

# HB3204



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB3204**

Introduced 2/26/2007, by Rep. Tom Cross

#### SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02

from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. Makes technical changes in a Section concerning assisted living and noninstitutional services.

LRB095 06007 CMK 26099 b

A BILL FOR

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 ~~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) adult day services;

22 (f) home-delivered meals;

23 (g) education in self-care;

- 1 (h) personal care services;
- 2 (i) adult day health services;
- 3 (j) habilitation services;
- 4 (k) respite care;
- 5 (k-5) community reintegration services;
- 6 (l) other nonmedical social services that may enable  
7 the person to become self-supporting; or
- 8 (m) clearinghouse for information provided by senior  
9 citizen home owners who want to rent rooms to or share  
10 living space with other senior citizens.

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

24 Beginning July 1, 2002, the Department shall require as a  
25 condition of eligibility that all financially eligible  
26 applicants and recipients apply for medical assistance under

1 Article V of the Illinois Public Aid Code in accordance with  
2 rules promulgated by the Department.

3 The Department shall, in conjunction with the Department of  
4 Public Aid (now Department of Healthcare and Family Services),  
5 seek appropriate amendments under Sections 1915 and 1924 of the  
6 Social Security Act. The purpose of the amendments shall be to  
7 extend eligibility for home and community based services under  
8 Sections 1915 and 1924 of the Social Security Act to persons  
9 who transfer to or for the benefit of a spouse those amounts of  
10 income and resources allowed under Section 1924 of the Social  
11 Security Act. Subject to the approval of such amendments, the  
12 Department shall extend the provisions of Section 5-4 of the  
13 Illinois Public Aid Code to persons who, but for the provision  
14 of home or community-based services, would require the level of  
15 care provided in an institution, as is provided for in federal  
16 law. Those persons no longer found to be eligible for receiving  
17 noninstitutional services due to changes in the eligibility  
18 criteria shall be given 60 days notice prior to actual  
19 termination. Those persons receiving notice of termination may  
20 contact the Department and request the determination be  
21 appealed at any time during the 60 day notice period. With the  
22 exception of the lengthened notice and time frame for the  
23 appeal request, the appeal process shall follow the normal  
24 procedure. In addition, each person affected regardless of the  
25 circumstances for discontinued eligibility shall be given  
26 notice and the opportunity to purchase the necessary services

1 through the Community Care Program. If the individual does not  
2 elect to purchase services, the Department shall advise the  
3 individual of alternative services. The target population  
4 identified for the purposes of this Section are persons age 60  
5 and older with an identified service need. Priority shall be  
6 given to those who are at imminent risk of  
7 institutionalization. The services shall be provided to  
8 eligible persons age 60 and older to the extent that the cost  
9 of the services together with the other personal maintenance  
10 expenses of the persons are reasonably related to the standards  
11 established for care in a group facility appropriate to the  
12 person's condition. These non-institutional services, pilot  
13 projects or experimental facilities may be provided as part of  
14 or in addition to those authorized by federal law or those  
15 funded and administered by the Department of Human Services.  
16 The Departments of Human Services, Healthcare and Family  
17 Services, Public Health, Veterans' Affairs, and Commerce and  
18 Economic Opportunity and other appropriate agencies of State,  
19 federal and local governments shall cooperate with the  
20 Department on Aging in the establishment and development of the  
21 non-institutional services. The Department shall require an  
22 annual audit from all chore/housekeeping and homemaker vendors  
23 contracting with the Department under this Section. The annual  
24 audit shall assure that each audited vendor's procedures are in  
25 compliance with Department's financial reporting guidelines  
26 requiring an administrative and employee wage and benefits cost

1 split as defined in administrative rules. The audit is a public  
2 record under the Freedom of Information Act. The Department  
3 shall execute, relative to the nursing home prescreening  
4 project, written inter-agency agreements with the Department  
5 of Human Services and the Department of Healthcare and Family  
6 Services, to effect the following: (1) intake procedures and  
7 common eligibility criteria for those persons who are receiving  
8 non-institutional services; and (2) the establishment and  
9 development of non-institutional services in areas of the State  
10 where they are not currently available or are undeveloped. On  
11 and after July 1, 1996, all nursing home prescreenings for  
12 individuals 60 years of age or older shall be conducted by the  
13 Department.

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

20 The Department is authorized to establish a system of  
21 recipient copayment for services provided under this Section,  
22 such copayment to be based upon the recipient's ability to pay  
23 but in no case to exceed the actual cost of the services  
24 provided. Additionally, any portion of a person's income which  
25 is equal to or less than the federal poverty standard shall not  
26 be considered by the Department in determining the copayment.

1 The level of such copayment shall be adjusted whenever  
2 necessary to reflect any change in the officially designated  
3 federal poverty standard.

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

1 claimed for recovery from the deceased spouse's estate.  
2 "Homestead", as used in this paragraph, means the dwelling  
3 house and contiguous real estate occupied by a surviving spouse  
4 or relative, as defined by the rules and regulations of the  
5 Department of Healthcare and Family Services, regardless of the  
6 value of the property.

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

14 Beginning on the effective date of this Amendatory Act of  
15 1991, no person may perform chore/housekeeping and homemaker  
16 services under a program authorized by this Section unless that  
17 person has been issued a certificate of pre-service to do so by  
18 his or her employing agency. Information gathered to effect  
19 such certification shall include (i) the person's name, (ii)  
20 the date the person was hired by his or her current employer,  
21 and (iii) the training, including dates and levels. Persons  
22 engaged in the program authorized by this Section before the  
23 effective date of this amendatory Act of 1991 shall be issued a  
24 certificate of all pre- and in-service training from his or her  
25 employer upon submitting the necessary information. The  
26 employing agency shall be required to retain records of all



1 staff pre- and in-service training, and shall provide such  
2 records to the Department upon request and upon termination of  
3 the employer's contract with the Department. In addition, the  
4 employing agency is responsible for the issuance of  
5 certifications of in-service training completed to their  
6 employees.

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

16 The Community Care Program Advisory Committee is created in  
17 the Department on Aging. The Director shall appoint individuals  
18 to serve in the Committee, who shall serve at their own  
19 expense. Members of the Committee must abide by all applicable  
20 ethics laws. The Committee shall advise the Department on  
21 issues related to the Department's program of services to  
22 prevent unnecessary institutionalization. The Committee shall  
23 meet on a bi-monthly basis and shall serve to identify and  
24 advise the Department on present and potential issues affecting  
25 the service delivery network, the program's clients, and the  
26 Department and to recommend solution strategies. Persons

1 appointed to the Committee shall be appointed on, but not  
2 limited to, their own and their agency's experience with the  
3 program, geographic representation, and willingness to serve.  
4 The Committee shall include, but not be limited to,  
5 representatives from the following agencies and organizations:

6 (a) at least 4 adult day service representatives;

7 (b) at least 4 case coordination unit representatives;

8 (c) at least 4 representatives from in-home direct care  
9 service agencies;

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

13 (e) at least 2 representatives of Area Agencies on  
14 Aging;

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

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

19 (h) at least 2 citizen members 60 years of age or  
20 older.

21 Nominations may be presented from any agency or State  
22 association with interest in the program. The Director, or his  
23 or her designee, shall serve as the permanent co-chair of the  
24 advisory committee. One other co-chair shall be nominated and  
25 approved by the members of the committee on an annual basis.  
26 Committee members' terms of appointment shall be for 4 years

1 with one-quarter of the appointees' terms expiring each year.  
2 At no time may a member serve more than one consecutive term in  
3 any capacity on the committee. The Department shall fill  
4 vacancies that have a remaining term of over one year, and this  
5 replacement shall occur through the annual replacement of  
6 expiring terms. The Director shall designate Department staff  
7 to provide technical assistance and staff support to the  
8 committee. Department representation shall not constitute  
9 membership of the committee. All Committee papers, issues,  
10 recommendations, reports, and meeting memoranda are advisory  
11 only. The Director, or his or her designee, shall make a  
12 written report, as requested by the Committee, regarding issues  
13 before the Committee.

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

19 The requirement for reporting to the General Assembly shall  
20 be satisfied by filing copies of the report with the Speaker,  
21 the Minority Leader and the Clerk of the House of  
22 Representatives and the President, the Minority Leader and the  
23 Secretary of the Senate and the Legislative Research Unit, as  
24 required by Section 3.1 of the General Assembly Organization  
25 Act and filing such additional copies with the State Government  
26 Report Distribution Center for the General Assembly as is

1 required under paragraph (t) of Section 7 of the State Library  
2 Act.

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

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.)