

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. Community Care Program. The Department shall  
8 establish a program of services to prevent unnecessary  
9 institutionalization of persons age 60 and older in need of  
10 long term care or who are established as persons who suffer  
11 from Alzheimer's disease or a related disorder under the  
12 Alzheimer's Disease Assistance Act, thereby enabling them to  
13 remain in their own homes or in other living arrangements. Such  
14 preventive services, which may be coordinated with other  
15 programs for the aged and monitored by area agencies on aging  
16 in cooperation with the Department, may include, but are not  
17 limited to, any or all of the following:

- 18 (a) (blank); ~~home health services;~~  
19 (b) (blank); ~~home nursing services;~~  
20 (c) homemaker services;  
21 (d) personal assistant services ~~chore and housekeeping~~  
22 ~~services;~~  
23 (e) adult day services;

- 1 (f) home-delivered meals;
- 2 (g) education in self-care;
- 3 (h) personal care services;
- 4 (i) adult day health services;
- 5 (j) habilitation services;
- 6 (k) respite care;
- 7 (k-5) community reintegration services;
- 8 (k-6) flexible senior services;
- 9 (k-7) medication management;
- 10 (k-8) emergency home response;
- 11 (l) other nonmedical social services that may enable
- 12 the person to become self-supporting; or
- 13 (m) clearinghouse for information provided by senior
- 14 citizen home owners who want to rent rooms to or share
- 15 living space with other senior citizens.

16 The Department shall establish eligibility standards for

17 such services taking into consideration the unique economic and

18 social needs of the target population for whom they are to be

19 provided. Such eligibility standards shall be based on the

20 recipient's ability to pay for services; provided, however,

21 that in determining the amount and nature of services for which

22 a person may qualify, consideration shall not be given to the

23 value of cash, property or other assets held in the name of the

24 person's spouse pursuant to a written agreement dividing

25 marital property into equal but separate shares or pursuant to

26 a transfer of the person's interest in a home to his spouse,

1 provided that the spouse's share of the marital property is not  
2 made available to the person seeking such services.

3 Beginning July 1, 2002, the Department shall require as a  
4 condition of eligibility that all financially eligible  
5 applicants ~~and recipients~~ apply for medical assistance under  
6 Article V of the Illinois Public Aid Code in accordance with  
7 rules promulgated by the Department.

8 Beginning July 1, 2007, the Department shall require as a  
9 condition of eligibility that all new financially eligible  
10 applicants apply for and enroll in medical assistance under  
11 Article V of the Illinois Public Aid Code in accordance with  
12 rules promulgated by the Department.

13 The Department shall, in conjunction with the Department of  
14 Public Aid (now Department of Healthcare and Family Services),  
15 seek appropriate amendments under Sections 1915 and 1924 of the  
16 Social Security Act. The purpose of the amendments shall be to  
17 extend eligibility for home and community based services under  
18 Sections 1915 and 1924 of the Social Security Act to persons  
19 who transfer to or for the benefit of a spouse those amounts of  
20 income and resources allowed under Section 1924 of the Social  
21 Security Act. Subject to the approval of such amendments, the  
22 Department shall extend the provisions of Section 5-4 of the  
23 Illinois Public Aid Code to persons who, but for the provision  
24 of home or community-based services, would require the level of  
25 care provided in an institution, as is provided for in federal  
26 law. Those persons no longer found to be eligible for receiving

1 noninstitutional services due to changes in the eligibility  
2 criteria shall be given 60 days notice prior to actual  
3 termination. Those persons receiving notice of termination may  
4 contact the Department and request the determination be  
5 appealed at any time during the 60 day notice period. With the  
6 exception of the lengthened notice and time frame for the  
7 appeal request, the appeal process shall follow the normal  
8 procedure. In addition, each person affected regardless of the  
9 circumstances for discontinued eligibility shall be given  
10 notice and the opportunity to purchase the necessary services  
11 through the Community Care Program. If the individual does not  
12 elect to purchase services, the Department shall advise the  
13 individual of alternative services. The target population  
14 identified for the purposes of this Section are persons age 60  
15 and older with an identified service need. Priority shall be  
16 given to those who are at imminent risk of  
17 institutionalization. The services shall be provided to  
18 eligible persons age 60 and older to the extent that the cost  
19 of the services together with the other personal maintenance  
20 expenses of the persons are reasonably related to the standards  
21 established for care in a group facility appropriate to the  
22 person's condition. These non-institutional services, pilot  
23 projects or experimental facilities may be provided as part of  
24 or in addition to those authorized by federal law or those  
25 funded and administered by the Department of Human Services.  
26 The Departments of Human Services, Healthcare and Family

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

24 As part of the Department on Aging's routine training of  
25 case managers and case manager supervisors, the Department may  
26 include information on family futures planning for persons who

1 are age 60 or older and who are caregivers of their adult  
2 children with developmental disabilities. The content of the  
3 training shall be at the Department's discretion.

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

14 The Department, or the Department's authorized  
15 representative, shall recover the amount of moneys expended for  
16 services provided to or in behalf of a person under this  
17 Section by a claim against the person's estate or against the  
18 estate of the person's surviving spouse, but no recovery may be  
19 had until after the death of the surviving spouse, if any, and  
20 then only at such time when there is no surviving child who is  
21 under age 21, blind, or permanently and totally disabled. This  
22 paragraph, however, shall not bar recovery, at the death of the  
23 person, of moneys for services provided to the person or in  
24 behalf of the person under this Section to which the person was  
25 not entitled; provided that such recovery shall not be enforced  
26 against any real estate while it is occupied as a homestead by

1 the surviving spouse or other dependent, if no claims by other  
2 creditors have been filed against the estate, or, if such  
3 claims have been filed, they remain dormant for failure of  
4 prosecution or failure of the claimant to compel administration  
5 of the estate for the purpose of payment. This paragraph shall  
6 not bar recovery from the estate of a spouse, under Sections  
7 1915 and 1924 of the Social Security Act and Section 5-4 of the  
8 Illinois Public Aid Code, who precedes a person receiving  
9 services under this Section in death. All moneys for services  
10 paid to or in behalf of the person under this Section shall be  
11 claimed for recovery from the deceased spouse's estate.  
12 "Homestead", as used in this paragraph, means the dwelling  
13 house and contiguous real estate occupied by a surviving spouse  
14 or relative, as defined by the rules and regulations of the  
15 Department of Healthcare and Family Services, regardless of the  
16 value of the property.

17 The Department shall increase the effectiveness of the  
18 existing Community Care Program by:

19 (1) ensuring that in-home services included in the care  
20 plan are available on evenings and weekends;

21 (2) ensuring that care plans contain the services that  
22 eligible participants' need based on the number of days in  
23 a month, not limited to specific blocks of time, as  
24 identified by the comprehensive assessment tool selected  
25 by the Department for use statewide, not to exceed the  
26 total monthly service cost maximum allowed for each

1 service. The Department shall develop administrative rules  
2 to implement this item (2);

3 (3) ensuring that the participants have the right to  
4 choose the services contained in their care plan and to  
5 direct how those services are provided, based on  
6 administrative rules established by the Department;

7 (4) ensuring that the determination of need tool is  
8 accurate in determining the participants' level of need; to  
9 achieve this, the Department, in conjunction with the Older  
10 Adult Services Advisory Committee, shall institute a study  
11 of the relationship between the Determination of Need  
12 scores, level of need, Service Cost Maximums and the  
13 development and utilization of service plans no later than  
14 May 1, 2008; findings and recommendations shall be  
15 presented to the Governor and the General Assembly no later  
16 than January 1, 2009; recommendations shall include all  
17 needed changes to the service cost maximums schedule and  
18 additional covered services;

19 (5) ensuring that homemakers can provide personal care  
20 services that may or may not involve contact with clients,  
21 including but not limited to:

22 (A) bathing;

23 (B) grooming;

24 (C) toileting;

25 (D) nail care;

26 (E) transferring;



1 (F) respiratory services;

2 (G) exercise; or

3 (H) positioning;

4 (6) ensuring that homemaker program vendors are not  
5 restricted from hiring homemakers who are family members of  
6 clients or recommended by clients; the Department may not,  
7 by rule or policy, require homemakers who are family  
8 members of clients or recommended by clients to accept  
9 assignments in homes other than the client; and

10 (7) ensuring that the State may access maximum federal  
11 matching funds by seeking approval for the Centers for  
12 Medicare and Medicaid Services for modifications to the  
13 State's home and community based services waiver and  
14 additional waiver opportunities in order to maximize  
15 federal matching funds; this shall include, but not be  
16 limited to, modification that reflects all changes in the  
17 Community Care Program services and all increases in the  
18 Services Cost Maximum.

19 By January 1, 2009 or as soon after the end of the Cash and  
20 Counseling Demonstration Project as is practicable, the  
21 Department may, based on its evaluation of the demonstration  
22 project, promulgate rules concerning personal assistant  
23 services to include, but need not be limited to,  
24 qualifications, employment screening, rights under fair labor  
25 standards, training, fiduciary agent, and supervision  
26 requirements. All applicants shall be subject to the provisions

1 of the Health Care Worker Background Check Act.

2 The Department shall develop procedures to enhance  
3 availability of services on evenings, weekends, and on an  
4 emergency basis to meet the respite needs of caregivers.  
5 Procedures shall be developed to permit the utilization of  
6 services in successive blocks of 24 hours up to the monthly  
7 maximum established by the Department. Workers providing these  
8 services shall be appropriately trained.

9 Beginning on the effective date of this Amendatory Act of  
10 1991, no person may perform chore/housekeeping and homemaker  
11 services under a program authorized by this Section unless that  
12 person has been issued a certificate of pre-service to do so by  
13 his or her employing agency. Information gathered to effect  
14 such certification shall include (i) the person's name, (ii)  
15 the date the person was hired by his or her current employer,  
16 and (iii) the training, including dates and levels. Persons  
17 engaged in the program authorized by this Section before the  
18 effective date of this amendatory Act of 1991 shall be issued a  
19 certificate of all pre- and in-service training from his or her  
20 employer upon submitting the necessary information. The  
21 employing agency shall be required to retain records of all  
22 staff pre- and in-service training, and shall provide such  
23 records to the Department upon request and upon termination of  
24 the employer's contract with the Department. In addition, the  
25 employing agency is responsible for the issuance of  
26 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, who shall serve at their own  
14 expense. Members of the Committee must abide by all applicable  
15 ethics laws. The Committee shall advise the Department on  
16 issues related to the Department's program of services to  
17 prevent unnecessary institutionalization. The Committee shall  
18 meet on a bi-monthly basis and shall serve to identify and  
19 advise the Department on present and potential issues affecting  
20 the service delivery network, the program's clients, and the  
21 Department and to recommend solution strategies. Persons  
22 appointed to the Committee shall be appointed on, but not  
23 limited to, their own and their agency's experience with the  
24 program, geographic representation, and willingness to serve.  
25 The Committee shall include, but not be limited to,  
26 representatives from the following agencies and organizations:

- 1 (a) at least 4 adult day service representatives;
- 2 (b) at least 4 case coordination unit representatives;
- 3 (c) at least 4 representatives from in-home direct care  
4 service agencies;
- 5 (d) at least 2 representatives of statewide trade or  
6 labor unions that represent in-home direct care service  
7 staff;
- 8 (e) at least 2 representatives of Area Agencies on  
9 Aging;
- 10 (f) at least 2 non-provider representatives from a  
11 policy, advocacy, research, or other service organization;
- 12 (g) at least 2 representatives from a statewide  
13 membership organization for senior citizens; and
- 14 (h) at least 2 citizen members 60 years of age or  
15 older.

16 Nominations may be presented from any agency or State  
17 association with interest in the program. The Director, or his  
18 or her designee, shall serve as the permanent co-chair of the  
19 advisory committee. One other co-chair shall be nominated and  
20 approved by the members of the committee on an annual basis.  
21 Committee members' terms of appointment shall be for 4 years  
22 with one-quarter of the appointees' terms expiring each year.  
23 At no time may a member serve more than one consecutive term in  
24 any capacity on the committee. The Department shall fill  
25 vacancies that have a remaining term of over one year, and this  
26 replacement shall occur through the annual replacement of

1 expiring terms. The Director shall designate Department staff  
2 to provide technical assistance and staff support to the  
3 committee. Department representation shall not constitute  
4 membership of the committee. All Committee papers, issues,  
5 recommendations, reports, and meeting memoranda are advisory  
6 only. The Director, or his or her designee, shall make a  
7 written report, as requested by the Committee, regarding issues  
8 before the Committee.

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

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

24 Those persons previously found eligible for receiving  
25 non-institutional services whose services were discontinued  
26 under the Emergency Budget Act of Fiscal Year 1992, and who do

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

10 For the purposes of this Section, "flexible senior  
11 services" refers to services that require one-time or periodic  
12 expenditures including, but not limited to, respite care, home  
13 modification, assistive technology, housing assistance, and  
14 transportation.

15 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,  
16 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;  
17 94-954, eff. 6-27-06.)