 not bar recovery from the estate of a spouse, under Sections
3 1915 and 1924 of the Social Security Act and Section 5-4 of the
4 Illinois Public Aid Code, who precedes a person receiving
5 services under this Section in death. All moneys for services
6 paid to or in behalf of the person under this Section shall be
7 claimed for recovery from the deceased spouse's estate.
8 "Homestead", as used in this paragraph, means the dwelling
9 house and contiguous real estate occupied by a surviving spouse
10 or relative, as defined by the rules and regulations of the
11 Illinois Department of Public Aid, regardless of the value of
12 the property.

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

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

1 certifications of in-service training completed to their
2 employees.

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

12 The Department on Aging and the Department of Human
13 Services shall cooperate in the development and submission of
14 an annual report on programs and services provided under this
15 Section. Such joint report shall be filed with the Governor and
16 the General Assembly on or before September 30 each year.

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

27 Those persons previously found eligible for receiving
28 non-institutional services whose services were discontinued
29 under the Emergency Budget Act of Fiscal Year 1992, and who do
30 not meet the eligibility standards in effect on or after July
31 1, 1992, shall remain ineligible on and after July 1, 1992.
32 Those persons previously not required to cost-share and who
33 were required to cost-share effective March 1, 1992, shall
34 continue to meet cost-share requirements on and after July 1,
35 1992. Beginning July 1, 1992, all clients will be required to
36 meet eligibility, cost-share, and other requirements and will

1 have services discontinued or altered when they fail to meet
2 these requirements.

3 (Source: P.A. 92-597, eff. 6-28-02; 93-85, eff. 1-1-04; revised
4 12-6-03.)

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