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Filed: 3/22/2007

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LRB095 05122 HLH 34404 a

1 AMENDMENT TO HOUSE BILL 652

2 AMENDMENT NO. _____. Amend House Bill 652 by replacing
3 everything after the enacting clause with the following:

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

1 limited to, any or all of the following:

2 (a) home health services;

3 (b) home nursing services;

4 (c) homemaker services;

5 (d) personal assistant services ~~chore and housekeeping~~
6 ~~services;~~

7 (e) adult day services;

8 (f) home-delivered meals;

9 (g) education in self-care;

10 (h) personal care services;

11 (i) adult day health services;

12 (j) habilitation services;

13 (k) respite care;

14 (k-5) community reintegration services;

15 (K-6) flexible senior services;

16 (K-7) medication management;

17 (K-8) emergency home response;

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

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

23 An eligible individual shall have the right to choose among
24 the services above up to the monthly service cost maximums as
25 established by rule. Care plans established under this Section
26 shall be based on a 31-day month. The Department shall not

1 establish rules or policies to limit services contained in the
2 care plan, including a service delivery month that reflects
3 more than 31 days.

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

17 Beginning July 1, 2002, the Department shall require as a
18 condition of eligibility that all financially eligible
19 applicants and recipients apply for and, beginning July 1,
20 2007, if eligible, enroll in medical assistance under Article V
21 of the Illinois Public Aid Code in accordance with rules
22 promulgated by the Department.

23 The Department shall, in conjunction with the Department of
24 Public Aid (now Department of Healthcare and Family Services),
25 seek appropriate amendments under Sections 1915 and 1924 of the
26 Social Security Act. The purpose of the amendments shall be to

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

1 institutionalization. The services shall be provided to
2 eligible persons age 60 and older to the extent that the cost
3 of the services together with the other personal maintenance
4 expenses of the persons are reasonably related to the standards
5 established for care in a group facility appropriate to the
6 person's condition. These non-institutional services, pilot
7 projects or experimental facilities may be provided as part of
8 or in addition to those authorized by federal law or those
9 funded and administered by the Department of Human Services.
10 The Departments of Human Services, Healthcare and Family
11 Services, Public Health, Veterans' Affairs, and Commerce and
12 Economic Opportunity and other appropriate agencies of State,
13 federal and local governments shall cooperate with the
14 Department on Aging in the establishment and development of the
15 non-institutional services. The Department shall require an
16 annual audit from all chore/housekeeping and homemaker vendors
17 contracting with the Department under this Section. The annual
18 audit shall assure that each audited vendor's procedures are in
19 compliance with Department's financial reporting guidelines
20 requiring an administrative and employee wage and benefits cost
21 split as defined in administrative rules. The audit is a public
22 record under the Freedom of Information Act. The Department
23 shall execute, relative to the nursing home prescreening
24 project, written inter-agency agreements with the Department
25 of Human Services and the Department of Healthcare and Family
26 Services, to effect the following: (1) intake procedures and

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

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

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

24 The Department, or the Department's authorized
25 representative, shall recover the amount of moneys expended for
26 services provided to or in behalf of a person under this

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

1 The Department shall increase the effectiveness of the
2 existing Community Care Program by:

3 (1) ensuring that homemaker services, personal
4 assistant services, and emergency home response are
5 available on evenings and weekends;

6 (2) ensuring that care plans contain the services that
7 eligible participants' need, not limited to specific
8 blocks of time, as identified by the comprehensive
9 assessment tool selected by the Department for use
10 statewide, up to the total monthly service cost maximum
11 allowed for each service;

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

16 (4) ensuring that the determination of need tool is
17 accurate in determining the participants' level of need; to
18 achieve this, the Department, in conjunction with the Older
19 Adult Services Advisory Committee, shall institute a study
20 of the relationship between the Determination of Need
21 scores, level of need, Service Cost Maximums and the
22 development and utilization of service plans no later than
23 November 1, 2007; findings and recommendations shall be
24 presented to the General Assembly no later than January 1,
25 2008; recommendations shall include all needed changes to
26 the service cost maximums schedule and additional covered

1 services;

2 (5) ensuring that clients have appropriate levels of
3 service by increasing Service Cost Maximums; on July 1,
4 2007, the Service Cost Maximums shall be increased by 25%;
5 on July 1, 2008, Service Cost Maximums shall be increased
6 based on the results of the study as required by subpart
7 (4) above;

8 (6) ensuring that the clients have the full benefit of
9 Service Cost Maximums by permitting the unused balance to
10 be used for the purpose of paying for flexible senior
11 services;

12 (7) ensuring that homemakers can provide personal care
13 services that may or may not involve contact with clients,
14 including but not limited to:

15 (A) bathing;

16 (B) grooming;

17 (C) toileting;

18 (D) nail care;

19 (E) transferring;

20 (F) respiratory services;

21 (G) exercise; or

22 (H) positioning;

23 (8) ensuring that the client has choice in how in-home
24 services are provided by including personal assistant
25 services in the list of services that may be provided by
26 the Community Care Program;

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

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

16 By January 1, 2009 or as soon after the end of the Cash and
17 Counseling Demonstration Project as is practicable, the
18 Department shall promulgate rules concerning personal
19 assistant services to include, but need not be limited to,
20 qualifications, employment screening, rights under fair labor
21 standards, training, fiduciary agent, and supervision
22 requirements. All applicants shall be subject to the provisions
23 of the Health Care Worker Background Check Act.

24 The Department shall develop procedures to enhance
25 availability of services on evenings, weekends, and on an
26 emergency basis to meet the respite needs of caregivers.

1 Procedures shall be developed to permit the utilization of
2 services in successive blocks of 24 hours up to the monthly
3 maximum established by the Department. Workers providing these
4 services shall be appropriately trained.

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

24 The Department is required to develop a system to ensure
25 that persons working as homemakers and chore housekeepers
26 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;

1 (d) at least 2 representatives of statewide trade or
2 labor unions that represent in-home direct care service
3 staff;

4 (e) at least 2 representatives of Area Agencies on
5 Aging;

6 (f) at least 2 non-provider representatives from a
7 policy, advocacy, research, or other service organization;

8 (g) at least 2 representatives from a statewide
9 membership organization for senior citizens; and

10 (h) at least 2 citizen members 60 years of age or
11 older.

12 Nominations may be presented from any agency or State
13 association with interest in the program. The Director, or his
14 or her designee, shall serve as the permanent co-chair of the
15 advisory committee. One other co-chair shall be nominated and
16 approved by the members of the committee on an annual basis.
17 Committee members' terms of appointment shall be for 4 years
18 with one-quarter of the appointees' terms expiring each year.
19 At no time may a member serve more than one consecutive term in
20 any capacity on the committee. The Department shall fill
21 vacancies that have a remaining term of over one year, and this
22 replacement shall occur through the annual replacement of
23 expiring terms. The Director shall designate Department staff
24 to provide technical assistance and staff support to the
25 committee. Department representation shall not constitute
26 membership of the committee. All Committee papers, issues,

1 recommendations, reports, and meeting memoranda are advisory
2 only. The Director, or his or her designee, shall make a
3 written report, as requested by the Committee, regarding issues
4 before the Committee.

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

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

20 Those persons previously found eligible for receiving
21 non-institutional services whose services were discontinued
22 under the Emergency Budget Act of Fiscal Year 1992, and who do
23 not meet the eligibility standards in effect on or after July
24 1, 1992, shall remain ineligible on and after July 1, 1992.
25 Those persons previously not required to cost-share and who
26 were required to cost-share effective March 1, 1992, shall

1 continue to meet cost-share requirements on and after July 1,
2 1992. Beginning July 1, 1992, all clients will be required to
3 meet eligibility, cost-share, and other requirements and will
4 have services discontinued or altered when they fail to meet
5 these requirements.

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

11 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,
12 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;
13 94-954, eff. 6-27-06.)".