



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0818

Introduced 2/2/2005, by Rep. Jack McGuire

SYNOPSIS AS INTRODUCED:

20 ILCS 2405/3

from Ch. 23, par. 3434

Amends the Disabled Persons Rehabilitation Act. Provides that the Department of Human Services shall establish and maintain a publicly accessible online registry of all homemakers who are currently employed through a Community Care Program homemaker provider. Sets forth the requirements for the registry, including: (i) the name of the homemaker, (ii) his or her current address, (iii) the date and location of the pre-service training completed by the individual, (iv) the date of the individual's last criminal background check, and (v) the date and location of all in-service training completed by the individual. Provides that the Department shall update this registry on a quarterly basis. Effective January 1, 2006.

LRB094 07531 RSP 37698 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Disabled Persons Rehabilitation Act is
5 amended by changing Section 3 as follows:

6 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

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

9 (a) To co-operate with the federal government in the
10 administration of the provisions of the federal Rehabilitation
11 Act of 1973, as amended, of the Workforce Investment Act of
12 1998, and of the federal Social Security Act to the extent and
13 in the manner provided in these Acts.

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

24 (c) (Blank).

25 (d) To report in writing, to the Governor, annually on or
26 before the first day of December, and at such other times and
27 in such manner and upon such subjects as the Governor may
28 require. The annual report shall contain (1) a statement of the
29 existing condition of comprehensive rehabilitation services,
30 habilitation and rehabilitation in the State; (2) a statement
31 of suggestions and recommendations with reference to the
32 development of comprehensive rehabilitation services,

1 habilitation and rehabilitation in the State; and (3) an
2 itemized statement of the amounts of money received from
3 federal, State and other sources, and of the objects and
4 purposes to which the respective items of these several amounts
5 have been devoted.

6 (e) (Blank).

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

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

28 The Department shall establish eligibility standards for
29 such services taking into consideration the unique economic and
30 social needs of the population for whom they are to be
31 provided. Such eligibility standards may be based on the
32 recipient's ability to pay for services; provided, however,
33 that any portion of a person's income that is equal to or less
34 than the "protected income" level shall not be considered by
35 the Department in determining eligibility. The "protected
36 income" level shall be determined by the Department, shall

1 never be less than the federal poverty standard, and shall be
2 adjusted each year to reflect changes in the Consumer Price
3 Index For All Urban Consumers as determined by the United
4 States Department of Labor. Additionally, in determining the
5 amount and nature of services for which a person may qualify,
6 consideration shall not be given to the value of cash, property
7 or other assets held in the name of the person's spouse
8 pursuant to a written agreement dividing marital property into
9 equal but separate shares or pursuant to a transfer of the
10 person's interest in a home to his spouse, provided that the
11 spouse's share of the marital property is not made available to
12 the person seeking such services.

13 The services shall be provided to eligible persons to
14 prevent unnecessary or premature institutionalization, to the
15 extent that the cost of the services, together with the other
16 personal maintenance expenses of the persons, are reasonably
17 related to the standards established for care in a group
18 facility appropriate to their condition.

19 The Department shall establish and maintain a publicly
20 accessible online registry of all homemakers who are currently
21 employed through a Community Care Program homemaker provider.
22 The registry shall include the name of the homemaker, his or
23 her current address and phone number, the date and location of
24 the pre-service training completed by the individual, the date
25 of the individual's last criminal background check, and the
26 date and location of all in-service training completed by the
27 individual. The Department shall update this registry
28 quarterly.

29 These non-institutional services, pilot projects or
30 experimental facilities may be provided as part of or in
31 addition to those authorized by federal law or those funded and
32 administered by the Illinois Department on Aging.

33 Personal care attendants shall be paid:

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

35 (ii) A \$5.30 per hour minimum rate beginning July 1,

36 1997.

1 (iii) A \$5.40 per hour minimum rate beginning July 1,
2 1998.

3 Solely for the purposes of coverage under the Illinois
4 Public Labor Relations Act (5 ILCS 315/), personal care
5 attendants and personal assistants providing services under
6 the Department's Home Services Program shall be considered to
7 be public employees and the State of Illinois shall be
8 considered to be their employer as of the effective date of
9 this amendatory Act of the 93rd General Assembly, but not
10 before. The State shall engage in collective bargaining with an
11 exclusive representative of personal care attendants and
12 personal assistants working under the Home Services Program
13 concerning their terms and conditions of employment that are
14 within the State's control. Nothing in this paragraph shall be
15 understood to limit the right of the persons receiving services
16 defined in this Section to hire and fire personal care
17 attendants and personal assistants or supervise them within the
18 limitations set by the Home Services Program. The State shall
19 not be considered to be the employer of personal care
20 attendants and personal assistants for any purposes not
21 specifically provided in this amendatory Act of the 93rd
22 General Assembly, including but not limited to, purposes of
23 vicarious liability in tort and purposes of statutory
24 retirement or health insurance benefits. Personal care
25 attendants and personal assistants shall not be covered by the
26 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

27 The Department shall execute, relative to the nursing home
28 prescreening project, as authorized by Section 4.03 of the
29 Illinois Act on the Aging, written inter-agency agreements with
30 the Department on Aging and the Department of Public Aid, to
31 effect the following: (i) intake procedures and common
32 eligibility criteria for those persons who are receiving
33 non-institutional services; and (ii) the establishment and
34 development of non-institutional services in areas of the State
35 where they are not currently available or are undeveloped. On
36 and after July 1, 1996, all nursing home prescreenings for

1 individuals 18 through 59 years of age shall be conducted by
2 the Department.

3 The Department is authorized to establish a system of
4 recipient cost-sharing for services provided under this
5 Section. The cost-sharing shall be based upon the recipient's
6 ability to pay for services, but in no case shall the
7 recipient's share exceed the actual cost of the services
8 provided. Protected income shall not be considered by the
9 Department in its determination of the recipient's ability to
10 pay a share of the cost of services. The level of cost-sharing
11 shall be adjusted each year to reflect changes in the
12 "protected income" level. The Department shall deduct from the
13 recipient's share of the cost of services any money expended by
14 the recipient for disability-related expenses.

15 The Department, or the Department's authorized
16 representative, shall recover the amount of moneys expended for
17 services provided to or in behalf of a person under this
18 Section by a claim against the person's estate or against the
19 estate of the person's surviving spouse, but no recovery may be
20 had until after the death of the surviving spouse, if any, and
21 then only at such time when there is no surviving child who is
22 under age 21, blind, or permanently and totally disabled. This
23 paragraph, however, shall not bar recovery, at the death of the
24 person, of moneys for services provided to the person or in
25 behalf of the person under this Section to which the person was
26 not entitled; provided that such recovery shall not be enforced
27 against any real estate while it is occupied as a homestead by
28 the surviving spouse or other dependent, if no claims by other
29 creditors have been filed against the estate, or, if such
30 claims have been filed, they remain dormant for failure of
31 prosecution or failure of the claimant to compel administration
32 of the estate for the purpose of payment. This paragraph shall
33 not bar recovery from the estate of a spouse, under Sections
34 1915 and 1924 of the Social Security Act and Section 5-4 of the
35 Illinois Public Aid Code, who precedes a person receiving
36 services under this Section in death. All moneys for services

1 paid to or in behalf of the person under this Section shall be
2 claimed for recovery from the deceased spouse's estate.
3 "Homestead", as used in this paragraph, means the dwelling
4 house and contiguous real estate occupied by a surviving spouse
5 or relative, as defined by the rules and regulations of the
6 Illinois Department of Public Aid, regardless of the value of
7 the property.

8 The Department and the Department on Aging shall cooperate
9 in the development and submission of an annual report on
10 programs and services provided under this Section. Such joint
11 report shall be filed with the Governor and the General
12 Assembly on or before March 30 each year.

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

22 (g) To establish such subdivisions of the Department as
23 shall be desirable and assign to the various subdivisions the
24 responsibilities and duties placed upon the Department by law.

25 (h) To cooperate and enter into any necessary agreements
26 with the Department of Employment Security for the provision of
27 job placement and job referral services to clients of the
28 Department, including job service registration of such clients
29 with Illinois Employment Security offices and making job
30 listings maintained by the Department of Employment Security
31 available to such clients.

32 (i) To possess all powers reasonable and necessary for the
33 exercise and administration of the powers, duties and
34 responsibilities of the Department which are provided for by
35 law.

36 (j) To establish a procedure whereby new providers of

1 personal care attendant services shall submit vouchers to the
2 State for payment two times during their first month of
3 employment and one time per month thereafter. In no case shall
4 the Department pay personal care attendants an hourly wage that
5 is less than the federal minimum wage.

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

10 (l) To establish, operate and maintain a Statewide Housing
11 Clearinghouse of information on available, government
12 subsidized housing accessible to disabled persons and
13 available privately owned housing accessible to disabled
14 persons. The information shall include but not be limited to
15 the location, rental requirements, access features and
16 proximity to public transportation of available housing. The
17 Clearinghouse shall consist of at least a computerized database
18 for the storage and retrieval of information and a separate or
19 shared toll free telephone number for use by those seeking
20 information from the Clearinghouse. Department offices and
21 personnel throughout the State shall also assist in the
22 operation of the Statewide Housing Clearinghouse. Cooperation
23 with local, State and federal housing managers shall be sought
24 and extended in order to frequently and promptly update the
25 Clearinghouse's information.

26 (m) To assure that the names and case records of persons
27 who received or are receiving services from the Department,
28 including persons receiving vocational rehabilitation, home
29 services, or other services, and those attending one of the
30 Department's schools or other supervised facility shall be
31 confidential and not be open to the general public. Those case
32 records and reports or the information contained in those
33 records and reports shall be disclosed by the Director only to
34 proper law enforcement officials, individuals authorized by a
35 court, the General Assembly or any committee or commission of
36 the General Assembly, and other persons and for reasons as the

1 Director designates by rule. Disclosure by the Director may be
2 only in accordance with other applicable law.

3 (Source: P.A. 92-84, eff. 7-1-02; 93-204, eff. 7-16-03.)

4 Section 99. Effective date. This Act takes effect January
5 1, 2006.