

1 AN ACT concerning health.

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 FY2006
5 Budget Implementation (Human Services) Act.

6 Section 5. Purpose. It is the purpose of this Act to
7 implement the Governor's FY2006 budget recommendations
8 concerning human services.

9 Section 10. The Illinois Administrative Procedure Act is
10 amended by changing Section 5-45 as follows:

11 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

12 Sec. 5-45. Emergency rulemaking.

13 (a) "Emergency" means the existence of any situation that
14 any agency finds reasonably constitutes a threat to the public
15 interest, safety, or welfare.

16 (b) If any agency finds that an emergency exists that
17 requires adoption of a rule upon fewer days than is required by
18 Section 5-40 and states in writing its reasons for that
19 finding, the agency may adopt an emergency rule without prior
20 notice or hearing upon filing a notice of emergency rulemaking
21 with the Secretary of State under Section 5-70. The notice
22 shall include the text of the emergency rule and shall be
23 published in the Illinois Register. Consent orders or other
24 court orders adopting settlements negotiated by an agency may
25 be adopted under this Section. Subject to applicable
26 constitutional or statutory provisions, an emergency rule
27 becomes effective immediately upon filing under Section 5-65 or
28 at a stated date less than 10 days thereafter. The agency's
29 finding and a statement of the specific reasons for the finding
30 shall be filed with the rule. The agency shall take reasonable

1 and appropriate measures to make emergency rules known to the
2 persons who may be affected by them.

3 (c) An emergency rule may be effective for a period of not
4 longer than 150 days, but the agency's authority to adopt an
5 identical rule under Section 5-40 is not precluded. No
6 emergency rule may be adopted more than once in any 24 month
7 period, except that this limitation on the number of emergency
8 rules that may be adopted in a 24 month period does not apply
9 to (i) emergency rules that make additions to and deletions
10 from the Drug Manual under Section 5-5.16 of the Illinois
11 Public Aid Code or the generic drug formulary under Section
12 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
13 emergency rules adopted by the Pollution Control Board before
14 July 1, 1997 to implement portions of the Livestock Management
15 Facilities Act, ~~or~~ or (iii) emergency rules adopted by the
16 Illinois Department of Public Health under subsections (a)
17 through (i) of Section 2 of the Department of Public Health Act
18 when necessary to protect the public's health. Two or more
19 emergency rules having substantially the same purpose and
20 effect shall be deemed to be a single rule for purposes of this
21 Section.

22 (d) In order to provide for the expeditious and timely
23 implementation of the State's fiscal year 1999 budget,
24 emergency rules to implement any provision of Public Act 90-587
25 or 90-588 or any other budget initiative for fiscal year 1999
26 may be adopted in accordance with this Section by the agency
27 charged with administering that provision or initiative,
28 except that the 24-month limitation on the adoption of
29 emergency rules and the provisions of Sections 5-115 and 5-125
30 do not apply to rules adopted under this subsection (d). The
31 adoption of emergency rules authorized by this subsection (d)
32 shall be deemed to be necessary for the public interest,
33 safety, and welfare.

34 (e) In order to provide for the expeditious and timely
35 implementation of the State's fiscal year 2000 budget,
36 emergency rules to implement any provision of this amendatory

1 Act of the 91st General Assembly or any other budget initiative
2 for fiscal year 2000 may be adopted in accordance with this
3 Section by the agency charged with administering that provision
4 or initiative, except that the 24-month limitation on the
5 adoption of emergency rules and the provisions of Sections
6 5-115 and 5-125 do not apply to rules adopted under this
7 subsection (e). The adoption of emergency rules authorized by
8 this subsection (e) shall be deemed to be necessary for the
9 public interest, safety, and welfare.

10 (f) In order to provide for the expeditious and timely
11 implementation of the State's fiscal year 2001 budget,
12 emergency rules to implement any provision of this amendatory
13 Act of the 91st General Assembly or any other budget initiative
14 for fiscal year 2001 may be adopted in accordance with this
15 Section by the agency charged with administering that provision
16 or initiative, except that the 24-month limitation on the
17 adoption of emergency rules and the provisions of Sections
18 5-115 and 5-125 do not apply to rules adopted under this
19 subsection (f). The adoption of emergency rules authorized by
20 this subsection (f) shall be deemed to be necessary for the
21 public interest, safety, and welfare.

22 (g) In order to provide for the expeditious and timely
23 implementation of the State's fiscal year 2002 budget,
24 emergency rules to implement any provision of this amendatory
25 Act of the 92nd General Assembly or any other budget initiative
26 for fiscal year 2002 may be adopted in accordance with this
27 Section by the agency charged with administering that provision
28 or initiative, except that the 24-month limitation on the
29 adoption of emergency rules and the provisions of Sections
30 5-115 and 5-125 do not apply to rules adopted under this
31 subsection (g). The adoption of emergency rules authorized by
32 this subsection (g) shall be deemed to be necessary for the
33 public interest, safety, and welfare.

34 (h) In order to provide for the expeditious and timely
35 implementation of the State's fiscal year 2003 budget,
36 emergency rules to implement any provision of this amendatory

1 Act of the 92nd General Assembly or any other budget initiative
2 for fiscal year 2003 may be adopted in accordance with this
3 Section by the agency charged with administering that provision
4 or initiative, except that the 24-month limitation on the
5 adoption of emergency rules and the provisions of Sections
6 5-115 and 5-125 do not apply to rules adopted under this
7 subsection (h). The adoption of emergency rules authorized by
8 this subsection (h) shall be deemed to be necessary for the
9 public interest, safety, and welfare.

10 (i) In order to provide for the expeditious and timely
11 implementation of the State's fiscal year 2004 budget,
12 emergency rules to implement any provision of this amendatory
13 Act of the 93rd General Assembly or any other budget initiative
14 for fiscal year 2004 may be adopted in accordance with this
15 Section by the agency charged with administering that provision
16 or initiative, except that the 24-month limitation on the
17 adoption of emergency rules and the provisions of Sections
18 5-115 and 5-125 do not apply to rules adopted under this
19 subsection (i). The adoption of emergency rules authorized by
20 this subsection (i) shall be deemed to be necessary for the
21 public interest, safety, and welfare.

22 (j) In order to provide for the expeditious and timely
23 implementation of the provisions of the State's fiscal year
24 2005 budget as provided under the Fiscal Year 2005 Budget
25 Implementation (Human Services) Act, emergency rules to
26 implement any provision of the Fiscal Year 2005 Budget
27 Implementation (Human Services) Act may be adopted in
28 accordance with this Section by the agency charged with
29 administering that provision, except that the 24-month
30 limitation on the adoption of emergency rules and the
31 provisions of Sections 5-115 and 5-125 do not apply to rules
32 adopted under this subsection (j). The Department of Public Aid
33 may also adopt rules under this subsection (j) necessary to
34 administer the Illinois Public Aid Code and the Children's
35 Health Insurance Program Act. The adoption of emergency rules
36 authorized by this subsection (j) shall be deemed to be

1 necessary for the public interest, safety, and welfare.

2 (k) In order to provide for the expeditious and timely
3 implementation of the provisions of the State's fiscal year
4 2006 budget, emergency rules to implement any provision of this
5 amendatory Act of the 94th General Assembly or any other budget
6 initiative for fiscal year 2006 may be adopted in accordance
7 with this Section by the agency charged with administering that
8 provision or initiative, except that the 24-month limitation on
9 the adoption of emergency rules and the provisions of Sections
10 5-115 and 5-125 do not apply to rules adopted under this
11 subsection (k). The Department of Public Aid may also adopt
12 rules under this subsection (k) necessary to administer the
13 Illinois Public Aid Code, the Senior Citizens and Disabled
14 Persons Property Tax Relief and Pharmaceutical Assistance Act,
15 the Senior Citizens and Disabled Persons Prescription Drug
16 Discount Program Act, and the Children's Health Insurance
17 Program Act. The adoption of emergency rules authorized by this
18 subsection (k) shall be deemed to be necessary for the public
19 interest, safety, and welfare.

20 (Source: P.A. 92-10, eff. 6-11-01; 92-597, eff. 6-28-02; 93-20,
21 eff. 6-20-03; 93-829, eff. 7-28-04; 93-841, eff. 7-30-04;
22 revised 10-25-04.)

23 Section 12. The Illinois Act on the Aging is amended by
24 changing Section 4.02 as follows:

25 (20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

26 Sec. 4.02. The Department shall establish a program of
27 services to prevent unnecessary institutionalization of
28 persons age 60 and older in need of long term care or who are
29 established as persons who suffer from Alzheimer's disease or a
30 related disorder under the Alzheimer's Disease Assistance Act,
31 thereby enabling them to remain in their own homes or in other
32 living arrangements. Such preventive services, which may be
33 coordinated with other programs for the aged and monitored by
34 area agencies on aging in cooperation with the Department, may

1 include, but are not limited to, any or all of the following:

2 (a) home health services;

3 (b) home nursing services;

4 (c) homemaker services;

5 (d) chore and housekeeping services;

6 (e) day care services;

7 (f) home-delivered meals;

8 (g) education in self-care;

9 (h) personal care services;

10 (i) adult day health services;

11 (j) habilitation services;

12 (k) respite care;

13 (k-5) community reintegration services;

14 (l) other nonmedical social services that may enable
15 the person to become self-supporting; or

16 (m) clearinghouse for information provided by senior
17 citizen home owners who want to rent rooms to or share
18 living space with other senior citizens.

19 The Department shall establish eligibility standards for
20 such services taking into consideration the unique economic and
21 social needs of the target population for whom they are to be
22 provided. Such eligibility standards shall be based on the
23 recipient's ability to pay for services; provided, however,
24 that in determining the amount and nature of services for which
25 a person may qualify, consideration shall not be given to the
26 value of cash, property or other assets held in the name of the
27 person's spouse pursuant to a written agreement dividing
28 marital property into equal but separate shares or pursuant to
29 a transfer of the person's interest in a home to his spouse,
30 provided that the spouse's share of the marital property is not
31 made available to the person seeking such services.

32 Beginning July 1, 2002, the Department shall require as a
33 condition of eligibility that all financially eligible
34 applicants and recipients apply for medical assistance under
35 Article V of the Illinois Public Aid Code in accordance with
36 rules promulgated by the Department.

1 The Department shall, in conjunction with the Department of
2 Public Aid, seek appropriate amendments under Sections 1915 and
3 1924 of the Social Security Act. The purpose of the amendments
4 shall be to extend eligibility for home and community based
5 services under Sections 1915 and 1924 of the Social Security
6 Act to persons who transfer to or for the benefit of a spouse
7 those amounts of income and resources allowed under Section
8 1924 of the Social Security Act. Subject to the approval of
9 such amendments, the Department shall extend the provisions of
10 Section 5-4 of the Illinois Public Aid Code to persons who, but
11 for the provision of home or community-based services, would
12 require the level of care provided in an institution, as is
13 provided for in federal law. Those persons no longer found to
14 be eligible for receiving noninstitutional services due to
15 changes in the eligibility criteria shall be given 60 days
16 notice prior to actual termination. Those persons receiving
17 notice of termination may contact the Department and request
18 the determination be appealed at any time during the 60 day
19 notice period. With the exception of the lengthened notice and
20 time frame for the appeal request, the appeal process shall
21 follow the normal procedure. In addition, each person affected
22 regardless of the circumstances for discontinued eligibility
23 shall be given notice and the opportunity to purchase the
24 necessary services through the Community Care Program. If the
25 individual does not elect to purchase services, the Department
26 shall advise the individual of alternative services. The target
27 population identified for the purposes of this Section are
28 persons age 60 and older with an identified service need.
29 Priority shall be given to those who are at imminent risk of
30 institutionalization. The services shall be provided to
31 eligible persons age 60 and older to the extent that the cost
32 of the services together with the other personal maintenance
33 expenses of the persons are reasonably related to the standards
34 established for care in a group facility appropriate to the
35 person's condition. These non-institutional services, pilot
36 projects or experimental facilities may be provided as part of

1 or in addition to those authorized by federal law or those
2 funded and administered by the Department of Human Services.
3 The Departments of Human Services, Public Aid, Public Health,
4 Veterans' Affairs, and Commerce and Economic Opportunity and
5 other appropriate agencies of State, federal and local
6 governments shall cooperate with the Department on Aging in the
7 establishment and development of the non-institutional
8 services. The Department shall require an annual audit from all
9 chore/housekeeping and homemaker vendors contracting with the
10 Department under this Section. The annual audit shall assure
11 that each audited vendor's procedures are in compliance with
12 Department's financial reporting guidelines requiring an
13 administrative and employee wage and benefits cost split as
14 defined in administrative rules ~~a 27% administrative cost split~~
15 ~~and a 73% employee wages and benefits cost split~~. The audit is
16 a public record under the Freedom of Information Act. The
17 Department shall execute, relative to the nursing home
18 prescreening project, written inter-agency agreements with the
19 Department of Human Services and the Department of Public Aid,
20 to effect the following: (1) intake procedures and common
21 eligibility criteria for those persons who are receiving
22 non-institutional services; and (2) the establishment and
23 development of non-institutional services in areas of the State
24 where they are not currently available or are undeveloped. On
25 and after July 1, 1996, all nursing home prescreenings for
26 individuals 60 years of age or older shall be conducted by the
27 Department.

28 The Department is authorized to establish a system of
29 recipient copayment for services provided under this Section,
30 such copayment to be based upon the recipient's ability to pay
31 but in no case to exceed the actual cost of the services
32 provided. Additionally, any portion of a person's income which
33 is equal to or less than the federal poverty standard shall not
34 be considered by the Department in determining the copayment.
35 The level of such copayment shall be adjusted whenever
36 necessary to reflect any change in the officially designated

1 federal poverty standard.

2 The Department, or the Department's authorized
3 representative, shall recover the amount of moneys expended for
4 services provided to or in behalf of a person under this
5 Section by a claim against the person's estate or against the
6 estate of the person's surviving spouse, but no recovery may be
7 had until after the death of the surviving spouse, if any, and
8 then only at such time when there is no surviving child who is
9 under age 21, blind, or permanently and totally disabled. This
10 paragraph, however, shall not bar recovery, at the death of the
11 person, of moneys for services provided to the person or in
12 behalf of the person under this Section to which the person was
13 not entitled; provided that such recovery shall not be enforced
14 against any real estate while it is occupied as a homestead by
15 the surviving spouse or other dependent, if no claims by other
16 creditors have been filed against the estate, or, if such
17 claims have been filed, they remain dormant for failure of
18 prosecution or failure of the claimant to compel administration
19 of the estate for the purpose of payment. This paragraph shall
20 not bar recovery from the estate of a spouse, under Sections
21 1915 and 1924 of the Social Security Act and Section 5-4 of the
22 Illinois Public Aid Code, who precedes a person receiving
23 services under this Section in death. All moneys for services
24 paid to or in behalf of the person under this Section shall be
25 claimed for recovery from the deceased spouse's estate.
26 "Homestead", as used in this paragraph, means the dwelling
27 house and contiguous real estate occupied by a surviving spouse
28 or relative, as defined by the rules and regulations of the
29 Illinois Department of Public Aid, regardless of the value of
30 the property.

31 The Department shall develop procedures to enhance
32 availability of services on evenings, weekends, and on an
33 emergency basis to meet the respite needs of caregivers.
34 Procedures shall be developed to permit the utilization of
35 services in successive blocks of 24 hours up to the monthly
36 maximum established by the Department. Workers providing these

1 services shall be appropriately trained.

2 Beginning on the effective date of this Amendatory Act of
3 1991, no person may perform chore/housekeeping and homemaker
4 services under a program authorized by this Section unless that
5 person has been issued a certificate of pre-service to do so by
6 his or her employing agency. Information gathered to effect
7 such certification shall include (i) the person's name, (ii)
8 the date the person was hired by his or her current employer,
9 and (iii) the training, including dates and levels. Persons
10 engaged in the program authorized by this Section before the
11 effective date of this amendatory Act of 1991 shall be issued a
12 certificate of all pre- and in-service training from his or her
13 employer upon submitting the necessary information. The
14 employing agency shall be required to retain records of all
15 staff pre- and in-service training, and shall provide such
16 records to the Department upon request and upon termination of
17 the employer's contract with the Department. In addition, the
18 employing agency is responsible for the issuance of
19 certifications of in-service training completed to their
20 employees.

21 The Department is required to develop a system to ensure
22 that persons working as homemakers and chore housekeepers
23 receive increases in their wages when the federal minimum wage
24 is increased by requiring vendors to certify that they are
25 meeting the federal minimum wage statute for homemakers and
26 chore housekeepers. An employer that cannot ensure that the
27 minimum wage increase is being given to homemakers and chore
28 housekeepers shall be denied any increase in reimbursement
29 costs.

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

35 The requirement for reporting to the General Assembly shall
36 be satisfied by filing copies of the report with the Speaker,

1 the Minority Leader and the Clerk of the House of
2 Representatives and the President, the Minority Leader and the
3 Secretary of the Senate and the Legislative Research Unit, as
4 required by Section 3.1 of the General Assembly Organization
5 Act and filing such additional copies with the State Government
6 Report Distribution Center for the General Assembly as is
7 required under paragraph (t) of Section 7 of the State Library
8 Act.

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

21 (Source: P.A. 92-597, eff. 6-28-02; 93-85, eff. 1-1-04; 93-902,
22 eff. 8-10-04.)

23 Section 15. The Children's Health Insurance Program Act is
24 amended by changing Section 30 as follows:

25 (215 ILCS 106/30)

26 Sec. 30. Cost sharing.

27 (a) Children enrolled in a health benefits program pursuant
28 to subdivision (a) (2) of Section 25 and persons enrolled in a
29 health benefits waiver program pursuant to Section 40 shall be
30 subject to the following cost sharing requirements:

31 (1) There shall be no co-payment required for well-baby
32 or well-child care, including age-appropriate
33 immunizations as required under federal law.

34 (2) Health insurance premiums for family members,

1 either children or adults, in families whose household
2 income is above 150% of the federal poverty level shall be
3 payable monthly, subject to rules promulgated by the
4 Department for grace periods and advance payments, and
5 shall be as follows:

6 (A) \$15 per month for one family member ~~child~~.

7 (B) \$25 per month for 2 family members ~~children~~.

8 (C) \$30 per month for 3 family members ~~or more~~
9 ~~children~~.

10 (D) \$35 per month for 4 family members.

11 (E) \$40 per month for 5 or more family members.

12 (3) Co-payments for children or adults in families
13 whose income is at or below 150% of the federal poverty
14 level, at a minimum and to the extent permitted under
15 federal law, shall be \$2 for all medical visits and
16 prescriptions provided under this Act.

17 (4) Co-payments for children or adults in families
18 whose income is above 150% of the federal poverty level, at
19 a minimum and to the extent permitted under federal law
20 shall be as follows:

21 (A) \$5 for medical visits.

22 (B) \$3 for generic prescriptions and \$5 for brand
23 name prescriptions.

24 (C) \$25 for emergency room use for a non-emergency
25 situation as defined by the Department by rule.

26 (5) The maximum amount of out-of-pocket expenses for
27 co-payments shall be \$100 per family per year.

28 (b) Individuals enrolled in a privately sponsored health
29 insurance plan pursuant to subdivision (a)(1) of Section 25
30 shall be subject to the cost sharing provisions as stated in
31 the privately sponsored health insurance plan.

32 (Source: P.A. 90-736, eff. 8-12-98; 91-266, eff. 7-23-99.)

33 Section 20. The Illinois Public Aid Code is amended by
34 changing Sections 5-5.4, 5-5.12, 5-11, and 12-4.35 as follows:

1 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

2 Sec. 5-5.4. Standards of Payment - Department of Public
3 Aid. The Department of Public Aid shall develop standards of
4 payment of skilled nursing and intermediate care services in
5 facilities providing such services under this Article which:

6 (1) Provide for the determination of a facility's payment
7 for skilled nursing and intermediate care services on a
8 prospective basis. The amount of the payment rate for all
9 nursing facilities certified by the Department of Public Health
10 under the Nursing Home Care Act as Intermediate Care for the
11 Developmentally Disabled facilities, Long Term Care for Under
12 Age 22 facilities, Skilled Nursing facilities, or Intermediate
13 Care facilities under the medical assistance program shall be
14 prospectively established annually on the basis of historical,
15 financial, and statistical data reflecting actual costs from
16 prior years, which shall be applied to the current rate year
17 and updated for inflation, except that the capital cost element
18 for newly constructed facilities shall be based upon projected
19 budgets. The annually established payment rate shall take
20 effect on July 1 in 1984 and subsequent years. No rate increase
21 and no update for inflation shall be provided on or after July
22 1, 1994 and before July 1, 2006 ~~2005~~, unless specifically
23 provided for in this Section. The changes made by this
24 amendatory Act of the 93rd General Assembly extending the
25 duration of the prohibition against a rate increase or update
26 for inflation are effective retroactive to July 1, 2004.

27 For facilities licensed by the Department of Public Health
28 under the Nursing Home Care Act as Intermediate Care for the
29 Developmentally Disabled facilities or Long Term Care for Under
30 Age 22 facilities, the rates taking effect on July 1, 1998
31 shall include an increase of 3%. For facilities licensed by the
32 Department of Public Health under the Nursing Home Care Act as
33 Skilled Nursing facilities or Intermediate Care facilities,
34 the rates taking effect on July 1, 1998 shall include an
35 increase of 3% plus \$1.10 per resident-day, as defined by the
36 Department.

1 For facilities licensed by the Department of Public Health
2 under the Nursing Home Care Act as Intermediate Care for the
3 Developmentally Disabled facilities or Long Term Care for Under
4 Age 22 facilities, the rates taking effect on July 1, 1999
5 shall include an increase of 1.6% plus \$3.00 per resident-day,
6 as defined by the Department. For facilities licensed by the
7 Department of Public Health under the Nursing Home Care Act as
8 Skilled Nursing facilities or Intermediate Care facilities,
9 the rates taking effect on July 1, 1999 shall include an
10 increase of 1.6% and, for services provided on or after October
11 1, 1999, shall be increased by \$4.00 per resident-day, as
12 defined by the Department.

13 For facilities licensed by the Department of Public Health
14 under the Nursing Home Care Act as Intermediate Care for the
15 Developmentally Disabled facilities or Long Term Care for Under
16 Age 22 facilities, the rates taking effect on July 1, 2000
17 shall include an increase of 2.5% per resident-day, as defined
18 by the Department. For facilities licensed by the Department of
19 Public Health under the Nursing Home Care Act as Skilled
20 Nursing facilities or Intermediate Care facilities, the rates
21 taking effect on July 1, 2000 shall include an increase of 2.5%
22 per resident-day, as defined by the Department.

23 For facilities licensed by the Department of Public Health
24 under the Nursing Home Care Act as skilled nursing facilities
25 or intermediate care facilities, a new payment methodology must
26 be implemented for the nursing component of the rate effective
27 July 1, 2003. The Department of Public Aid shall develop the
28 new payment methodology using the Minimum Data Set (MDS) as the
29 instrument to collect information concerning nursing home
30 resident condition necessary to compute the rate. The
31 Department of Public Aid shall develop the new payment
32 methodology to meet the unique needs of Illinois nursing home
33 residents while remaining subject to the appropriations
34 provided by the General Assembly. A transition period from the
35 payment methodology in effect on June 30, 2003 to the payment
36 methodology in effect on July 1, 2003 shall be provided for a

1 period not exceeding 2 years after implementation of the new
2 payment methodology as follows:

3 (A) For a facility that would receive a lower nursing
4 component rate per patient day under the new system than
5 the facility received effective on the date immediately
6 preceding the date that the Department implements the new
7 payment methodology, the nursing component rate per
8 patient day for the facility shall be held at the level in
9 effect on the date immediately preceding the date that the
10 Department implements the new payment methodology until a
11 higher nursing component rate of reimbursement is achieved
12 by that facility.

13 (B) For a facility that would receive a higher nursing
14 component rate per patient day under the payment
15 methodology in effect on July 1, 2003 than the facility
16 received effective on the date immediately preceding the
17 date that the Department implements the new payment
18 methodology, the nursing component rate per patient day for
19 the facility shall be adjusted.

20 (C) Notwithstanding paragraphs (A) and (B), the
21 nursing component rate per patient day for the facility
22 shall be adjusted subject to appropriations provided by the
23 General Assembly.

24 For facilities licensed by the Department of Public Health
25 under the Nursing Home Care Act as Intermediate Care for the
26 Developmentally Disabled facilities or Long Term Care for Under
27 Age 22 facilities, the rates taking effect on March 1, 2001
28 shall include a statewide increase of 7.85%, as defined by the
29 Department.

30 For facilities licensed by the Department of Public Health
31 under the Nursing Home Care Act as Intermediate Care for the
32 Developmentally Disabled facilities or Long Term Care for Under
33 Age 22 facilities, the rates taking effect on April 1, 2002
34 shall include a statewide increase of 2.0%, as defined by the
35 Department. This increase terminates on July 1, 2002; beginning
36 July 1, 2002 these rates are reduced to the level of the rates

1 in effect on March 31, 2002, as defined by the Department.

2 For facilities licensed by the Department of Public Health
3 under the Nursing Home Care Act as skilled nursing facilities
4 or intermediate care facilities, the rates taking effect on
5 July 1, 2001 shall be computed using the most recent cost
6 reports on file with the Department of Public Aid no later than
7 April 1, 2000, updated for inflation to January 1, 2001. For
8 rates effective July 1, 2001 only, rates shall be the greater
9 of the rate computed for July 1, 2001 or the rate effective on
10 June 30, 2001.

11 Notwithstanding any other provision of this Section, for
12 facilities licensed by the Department of Public Health under
13 the Nursing Home Care Act as skilled nursing facilities or
14 intermediate care facilities, the Illinois Department shall
15 determine by rule the rates taking effect on July 1, 2002,
16 which shall be 5.9% less than the rates in effect on June 30,
17 2002.

18 Notwithstanding any other provision of this Section, for
19 facilities licensed by the Department of Public Health under
20 the Nursing Home Care Act as skilled nursing facilities or
21 intermediate care facilities, if the payment methodologies
22 required under Section 5A-12 and the waiver granted under 42
23 CFR 433.68 are approved by the United States Centers for
24 Medicare and Medicaid Services, the rates taking effect on July
25 1, 2004 shall be 3.0% greater than the rates in effect on June
26 30, 2004. These rates shall take effect only upon approval and
27 implementation of the payment methodologies required under
28 Section 5A-12.

29 Notwithstanding any other provisions of this Section, for
30 facilities licensed by the Department of Public Health under
31 the Nursing Home Care Act as skilled nursing facilities or
32 intermediate care facilities, the rates taking effect on
33 January 1, 2005 shall be 3% more than the rates in effect on
34 December 31, 2004.

35 For facilities licensed by the Department of Public Health
36 under the Nursing Home Care Act as Intermediate Care for the

1 Developmentally Disabled facilities or as long-term care
2 facilities for residents under 22 years of age, the rates
3 taking effect on July 1, 2003 shall include a statewide
4 increase of 4%, as defined by the Department.

5 Notwithstanding any other provision of this Section, for
6 facilities licensed by the Department of Public Health under
7 the Nursing Home Care Act as skilled nursing facilities or
8 intermediate care facilities, effective January 1, 2005,
9 facility rates shall be increased by the difference between (i)
10 a facility's per diem property, liability, and malpractice
11 insurance costs as reported in the cost report filed with the
12 Department of Public Aid and used to establish rates effective
13 July 1, 2001 and (ii) those same costs as reported in the
14 facility's 2002 cost report. These costs shall be passed
15 through to the facility without caps or limitations, except for
16 adjustments required under normal auditing procedures.

17 Rates established effective each July 1 shall govern
18 payment for services rendered throughout that fiscal year,
19 except that rates established on July 1, 1996 shall be
20 increased by 6.8% for services provided on or after January 1,
21 1997. Such rates will be based upon the rates calculated for
22 the year beginning July 1, 1990, and for subsequent years
23 thereafter until June 30, 2001 shall be based on the facility
24 cost reports for the facility fiscal year ending at any point
25 in time during the previous calendar year, updated to the
26 midpoint of the rate year. The cost report shall be on file
27 with the Department no later than April 1 of the current rate
28 year. Should the cost report not be on file by April 1, the
29 Department shall base the rate on the latest cost report filed
30 by each skilled care facility and intermediate care facility,
31 updated to the midpoint of the current rate year. In
32 determining rates for services rendered on and after July 1,
33 1985, fixed time shall not be computed at less than zero. The
34 Department shall not make any alterations of regulations which
35 would reduce any component of the Medicaid rate to a level
36 below what that component would have been utilizing in the rate

1 effective on July 1, 1984.

2 (2) Shall take into account the actual costs incurred by
3 facilities in providing services for recipients of skilled
4 nursing and intermediate care services under the medical
5 assistance program.

6 (3) Shall take into account the medical and psycho-social
7 characteristics and needs of the patients.

8 (4) Shall take into account the actual costs incurred by
9 facilities in meeting licensing and certification standards
10 imposed and prescribed by the State of Illinois, any of its
11 political subdivisions or municipalities and by the U.S.
12 Department of Health and Human Services pursuant to Title XIX
13 of the Social Security Act.

14 The Department of Public Aid shall develop precise
15 standards for payments to reimburse nursing facilities for any
16 utilization of appropriate rehabilitative personnel for the
17 provision of rehabilitative services which is authorized by
18 federal regulations, including reimbursement for services
19 provided by qualified therapists or qualified assistants, and
20 which is in accordance with accepted professional practices.
21 Reimbursement also may be made for utilization of other
22 supportive personnel under appropriate supervision.

23 (Source: P.A. 92-10, eff. 6-11-01; 92-31, eff. 6-28-01; 92-597,
24 eff. 6-28-02; 92-651, eff. 7-11-02; 92-848, eff. 1-1-03; 93-20,
25 eff. 6-20-03; 93-649, eff. 1-8-04; 93-659, eff. 2-3-04; 93-841,
26 eff. 7-30-04; 93-1087, eff. 2-28-05.)

27 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

28 Sec. 5-5.12. Pharmacy payments.

29 (a) Every request submitted by a pharmacy for reimbursement
30 under this Article for prescription drugs provided to a
31 recipient of aid under this Article shall include the name of
32 the prescriber or an acceptable identification number as
33 established by the Department.

34 (b) Pharmacies providing prescription drugs under this
35 Article shall be reimbursed at a rate which shall include a

1 professional dispensing fee as determined by the Illinois
2 Department, plus the current acquisition cost of the
3 prescription drug dispensed. The Illinois Department shall
4 update its information on the acquisition costs of all
5 prescription drugs no less frequently than every 30 days.
6 However, the Illinois Department may set the rate of
7 reimbursement for the acquisition cost, by rule, at a
8 percentage of the current average wholesale acquisition cost.

9 (c) (Blank). ~~Reimbursement under this Article for~~
10 ~~prescription drugs shall be limited to reimbursement for 4~~
11 ~~brand name prescription drugs per patient per month. This~~
12 ~~subsection applies only if (i) the brand name drug was not~~
13 ~~prescribed for an acute or urgent condition, (ii) the~~
14 ~~brand name drug was not prescribed for Alzheimer's disease,~~
15 ~~arthritis, diabetes, HIV/AIDS, a mental health condition, or~~
16 ~~respiratory disease, and (iii) a therapeutically equivalent~~
17 ~~generic medication has been approved by the federal Food and~~
18 ~~Drug Administration.~~

19 (d) The Department shall not impose requirements for prior
20 approval based on a preferred drug list for anti-retroviral,
21 anti-hemophilic factor concentrates, or any atypical
22 antipsychotics, conventional antipsychotics, or
23 anticonvulsants used for the treatment of serious mental
24 illnesses until 30 days after it has conducted a study of the
25 impact of such requirements on patient care and submitted a
26 report to the Speaker of the House of Representatives and the
27 President of the Senate.

28 (Source: P.A. 92-597, eff. 6-28-02; 92-825, eff. 8-21-02;
29 93-106, eff. 7-8-03.)

30 (305 ILCS 5/5-11) (from Ch. 23, par. 5-11)

31 Sec. 5-11. Co-operative arrangements; contracts with other
32 State agencies, health care and rehabilitation organizations,
33 and fiscal intermediaries.

34 (a) The Illinois Department may enter into co-operative
35 arrangements with State agencies responsible for administering

1 or supervising the administration of health services and
2 vocational rehabilitation services to the end that there may be
3 maximum utilization of such services in the provision of
4 medical assistance.

5 The Illinois Department shall, not later than June 30,
6 1993, enter into one or more co-operative arrangements with the
7 Department of Mental Health and Developmental Disabilities
8 providing that the Department of Mental Health and
9 Developmental Disabilities will be responsible for
10 administering or supervising all programs for services to
11 persons in community care facilities for persons with
12 developmental disabilities, including but not limited to
13 intermediate care facilities, that are supported by State funds
14 or by funding under Title XIX of the federal Social Security
15 Act. The responsibilities of the Department of Mental Health
16 and Developmental Disabilities under these agreements are
17 transferred to the Department of Human Services as provided in
18 the Department of Human Services Act.

19 The Department may also contract with such State health and
20 rehabilitation agencies and other public or private health care
21 and rehabilitation organizations to act for it in supplying
22 designated medical services to persons eligible therefor under
23 this Article. Any contracts with health services or health
24 maintenance organizations shall be restricted to organizations
25 which have been certified as being in compliance with standards
26 promulgated pursuant to the laws of this State governing the
27 establishment and operation of health services or health
28 maintenance organizations. The Department shall renegotiate
29 the contracts with health maintenance organizations and
30 managed care community networks that took effect August 1,
31 2003, so as to produce \$70,000,000 savings to the Department
32 net of resulting increases to the fee-for-service program for
33 State fiscal year 2006. The Department may also contract with
34 insurance companies or other corporate entities serving as
35 fiscal intermediaries in this State for the Federal Government
36 in respect to Medicare payments under Title XVIII of the

1 Federal Social Security Act to act for the Department in paying
2 medical care suppliers. The provisions of Section 9 of "An Act
3 in relation to State finance", approved June 10, 1919, as
4 amended, notwithstanding, such contracts with State agencies,
5 other health care and rehabilitation organizations, or fiscal
6 intermediaries may provide for advance payments.

7 (b) For purposes of this subsection (b), "managed care
8 community network" means an entity, other than a health
9 maintenance organization, that is owned, operated, or governed
10 by providers of health care services within this State and that
11 provides or arranges primary, secondary, and tertiary managed
12 health care services under contract with the Illinois
13 Department exclusively to persons participating in programs
14 administered by the Illinois Department.

15 The Illinois Department may certify managed care community
16 networks, including managed care community networks owned,
17 operated, managed, or governed by State-funded medical
18 schools, as risk-bearing entities eligible to contract with the
19 Illinois Department as Medicaid managed care organizations.
20 The Illinois Department may contract with those managed care
21 community networks to furnish health care services to or
22 arrange those services for individuals participating in
23 programs administered by the Illinois Department. The rates for
24 those provider-sponsored organizations may be determined on a
25 prepaid, capitated basis. A managed care community network may
26 choose to contract with the Illinois Department to provide only
27 pediatric health care services. The Illinois Department shall
28 by rule adopt the criteria, standards, and procedures by which
29 a managed care community network may be permitted to contract
30 with the Illinois Department and shall consult with the
31 Department of Insurance in adopting these rules.

32 A county provider as defined in Section 15-1 of this Code
33 may contract with the Illinois Department to provide primary,
34 secondary, or tertiary managed health care services as a
35 managed care community network without the need to establish a
36 separate entity and shall be deemed a managed care community

1 network for purposes of this Code only to the extent it
2 provides services to participating individuals. A county
3 provider is entitled to contract with the Illinois Department
4 with respect to any contracting region located in whole or in
5 part within the county. A county provider is not required to
6 accept enrollees who do not reside within the county.

7 In order to (i) accelerate and facilitate the development
8 of integrated health care in contracting areas outside counties
9 with populations in excess of 3,000,000 and counties adjacent
10 to those counties and (ii) maintain and sustain the high
11 quality of education and residency programs coordinated and
12 associated with local area hospitals, the Illinois Department
13 may develop and implement a demonstration program from managed
14 care community networks owned, operated, managed, or governed
15 by State-funded medical schools. The Illinois Department shall
16 prescribe by rule the criteria, standards, and procedures for
17 effecting this demonstration program.

18 A managed care community network that contracts with the
19 Illinois Department to furnish health care services to or
20 arrange those services for enrollees participating in programs
21 administered by the Illinois Department shall do all of the
22 following:

23 (1) Provide that any provider affiliated with the
24 managed care community network may also provide services on
25 a fee-for-service basis to Illinois Department clients not
26 enrolled in such managed care entities.

27 (2) Provide client education services as determined
28 and approved by the Illinois Department, including but not
29 limited to (i) education regarding appropriate utilization
30 of health care services in a managed care system, (ii)
31 written disclosure of treatment policies and restrictions
32 or limitations on health services, including, but not
33 limited to, physical services, clinical laboratory tests,
34 hospital and surgical procedures, prescription drugs and
35 biologics, and radiological examinations, and (iii)
36 written notice that the enrollee may receive from another

1 provider those covered services that are not provided by
2 the managed care community network.

3 (3) Provide that enrollees within the system may choose
4 the site for provision of services and the panel of health
5 care providers.

6 (4) Not discriminate in enrollment or disenrollment
7 practices among recipients of medical services or
8 enrollees based on health status.

9 (5) Provide a quality assurance and utilization review
10 program that meets the requirements established by the
11 Illinois Department in rules that incorporate those
12 standards set forth in the Health Maintenance Organization
13 Act.

14 (6) Issue a managed care community network
15 identification card to each enrollee upon enrollment. The
16 card must contain all of the following:

17 (A) The enrollee's health plan.

18 (B) The name and telephone number of the enrollee's
19 primary care physician or the site for receiving
20 primary care services.

21 (C) A telephone number to be used to confirm
22 eligibility for benefits and authorization for
23 services that is available 24 hours per day, 7 days per
24 week.

25 (7) Ensure that every primary care physician and
26 pharmacy in the managed care community network meets the
27 standards established by the Illinois Department for
28 accessibility and quality of care. The Illinois Department
29 shall arrange for and oversee an evaluation of the
30 standards established under this paragraph (7) and may
31 recommend any necessary changes to these standards.

32 (8) Provide a procedure for handling complaints that
33 meets the requirements established by the Illinois
34 Department in rules that incorporate those standards set
35 forth in the Health Maintenance Organization Act.

36 (9) Maintain, retain, and make available to the

1 Illinois Department records, data, and information, in a
2 uniform manner determined by the Illinois Department,
3 sufficient for the Illinois Department to monitor
4 utilization, accessibility, and quality of care.

5 (10) Provide that the pharmacy formulary used by the
6 managed care community network and its contract providers
7 be no more restrictive than the Illinois Department's
8 pharmaceutical program on the effective date of this
9 amendatory Act of 1998 and as amended after that date.

10 The Illinois Department shall contract with an entity or
11 entities to provide external peer-based quality assurance
12 review for the managed health care programs administered by the
13 Illinois Department. The entity shall be representative of
14 Illinois physicians licensed to practice medicine in all its
15 branches and have statewide geographic representation in all
16 specialities of medical care that are provided in managed
17 health care programs administered by the Illinois Department.
18 The entity may not be a third party payer and shall maintain
19 offices in locations around the State in order to provide
20 service and continuing medical education to physician
21 participants within those managed health care programs
22 administered by the Illinois Department. The review process
23 shall be developed and conducted by Illinois physicians
24 licensed to practice medicine in all its branches. In
25 consultation with the entity, the Illinois Department may
26 contract with other entities for professional peer-based
27 quality assurance review of individual categories of services
28 other than services provided, supervised, or coordinated by
29 physicians licensed to practice medicine in all its branches.
30 The Illinois Department shall establish, by rule, criteria to
31 avoid conflicts of interest in the conduct of quality assurance
32 activities consistent with professional peer-review standards.
33 All quality assurance activities shall be coordinated by the
34 Illinois Department.

35 Each managed care community network must demonstrate its
36 ability to bear the financial risk of serving individuals under

1 this program. The Illinois Department shall by rule adopt
2 standards for assessing the solvency and financial soundness of
3 each managed care community network. Any solvency and financial
4 standards adopted for managed care community networks shall be
5 no more restrictive than the solvency and financial standards
6 adopted under Section 1856(a) of the Social Security Act for
7 provider-sponsored organizations under Part C of Title XVIII of
8 the Social Security Act.

9 The Illinois Department may implement the amendatory
10 changes to this Code made by this amendatory Act of 1998
11 through the use of emergency rules in accordance with Section
12 5-45 of the Illinois Administrative Procedure Act. For purposes
13 of that Act, the adoption of rules to implement these changes
14 is deemed an emergency and necessary for the public interest,
15 safety, and welfare.

16 (c) Not later than June 30, 1996, the Illinois Department
17 shall enter into one or more cooperative arrangements with the
18 Department of Public Health for the purpose of developing a
19 single survey for nursing facilities, including but not limited
20 to facilities funded under Title XVIII or Title XIX of the
21 federal Social Security Act or both, which shall be
22 administered and conducted solely by the Department of Public
23 Health. The Departments shall test the single survey process on
24 a pilot basis, with both the Departments of Public Aid and
25 Public Health represented on the consolidated survey team. The
26 pilot will sunset June 30, 1997. After June 30, 1997, unless
27 otherwise determined by the Governor, a single survey shall be
28 implemented by the Department of Public Health which would not
29 preclude staff from the Department of Public Aid from going
30 on-site to nursing facilities to perform necessary audits and
31 reviews which shall not replicate the single State agency
32 survey required by this Act. This Section shall not apply to
33 community or intermediate care facilities for persons with
34 developmental disabilities.

35 (d) Nothing in this Code in any way limits or otherwise
36 impairs the authority or power of the Illinois Department to

1 enter into a negotiated contract pursuant to this Section with
2 a managed care community network or a health maintenance
3 organization, as defined in the Health Maintenance
4 Organization Act, that provides for termination or nonrenewal
5 of the contract without cause, upon notice as provided in the
6 contract, and without a hearing.

7 (Source: P.A. 92-370, eff. 8-15-01.)

8 (305 ILCS 5/12-4.35)

9 Sec. 12-4.35. Medical services for certain noncitizens.

10 (a) ~~Notwithstanding~~ Subject to specific appropriation for
11 ~~this purpose, and notwithstanding~~ Section 1-11 of this Code or
12 Section 20(a) of the Children's Health Insurance Program Act,
13 the Department of Public Aid may provide medical services to
14 noncitizens who have not yet attained 19 years of age and who
15 are not eligible for medical assistance under Article V of this
16 Code or under the Children's Health Insurance Program created
17 by the Children's Health Insurance Program Act due to their not
18 meeting the otherwise applicable provisions of Section 1-11 of
19 this Code or Section 20(a) of the Children's Health Insurance
20 Program Act. The medical services available, standards for
21 eligibility, and other conditions of participation under this
22 Section shall be established by rule by the Department;
23 however, any such rule shall be at least as restrictive as the
24 rules for medical assistance under Article V of this Code or
25 the Children's Health Insurance Program created by the
26 Children's Health Insurance Program Act.

27 (b) The Department is authorized to take any action,
28 including without limitation cessation of enrollment,
29 reduction of available medical services, and changing
30 standards for eligibility, that is deemed necessary by the
31 Department during a State fiscal year to assure that payments
32 under this Section do not exceed available funds ~~the amounts~~
33 ~~appropriated for this purpose.~~

34 (c) Continued ~~In the event that the appropriation in any~~
35 ~~fiscal year for the Children's Health Insurance Program created~~

1 ~~by the Children's Health Insurance Program Act is determined by~~
2 ~~the Department to be insufficient to continue enrollment of~~
3 ~~otherwise eligible children under that Program during that~~
4 ~~fiscal year, the Department is authorized to use funds~~
5 ~~appropriated for the purposes of this Section to fund that~~
6 ~~Program and to take any other action necessary to continue the~~
7 ~~operation of that Program. Furthermore, continued enrollment~~
8 of individuals into the program created under this Section in
9 any fiscal year is contingent upon continued enrollment of
10 individuals into the Children's Health Insurance Program
11 during that fiscal year.

12 (d) (Blank). ~~The General Assembly finds that the adoption~~
13 ~~of rules to meet the purposes of subsections (a), (b), and (c)~~
14 ~~is an emergency and necessary for the public interest, safety,~~
15 ~~and welfare. The Department may adopt such rules through the~~
16 ~~use of emergency rulemaking in accordance with Section 5-45 of~~
17 ~~the Illinois Administrative Procedure Act, except that the~~
18 ~~limitation on the number of emergency rules that may be adopted~~
19 ~~in a 24 month period shall not apply.~~

20 (Source: P.A. 90-588, eff. 7-1-98.)

21 Section 25. The All-Inclusive Care for the Elderly Act is
22 amended by changing Sections 10 and 15 as follows:

23 (320 ILCS 40/10) (from Ch. 23, par. 6910)

24 Sec. 10. Services for eligible persons. Within the context
25 of the PACE program established under this Act, the Illinois
26 Department of Public Aid may include any or all of the services
27 in Article 5 of the Illinois Public Aid Code.

28 An eligible person may elect to receive services from the
29 PACE program. If such an election is made, the eligible person
30 shall not remain eligible for payment through the regular
31 Medicare or Medicaid program. All services and programs
32 provided through the PACE program shall be provided in
33 accordance with this Act. An eligible person may elect to
34 disenroll from the PACE program at any time.

1 For purposes of this Act, "eligible person" means a frail
2 elderly individual who voluntarily enrolls in the PACE program,
3 whose income and resources do not exceed limits established by
4 the Illinois Department of Public Aid and for whom a licensed
5 physician certifies that such a program provides an appropriate
6 alternative to institutionalized care. The term "frail
7 elderly" means an individual who meets the age and functional
8 eligibility requirements, ~~as~~ established by the Illinois
9 Department of Public Aid ~~and the Department on Aging for~~
10 ~~nursing home care, and who is 65 years of age or older.~~

11 (Source: P.A. 87-411.)

12 (320 ILCS 40/15) (from Ch. 23, par. 6915)

13 Sec. 15. Program implementation.

14 (a) Upon receipt of federal approval ~~waivers~~, the Illinois
15 Department of Public Aid shall implement the PACE program
16 pursuant to the provisions of the approved Title XIX State plan
17 ~~as a demonstration program to provide the services set forth in~~
18 ~~Section 10 to eligible persons, as defined in Section 10, for a~~
19 ~~period of 3 years. After the 3 year demonstration, the General~~
20 ~~Assembly shall reexamine the PACE program and determine if the~~
21 ~~program should be implemented on a permanent basis.~~

22 (b) Using a risk-based financing model, the nonprofit
23 organization providing the PACE program shall assume
24 responsibility for all costs generated by the PACE program
25 participants, and it shall create and maintain a risk reserve
26 fund that will cover any cost overages for any participant. The
27 PACE program is responsible for the entire range of services in
28 the consolidated service model, including hospital and nursing
29 home care, according to participant need as determined by a
30 multidisciplinary team. The nonprofit organization providing
31 the PACE program is responsible for the full financial risk ~~at~~
32 ~~the conclusion of the demonstration period and when permanent~~
33 ~~waivers from the federal Health Care Financing Administration~~
34 ~~are granted.~~ Specific arrangements of the risk-based financing
35 model shall be adopted and negotiated by the federal Centers

1 for Medicare and Medicaid Services ~~Health Care Financing~~
2 ~~Administration~~, the nonprofit organization providing the PACE
3 program, and the Illinois Department of Public Aid.
4 (Source: P.A. 87-411.)

5 Section 99. Effective date. This Act takes effect July 1,
6 2005.