



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0355

Introduced 1/21/2005, by Rep. Sidney H. Mathias

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Consumer-Directed Care Act. Requires the Illinois Department on Aging, in conjunction with the Illinois Department of Public Aid, the Illinois Department of Public Health, and the Illinois Department of Human Services, to establish the consumer-directed care program as a demonstration program. Provides eligibility requirements for those enrolled in the program. Provides that consumers enrolled in the program shall be given a monthly budget allowance based on the results of their assessed functional needs and the financial resources of the program. Provides that consumers may use the budget allowance to pay only for home and community-based services that meet the consumer's long-term care needs and that are a cost-efficient use of funds. Sets forth the roles and responsibilities for consumers, State agencies, and fiscal intermediaries in administrating the program. Requires that all persons who render care under this Act must comply with the requirements of the Health Care Worker Background Check Act. Requires the Department on Aging to submit an annual report to the General Assembly. Repeals the Act on January 1, 2010.

LRB094 03765 DRJ 33774 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning health care.

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

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Consumer-Directed Care Act.

6 Section 5. Legislative findings. The General Assembly  
7 finds that alternatives to institutional care, such as in-home  
8 and community-based care, should be encouraged. The General  
9 Assembly finds that giving recipients of in-home and  
10 community-based services the opportunity to select the  
11 services they need and the providers they want, including  
12 family and friends, enhances their sense of dignity and  
13 autonomy. The General Assembly also finds that providing  
14 consumers choice and control, as tested in current research and  
15 demonstration projects, has been beneficial and should be  
16 developed further and implemented statewide.

17 Section 10. Legislative intent. It is the intent of the  
18 General Assembly to nurture the autonomy of those citizens of  
19 the State, of all ages, who have disabilities by providing the  
20 long-term care services they need in the least restrictive and  
21 appropriate setting. It is the intent of the General Assembly  
22 to give these individuals more choices in and greater control  
23 over the purchased long-term care services that they receive.

24 Section 15. Definitions. In this Act:

25 "Budget allowance" means the amount of money made available  
26 each month to a consumer to purchase needed long-term care  
27 services, based on the results of a functional needs  
28 assessment.

29 "Consultant" means an individual who provides technical  
30 assistance to consumers in meeting their responsibilities

1 under this Act.

2 "Consumer" means a person who has chosen to participate in  
3 the program, has met the enrollment requirements, and has  
4 received an approved budget allowance.

5 "Department" means the Illinois Department on Aging.

6 "Fiscal intermediary" means an entity approved by the  
7 Department that helps the consumer manage the consumer's budget  
8 allowance, retains the funds, processes employment  
9 information, if any, and tax information, reviews records to  
10 ensure correctness, writes paychecks to providers, and  
11 delivers paychecks to the consumer for distribution to  
12 providers and caregivers.

13 "Provider" means (i) a person licensed or otherwise  
14 permitted to render services eligible for reimbursement under  
15 this Act for whom the consumer is not the employer of record or  
16 (ii) a consumer-employed caregiver for whom the consumer is the  
17 employer of record.

18 "Representative" means an uncompensated individual  
19 designated by the consumer to assist in managing the consumer's  
20 budget allowance and needed services.

21 Section 20. Program established. Beginning July 1, 2006,  
22 the Department, in conjunction with the Illinois Department of  
23 Public Aid, the Illinois Department of Public Health, and the  
24 Illinois Department of Human Services, shall establish as a  
25 demonstration program the consumer-directed care program,  
26 which shall be based on the principles of consumer choice and  
27 control. The Department shall implement the demonstration  
28 program upon federal approval. The program shall allow enrolled  
29 persons to choose the providers of services and to direct the  
30 delivery of services, to best meet their long-term care needs.  
31 The program must operate within the funds appropriated.

32 Section 25. Eligibility and enrollment. Persons who are  
33 enrolled in a Medicaid home and community-based waiver program  
34 and are who able to direct their own care or to designate an

1 eligible representative may choose to participate in the  
2 consumer-directed care program.

3 Section 30. Budget allowances. Consumers enrolled in the  
4 program shall be given a monthly budget allowance based on the  
5 results of their assessed functional needs and the financial  
6 resources of the program. Consumers shall receive the budget  
7 allowance directly from a Department-approved fiscal  
8 intermediary. Each participating State agency shall develop  
9 purchasing guidelines to assist consumers in using the budget  
10 allowance to purchase needed and cost-effective services. The  
11 Department shall approve all purchasing guidelines.

12 Section 35. Services. Consumers may use the budget  
13 allowance to pay only for home and community-based services  
14 that meet the consumer's long-term care needs and that are a  
15 cost-efficient use of funds. These services may include, but  
16 are not limited to, the following:

17 (1) Personal care.

18 (2) Homemaking and chores, including housework, meals,  
19 shopping, and transportation.

20 (3) Home modifications and assistive devices that may  
21 increase the consumer's independence or make it possible to  
22 avoid institutional placement.

23 (4) Assistance in taking self-administered medication.

24 (5) Day care and respite care services, including those  
25 provided by nursing home facilities or by adult day care  
26 facilities.

27 (6) Personal care and support services provided in an  
28 assisted living facility.

29 Section 40. Consumer roles and responsibilities.

30 (a) Consumers shall be allowed to choose the providers of  
31 services, as well as when and how the services are provided.  
32 Providers may include a consumer's neighbor, friend, spouse, or  
33 relative.

1 (b) In cases where a consumer is the employer of record,  
2 the consumer's roles and responsibilities include, but are not  
3 limited to, the following:

4 (1) Developing a job description.

5 (2) Selecting caregivers and submitting information  
6 for the background screening as required by law.

7 (3) Communicating needs, preferences, and expectations  
8 about services being purchased.

9 (4) Providing the fiscal intermediary with all  
10 information necessary for provider payments and tax  
11 requirements.

12 (5) Ending the employment of an unsatisfactory  
13 caregiver.

14 (c) In cases where a consumer is not the employer of  
15 record, the consumer's roles and responsibilities include, but  
16 are not limited to, the following:

17 (1) Communicating needs, preferences, and expectations  
18 about services being purchased.

19 (2) Ending the services of an unsatisfactory provider.

20 (3) Providing the fiscal agent with all information  
21 necessary for provider payments and tax requirements.

22 Section 45. Agency and Department roles and  
23 responsibilities. The Department's and the other participating  
24 State agencies' roles and responsibilities include, but are not  
25 limited to, the following:

26 (1) Assessing each consumer's functional needs,  
27 helping with the service plan, and providing ongoing  
28 assistance with the service plan.

29 (2) Offering the services of consultants to provide  
30 training, technical assistance, and support to the  
31 consumer.

32 (3) Completing the background screening for providers.

33 (4) Approving fiscal intermediaries.

34 (5) Establishing the minimum qualifications for all  
35 caregivers and providers and being the final arbiter of the

1 fitness of any individual to be a caregiver or provider.

2 Section 50. Fiscal intermediary roles and  
3 responsibilities. The fiscal intermediary's roles and  
4 responsibilities include, but are not limited to, the  
5 following:

6 (1) Providing recordkeeping services.

7 (2) Retaining the consumer-directed care funds,  
8 processing employment and tax information, if any,  
9 reviewing records to ensure correctness, writing paychecks  
10 to providers, and delivering paychecks to the consumer for  
11 distribution.

12 Section 55. Background screening requirements. All persons  
13 who render care under this Act must comply with the  
14 requirements of the Health Care Worker Background Check Act.

15 Section 60. Rules; federal waivers. The Department and the  
16 other participating State agencies may adopt and enforce rules  
17 concerning the consumer-directed care program. The Department  
18 shall take all necessary action to ensure State compliance with  
19 federal regulations. The Department shall apply for any  
20 necessary federal waivers or waiver amendments needed to  
21 implement the program.

22 Section 65. Reviews and reports. The Department and all  
23 other participating State agencies shall each, on an ongoing  
24 basis, review and assess the implementation of the  
25 consumer-directed care program. By January 15 of each year,  
26 beginning in 2006, the Department shall submit a written report  
27 to the General Assembly that includes the Department's and all  
28 other State agencies' review of the program and recommendations  
29 for improvements to the program.

30 Section 70. Repeal. This Act is repealed on January 1,  
31 2010.