



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB3851

Introduced 02/25/05, by Rep. Joseph M. Lyons - Susana A Mendoza  
- John D'Amico

#### SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02

from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. Creates the Community Care Program Advisory Committee in the Department on Aging to advise the Department on issues related to the Department's programs of service to prevent unnecessary institutionalization. Sets forth the terms and conditions of membership on the Committee. Provides that Committee reports and recommendations are advisory only. Effective July 1, 2005.

LRB094 10788 RSP 41249 b

FISCAL NOTE ACT  
MAY APPLY

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 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 (k-5) community reintegration services;
- 29 (l) other nonmedical social services that may enable  
30 the person to become self-supporting; or
- 31 (m) clearinghouse for information provided by senior  
32 citizen home owners who want to rent rooms to or share

1 living space with other senior citizens.

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

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

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

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

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

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

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

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

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

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

1 employees.

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

11 The Community Care Program Advisory Committee is created in  
12 the Department on Aging. The Director shall appoint individuals  
13 to serve in the Committee to advise the Department on issues  
14 related to the Department's program of services to prevent  
15 unnecessary institutionalization. The Committee shall meet on  
16 a bi-monthly basis and shall serve to identify and advise the  
17 Department on present and potential issues affecting the  
18 service delivery network, the program's clients, and the  
19 Department and to recommend solution strategies. Persons  
20 appointed to the Committee shall be appointed on, but not  
21 limited to, their own and their agency's experience with the  
22 program, geographic representation, and willingness to serve.  
23 The Committee shall include, but not be limited to,  
24 representatives from the following agencies and organizations:

- 25 (a) at least 4 adult day service representatives;  
26 (b) at least 4 case coordination unit representatives;  
27 (c) at least 4 representatives from in-home direct care  
28 service agencies;  
29 (d) at least 2 representatives of Area Agencies on  
30 Aging;  
31 (e) at least 2 non-provider representatives from a  
32 policy, advocacy, research, or other service organization;  
33 (f) at least 2 representatives from a statewide  
34 membership organization for senior citizens; and  
35 (g) at least 2 citizen members 60 years of age or  
36 older.

1       Nominations may be presented from any agency or State  
2 association with interest in the program. The Director, or his  
3 or her designee, shall serve as the permanent co-chair of the  
4 advisory committee. One other co-chair shall be nominated and  
5 approved by the members of the committee on an annual basis.  
6 Committee members' terms of appointment shall be for 4 years  
7 with one-quarter of the appointees' terms expiring each year.  
8 At no time may a member serve more than one consecutive term in  
9 any capacity on the committee. The Department shall fill  
10 vacancies that have a remaining term of over one year, and this  
11 replacement shall occur through the annual replacement of  
12 expiring terms. The Director shall designate Department staff  
13 to provide technical assistance and staff support to the  
14 committee. Department representation shall not constitute  
15 membership of the committee. All Committee papers, issues,  
16 recommendations, reports, and meeting memoranda are advisory  
17 only. The Director, or his or her designee, shall make a  
18 written report, as requested by the Committee, regarding issues  
19 before the Committee.

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

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

35       Those persons previously found eligible for receiving  
36 non-institutional services whose services were discontinued



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

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

13 Section 99. Effective date. This Act takes effect July 1,  
14 2005.