

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 an
32 administrative and employee wage and benefits cost split as
33 defined in administrative rules. The audit is a public record
34 under the Freedom of Information Act. The Department shall
35 execute, relative to the nursing home prescreening project,
36 written inter-agency agreements with the Department of Human

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

9 As part of the Department on Aging's routine training of
10 case managers and case manager supervisors, the Department may
11 include information on family futures planning for persons who
12 are age 60 or older and who are caregivers of their adult
13 children with developmental disabilities. The content of the
14 training shall be at the Department's discretion.

15 Beginning January 1, 2007, the Department shall pay an
16 additional \$1.33 per hour of chore/housekeeping and homemaker
17 services performed by a chore/housekeeping and homemaker
18 service provider vendor to all vendors who certify that they
19 will offer health insurance to all (i) qualifying employees as
20 defined in this paragraph, and (ii) dependents, if any, of
21 qualifying employees. For years after 2007, the adjusted amount
22 of funding shall be the hourly amount for the previous calendar
23 year plus the result of that hourly amount multiplied by the
24 percentage, if any, by which the medical component of the
25 Consumer Price Index for the calendar year exceeds such
26 component for the previous calendar year for each hour of
27 chore/housekeeping and homemaker services performed pursuant
28 to the vendor's contract with the Department under this
29 Section. A qualifying employee is defined as an employee that
30 provides over 100 hours of chore/housekeeping and homemaker
31 services per month for 3 consecutive months.
32 Chore/housekeeping and homemaker service provider vendors must
33 certify that 50% of their workforce is eligible for coverage as
34 a qualifying employee. The Department shall set minimum
35 standards for a qualifying health plan by rule. Provider
36 vendors who fail to offer coverage to all qualifying employees

1 as defined in this paragraph shall be subject to penalties up
2 to and including the requirement to return all moneys paid
3 under this paragraph by the State as prescribed by Department
4 rule.

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

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

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

34 The Department is required to develop a system to ensure
35 that persons working as homemakers and chore housekeepers
36 receive increases in their wages when the federal minimum wage

1 is increased by requiring vendors to certify that they are
2 meeting the federal minimum wage statute for homemakers and
3 chore housekeepers. An employer that cannot ensure that the
4 minimum wage increase is being given to homemakers and chore
5 housekeepers shall be denied any increase in reimbursement
6 costs.

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

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

1 older.

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

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

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

36 Those persons previously found eligible for receiving

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

12 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,
13 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;
14 revised 8-19-05.)