

1 AN ACT concerning aging.

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 Sections 4.02 and 4.12 as follows:

6 (20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

7 (Text of Section before amendment by P.A. 95-565)

8 Sec. 4.02. The Department shall establish a program of
9 services to prevent unnecessary institutionalization of
10 persons age 60 and older in need of long term care or who are
11 established as persons who suffer from Alzheimer's disease or a
12 related disorder under the Alzheimer's Disease Assistance Act,
13 thereby enabling them to remain in their own homes or in other
14 living arrangements. Such preventive services, which may be
15 coordinated with other programs for the aged and monitored by
16 area agencies on aging in cooperation with the Department, may
17 include, but are not limited to, any or all of the following:

- 18 (a) home health services;
- 19 (b) home nursing services;
- 20 (c) home care aide services;
- 21 (d) chore and housekeeping services;
- 22 (e) adult day services;
- 23 (f) home-delivered meals;

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

12 The Department shall establish eligibility standards for

13 such services taking into consideration the unique economic and

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

15 provided. Such eligibility standards shall be based on the

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

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

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

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

20 person's spouse pursuant to a written agreement dividing

21 marital property into equal but separate shares or pursuant to

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

23 provided that the spouse's share of the marital property is not

24 made available to the person seeking such services.

25 Beginning July 1, 2002, the Department shall require as a

26 condition of eligibility that all financially eligible

1 applicants and recipients apply for medical assistance under
2 Article V of the Illinois Public Aid Code in accordance with
3 rules promulgated by the Department.

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

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

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

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

22 The Department's case management program shall be a fully
23 integrated care coordination program. The care coordination
24 program shall incorporate the concepts of client direction and
25 consumer focus and shall take into account the client's needs
26 and preferences. Comprehensive care coordination shall include

1 activities such as: (1) comprehensive assessment of the client;
2 (2) development and implementation of a service plan with the
3 client to mobilize the formal and informal resources and
4 services identified in the assessment to meet the needs of the
5 client, including coordination of the resources and services
6 with (A) any other plans that exist for various formal
7 services, such as hospital discharge plans, and (B) the
8 information and assistance services; (3) coordination and
9 monitoring of formal service delivery and monitoring of
10 informal service delivery, regardless of the funding source, to
11 ensure that services specified in the plan are being provided;
12 (4) assistance with the completion of applications for
13 services, referrals to non-government funded services, health
14 promotion, and ensuring continuity of care across care
15 settings; (5) periodic reassessment and revision of the
16 client's care plan, if necessary, to reflect any changes in the
17 client's needs; and (6) in accordance with the wishes of the
18 client, advocacy on behalf of the client for needed services or
19 resources.

20 A comprehensive assessment shall be performed, using a
21 holistic tool identified by the Department and supported by an
22 electronic intake assessment and care planning system linked to
23 a central location. The comprehensive assessment process shall
24 include a face to face interview in the client's home or
25 temporary overnight abode and shall determine the level of
26 physical, functional, cognitive, psycho-social, financial, and

1 social needs of the client. Assessment interviews shall
2 accommodate the scheduling needs of the client and the client's
3 representative or representatives, who shall participate at
4 the discretion of the client. The Department shall provide
5 guidelines for determining the conditions under which a
6 comprehensive assessment shall be performed and the activities
7 of care coordination offered to each care recipient. The care
8 plan shall include the needs identified by the assessment and
9 incorporate the goals and preferences of the client. Care plans
10 shall also include all services needed by the client regardless
11 of the funding source and delineate between services provided,
12 services unavailable, and services refused by the client. Case
13 coordination units shall be reimbursed for care coordination in
14 a manner reflective of the actual cost of providing care
15 coordination. By July 1, 2009, the Department shall develop a
16 rate structure, after collection and review of information from
17 case coordination units and advocates for care recipients,
18 regarding the activities of coordination provided. The
19 Department shall reevaluate the rate structure every other year
20 thereafter.

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

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

5 The Department, or the Department's authorized
6 representative, shall recover the amount of moneys expended for
7 services provided to or in behalf of a person under this
8 Section by a claim against the person's estate or against the
9 estate of the person's surviving spouse, but no recovery may be
10 had until after the death of the surviving spouse, if any, and
11 then only at such time when there is no surviving child who is
12 under age 21, blind, or permanently and totally disabled. This
13 paragraph, however, shall not bar recovery, at the death of the
14 person, of moneys for services provided to the person or in
15 behalf of the person under this Section to which the person was
16 not entitled; provided that such recovery shall not be enforced
17 against any real estate while it is occupied as a homestead by
18 the surviving spouse or other dependent, if no claims by other
19 creditors have been filed against the estate, or, if such
20 claims have been filed, they remain dormant for failure of
21 prosecution or failure of the claimant to compel administration
22 of the estate for the purpose of payment. This paragraph shall
23 not bar recovery from the estate of a spouse, under Sections
24 1915 and 1924 of the Social Security Act and Section 5-4 of the
25 Illinois Public Aid Code, who precedes a person receiving
26 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 Department of Healthcare and Family Services, regardless of the
7 value of 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 home care
17 aide services under a program authorized by this Section unless
18 that person has been issued a certificate of pre-service to do
19 so by his or her employing agency. Information gathered to
20 effect such certification shall include (i) the person's name,
21 (ii) the date the person was hired by his or her current
22 employer, and (iii) the training, including dates and levels.
23 Persons engaged in the program authorized by this Section
24 before the effective date of this amendatory Act of 1991 shall
25 be issued a certificate of all pre- and in-service training
26 from his or her employer upon submitting the necessary

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

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

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

1 Department and to recommend solution strategies. Persons
2 appointed to the Committee shall be appointed on, but not
3 limited to, their own and their agency's experience with the
4 program, geographic representation, and willingness to serve.
5 The Director shall appoint members to the Committee to
6 represent provider, advocacy, policy research, and other
7 constituencies committed to the delivery of high quality home
8 and community-based services to older adults. Representatives
9 shall be appointed to ensure representation from community care
10 providers including, but not limited to, adult day service
11 providers, homemaker providers, case coordination and case
12 management units, emergency home response providers, statewide
13 trade or labor unions that represent home care ~~homecare~~ aides
14 and direct care staff, area agencies on aging, adults over age
15 60, membership organizations representing older adults, and
16 other organizational entities, providers of care, or
17 individuals with demonstrated interest and expertise in the
18 field of home and community care as determined by the Director.

19 Nominations may be presented from any agency or State
20 association with interest in the program. The Director, or his
21 or her designee, shall serve as the permanent co-chair of the
22 advisory committee. One other co-chair shall be nominated and
23 approved by the members of the committee on an annual basis.
24 Committee members' terms of appointment shall be for 4 years
25 with one-quarter of the appointees' terms expiring each year. A
26 member shall continue to serve until his or her replacement is

1 named. The Department shall fill vacancies that have a
2 remaining term of over one year, and this replacement shall
3 occur through the annual replacement of expiring terms. The
4 Director shall designate Department staff to provide technical
5 assistance and staff support to the committee. Department
6 representation shall not constitute membership of the
7 committee. All Committee papers, issues, recommendations,
8 reports, and meeting memoranda are advisory only. The Director,
9 or his or her designee, shall make a written report, as
10 requested by the Committee, regarding issues before the
11 Committee.

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

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

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

13 Notwithstanding any other rulemaking authority that may
14 exist, neither the Governor nor any agency or agency head under
15 the jurisdiction of the Governor has any authority to make or
16 promulgate rules to implement or enforce the provisions of this
17 amendatory Act of the 95th General Assembly. If, however, the
18 Governor believes that rules are necessary to implement or
19 enforce the provisions of this amendatory Act of the 95th
20 General Assembly, the Governor may suggest rules to the General
21 Assembly by filing them with the Clerk of the House and
22 Secretary of the Senate and by requesting that the General
23 Assembly authorize such rulemaking by law, enact those
24 suggested rules into law, or take any other appropriate action
25 in the General Assembly's discretion. Nothing contained in this
26 amendatory Act of the 95th General Assembly shall be

1 interpreted to grant rulemaking authority under any other
2 Illinois statute where such authority is not otherwise
3 explicitly given. For the purposes of this amendatory Act of
4 the 95th General Assembly, "rules" is given the meaning
5 contained in Section 1-70 of the Illinois Administrative
6 Procedure Act, and "agency" and "agency head" are given the
7 meanings contained in Sections 1-20 and 1-25 of the Illinois
8 Administrative Procedure Act to the extent that such
9 definitions apply to agencies or agency heads under the
10 jurisdiction of the Governor.

11 (Source: P.A. 94-48, eff. 7-1-05; 94-269, eff. 7-19-05; 94-336,
12 eff. 7-26-05; 94-954, eff. 6-27-06; 95-298, eff. 8-20-07;
13 95-473, eff. 8-27-07; revised 10-30-07.)

14 (Text of Section after amendment by P.A. 95-565)

15 Sec. 4.02. Community Care Program. The Department shall
16 establish a program of services to prevent unnecessary
17 institutionalization of persons age 60 and older in need of
18 long term care or who are established as persons who suffer
19 from Alzheimer's disease or a related disorder under the
20 Alzheimer's Disease Assistance Act, thereby enabling them to
21 remain in their own homes or in other living arrangements. Such
22 preventive services, which may be coordinated with other
23 programs for the aged and monitored by area agencies on aging
24 in cooperation with the Department, may include, but are not
25 limited to, any or all of the following:

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

21 The Department shall establish eligibility standards for
22 such services taking into consideration the unique economic and
23 social needs of the target population for whom they are to be
24 provided. Such eligibility standards shall be based on the
25 recipient's ability to pay for services; provided, however,
26 that in determining the amount and nature of services for which

1 a person may qualify, consideration shall not be given to the
2 value of cash, property or other assets held in the name of the
3 person's spouse pursuant to a written agreement dividing
4 marital property into equal but separate shares or pursuant to
5 a transfer of the person's interest in a home to his spouse,
6 provided that the spouse's share of the marital property is not
7 made available to the person seeking such services.

8 Beginning July 1, 2002, the Department shall require as a
9 condition of eligibility that all financially eligible
10 applicants apply for medical assistance under Article V of the
11 Illinois Public Aid Code in accordance with rules promulgated
12 by the Department.

13 Beginning January 1, 2008, the Department shall require as
14 a condition of eligibility that all new financially eligible
15 applicants apply for and enroll in medical assistance under
16 Article V of the Illinois Public Aid Code in accordance with
17 rules promulgated by the Department.

18 The Department shall, in conjunction with the Department of
19 Public Aid (now Department of Healthcare and Family Services),
20 seek appropriate amendments under Sections 1915 and 1924 of the
21 Social Security Act. The purpose of the amendments shall be to
22 extend eligibility for home and community based services under
23 Sections 1915 and 1924 of the Social Security Act to persons
24 who transfer to or for the benefit of a spouse those amounts of
25 income and resources allowed under Section 1924 of the Social
26 Security Act. Subject to the approval of such amendments, the

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

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

1 prescreenings for individuals 60 years of age or older shall be
2 conducted by the Department.

3 As part of the Department on Aging's routine training of
4 care coordinators and care coordinator supervisors ~~case~~
5 ~~managers and case manager supervisors~~, the Department may
6 include information on family futures planning for persons who
7 are age 60 or older and who are caregivers of their adult
8 children with developmental disabilities. The content of the
9 training shall be at the Department's discretion.

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11 integrated care coordination program. The care coordination
12 program shall incorporate the concepts of client direction and
13 consumer focus and shall take into account the client's needs
14 and preferences. Comprehensive care coordination shall include
15 activities such as: (1) comprehensive assessment of the client;
16 (2) development and implementation of a service plan with the
17 client to mobilize the formal and informal resources and
18 services identified in the assessment to meet the needs of the
19 client, including coordination of the resources and services
20 with (A) any other plans that exist for various formal
21 services, such as hospital discharge plans, and (B) the
22 information and assistance services; (3) coordination and
23 monitoring of formal service delivery and monitoring of
24 informal service delivery, regardless of the funding source, to
25 ensure that services specified in the plan are being provided;
26 (4) assistance with the completion of applications for

1 services, referrals to non-government funded services, health
2 promotion, and ensuring continuity of care across care
3 settings; (5) periodic reassessment and revision of the
4 client's care plan, if necessary, to reflect any changes in the
5 client's needs; and (6) in accordance with the wishes of the
6 client, advocacy on behalf of the client for needed services or
7 resources.

8 A comprehensive assessment shall be performed, using a
9 holistic tool identified by the Department and supported by an
10 electronic intake assessment and care planning system linked to
11 a central location. The comprehensive assessment process shall
12 include a face to face interview in the client's home or
13 temporary overnight abode and shall determine the level of
14 physical, functional, cognitive, psycho-social, financial, and
15 social needs of the client. Assessment interviews shall
16 accommodate the scheduling needs of the client and the client's
17 representative or representatives, who shall participate at
18 the discretion of the client. The Department shall provide
19 guidelines for determining the conditions under which a
20 comprehensive assessment shall be performed and the activities
21 of care coordination offered to each care recipient. The care
22 plan shall include the needs identified by the assessment and
23 incorporate the goals and preferences of the client. Care plans
24 shall also include all services needed by the client regardless
25 of the funding source and delineate between services provided,
26 services unavailable, and services refused by the client. Case

1 coordination units shall be reimbursed for care coordination in
2 a manner reflective of the actual cost of providing care
3 coordination. By July 1, 2009, the Department shall develop a
4 rate structure, after collection and review of information from
5 case coordination units and advocates for care recipients,
6 regarding the activities of coordination provided. The
7 Department shall reevaluate the rate structure every other year
8 thereafter.

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

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

22 The Department shall increase the effectiveness of the
23 existing Community Care Program by:

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

26 (2) ensuring that care plans contain the services that

1 eligible participants ~~participants'~~ need based on the
2 number of days in a month, not limited to specific blocks
3 of time, as identified by the comprehensive assessment tool
4 selected by the Department for use statewide, not to exceed
5 the total monthly service cost maximum allowed for each
6 service; the. ~~The~~ Department shall develop administrative
7 rules to implement this item (2);

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

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

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

- 1 (A) bathing;
- 2 (B) grooming;
- 3 (C) toileting;
- 4 (D) nail care;
- 5 (E) transferring;
- 6 (F) respiratory services;
- 7 (G) exercise; or
- 8 (H) positioning;

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

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

24 By January 1, 2009 or as soon after the end of the Cash and
25 Counseling Demonstration Project as is practicable, the
26 Department may, based on its evaluation of the demonstration

1 project, promulgate rules concerning personal assistant
2 services, to include, but need not be limited to,
3 qualifications, employment screening, rights under fair labor
4 standards, training, fiduciary agent, and supervision
5 requirements. All applicants shall be subject to the provisions
6 of the Health Care Worker Background Check Act.

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 home care
16 aide services under a program authorized by this Section unless
17 that person has been issued a certificate of pre-service to do
18 so by his or her employing agency. Information gathered to
19 effect such certification shall include (i) the person's name,
20 (ii) the date the person was hired by his or her current
21 employer, and (iii) the training, including dates and levels.
22 Persons engaged in the program authorized by this Section
23 before the effective date of this amendatory Act of 1991 shall
24 be issued a certificate of all pre- and in-service training
25 from his or her employer upon submitting the necessary
26 information. The employing agency shall be required to retain

1 records of all staff pre- and in-service training, and shall
2 provide such records to the Department upon request and upon
3 termination of the employer's contract with the Department. In
4 addition, the employing agency is responsible for the issuance
5 of 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 home care aides ~~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 home care aides
12 ~~and chore housekeepers~~. An employer that cannot ensure that the
13 minimum wage increase is being given to home care aides ~~and~~
14 ~~chore housekeepers~~ shall be denied any increase in
15 reimbursement 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 Director shall appoint members to the Committee to
5 represent provider, advocacy, policy research, and other
6 constituencies committed to the delivery of high quality home
7 and community-based services to older adults. Representatives
8 shall be appointed to ensure representation from community care
9 providers including, but not limited to, adult day service
10 providers, homemaker providers, case coordination and case
11 management units, emergency home response providers, statewide
12 trade or labor unions that represent home care ~~homecare~~ aides
13 and direct care staff, area agencies on aging, adults over age
14 60, membership organizations representing older adults, and
15 other organizational entities, providers of care, or
16 individuals with demonstrated interest and expertise in the
17 field of home and community care as determined by the Director.

18 Nominations may be presented from any agency or State
19 association with interest in the program. The Director, or his
20 or her designee, shall serve as the permanent co-chair of the
21 advisory committee. One other co-chair shall be nominated and
22 approved by the members of the committee on an annual basis.
23 Committee members' terms of appointment shall be for 4 years
24 with one-quarter of the appointees' terms expiring each year. A
25 member shall continue to serve until his or her replacement is
26 named. The Department shall fill vacancies that have a

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

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

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

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

17 Notwithstanding any other rulemaking authority that may
18 exist, neither the Governor nor any agency or agency head under
19 the jurisdiction of the Governor has any authority to make or
20 promulgate rules to implement or enforce the provisions of this
21 amendatory Act of the 95th General Assembly. If, however, the
22 Governor believes that rules are necessary to implement or
23 enforce the provisions of this amendatory Act of the 95th
24 General Assembly, the Governor may suggest rules to the General
25 Assembly by filing them with the Clerk of the House and
26 Secretary of the Senate and by requesting that the General

1 Assembly authorize such rulemaking by law, enact those
2 suggested rules into law, or take any other appropriate action
3 in the General Assembly's discretion. Nothing contained in this
4 amendatory Act of the 95th General Assembly shall be
5 interpreted to grant rulemaking authority under any other
6 Illinois statute where such authority is not otherwise
7 explicitly given. For the purposes of this amendatory Act of
8 the 95th General Assembly, "rules" is given the meaning
9 contained in Section 1-70 of the Illinois Administrative
10 Procedure Act, and "agency" and "agency head" are given the
11 meanings contained in Sections 1-20 and 1-25 of the Illinois
12 Administrative Procedure Act to the extent that such
13 definitions apply to agencies or agency heads under the
14 jurisdiction of the Governor.

15 (Source: P.A. 94-48, eff. 7-1-05; 94-269, eff. 7-19-05; 94-336,
16 eff. 7-26-05; 94-954, eff. 6-27-06; 95-298, eff. 8-20-07;
17 95-473, eff. 8-27-07; 95-565, eff. 6-1-08; revised 10-30-07.)

18 (20 ILCS 105/4.12)

19 Sec. 4.12. Assistance to nursing home residents.

20 (a) The Department on Aging shall assist eligible nursing
21 home residents and their families to select long-term care
22 options that meet their needs and reflect their preferences. At
23 any time during the process, the resident or his or her
24 representative may decline further assistance.

25 (b) To provide assistance, the Department shall develop a

1 program of transition services with follow-up in selected areas
2 of the State, to be expanded statewide as funding becomes
3 available. The program shall be developed in consultation with
4 nursing homes, care coordinators ~~case managers~~, Area Agencies
5 on Aging, and others interested in the well-being of frail
6 elderly Illinois residents. The Department shall establish
7 administrative rules pursuant to the Illinois Administrative
8 Procedure Act with respect to resident eligibility, assessment
9 of the resident's health, cognitive, social, and financial
10 needs, development of comprehensive service transition plans,
11 and the level of services that must be available prior to
12 transition of a resident into the community.

13 (c) Notwithstanding any other rulemaking authority that
14 may exist, neither the Governor nor any agency or agency head
15 under the jurisdiction of the Governor has any authority to
16 make or promulgate rules to implement or enforce the provisions
17 of this amendatory Act of the 95th General Assembly. If,
18 however, the Governor believes that rules are necessary to
19 implement or enforce the provisions of this amendatory Act of
20 the 95th General Assembly, the Governor may suggest rules to
21 the General Assembly by filing them with the Clerk of the House
22 and Secretary of the Senate and by requesting that the General
23 Assembly authorize such rulemaking by law, enact those
24 suggested rules into law, or take any other appropriate action
25 in the General Assembly's discretion. Nothing contained in this
26 amendatory Act of the 95th General Assembly shall be

1 interpreted to grant rulemaking authority under any other
2 Illinois statute where such authority is not otherwise
3 explicitly given. For the purposes of this amendatory Act of
4 the 95th General Assembly, "rules" is given the meaning
5 contained in Section 1-70 of the Illinois Administrative
6 Procedure Act, and "agency" and "agency head" are given the
7 meanings contained in Sections 1-20 and 1-25 of the Illinois
8 Administrative Procedure Act to the extent that such
9 definitions apply to agencies or agency heads under the
10 jurisdiction of the Governor.

11 (Source: P.A. 95-331, eff. 8-21-07.)

12 Section 10. The Older Adult Services Act is amended by
13 changing Section 25 as follows:

14 (320 ILCS 42/25)

15 Sec. 25. Older adult services restructuring. No later than
16 January 1, 2005, the Department shall commence the process of
17 restructuring the older adult services delivery system.
18 Priority shall be given to both the expansion of services and
19 the development of new services in priority service areas.
20 Subject to the availability of funding, the restructuring shall
21 include, but not be limited to, the following:

22 (1) Planning. The Department shall develop a plan to
23 restructure the State's service delivery system for older
24 adults. The plan shall include a schedule for the

1 implementation of the initiatives outlined in this Act and all
2 other initiatives identified by the participating agencies to
3 fulfill the purposes of this Act. Financing for older adult
4 services shall be based on the principle that "money follows
5 the individual". The plan shall also identify potential
6 impediments to delivery system restructuring and include any
7 known regulatory or statutory barriers.

8 (2) Comprehensive care coordination ~~case management~~. The
9 Department shall implement a statewide system of holistic
10 comprehensive case management. The system shall include the
11 identification and implementation of a universal,
12 comprehensive assessment tool to be used statewide to determine
13 the level of physical, functional, cognitive, psycho-social,
14 social socialization, and financial needs of older adults. This
15 tool shall be supported by an electronic intake, assessment,
16 and care planning system linked to a central location.
17 "Comprehensive care coordination ~~case management~~" shall
18 include activities such ~~includes services and coordination~~
19 ~~such~~ as (i) comprehensive assessment of the older adult
20 ~~(including the physical, functional, cognitive, psycho-social,~~
21 ~~and social needs of the individual);~~ (ii) development and
22 implementation of a service plan with the older adult to
23 mobilize the formal and family resources and services
24 identified in the assessment to meet the needs of the older
25 adult, including coordination of the resources and services
26 with any other plans that exist for various formal services,

1 such as hospital discharge plans, and with the information and
2 assistance services; (iii) coordination and monitoring of
3 formal and informal family service delivery, regardless of the
4 funding source, including coordination and monitoring to
5 ensure that services specified in the plan are being provided;
6 (iv) assistance with completion of applications for services,
7 referrals to non-government funded services, health promotion,
8 and ensuring continuity of care across care settings; (v)
9 periodic reassessment and revision of the status of the older
10 adult with the older adult or, if necessary, the older adult's
11 designated representative; and (vi) ~~(v)~~ in accordance with the
12 wishes of the older adult, advocacy on behalf of the older
13 adult for needed services or resources.

14 (3) Coordinated point of entry. The Department shall
15 implement and publicize a statewide coordinated point of entry
16 using a uniform name, identity, logo, and toll-free number.

17 (4) Public web site. The Department shall develop a public
18 web site that provides links to available services, resources,
19 and reference materials concerning caregiving, diseases, and
20 best practices for use by professionals, older adults, and
21 family caregivers.

22 (5) Expansion of older adult services. The Department shall
23 expand older adult services that promote independence and
24 permit older adults to remain in their own homes and
25 communities.

26 (6) Consumer-directed home and community-based services.

1 The Department shall expand the range of service options
2 available to permit older adults to exercise maximum choice and
3 control over their care.

4 (7) Comprehensive delivery system. The Department shall
5 expand opportunities for older adults to receive services in
6 systems that integrate acute and chronic care.

7 (8) Enhanced transition and follow-up services. The
8 Department shall implement a program of transition from one
9 residential setting to another and follow-up services,
10 regardless of residential setting, pursuant to rules with
11 respect to (i) resident eligibility, (ii) assessment of the
12 resident's health, cognitive, social, and financial needs,
13 (iii) development of transition plans, and (iv) the level of
14 services that must be available before transitioning a resident
15 from one setting to another.

16 (9) Family caregiver support. The Department shall develop
17 strategies for public and private financing of services that
18 supplement and support family caregivers.

19 (10) Quality standards and quality improvement. The
20 Department shall establish a core set of uniform quality
21 standards for all providers that focus on outcomes and take
22 into consideration consumer choice and satisfaction, and the
23 Department shall require each provider to implement a
24 continuous quality improvement process to address consumer
25 issues. The continuous quality improvement process must
26 benchmark performance, be person-centered and data-driven, and

1 focus on consumer satisfaction.

2 (11) Workforce. The Department shall develop strategies to
3 attract and retain a qualified and stable worker pool, provide
4 living wages and benefits, and create a work environment that
5 is conducive to long-term employment and career development.
6 Resources such as grants, education, and promotion of career
7 opportunities may be used.

8 (12) Coordination of services. The Department shall
9 identify methods to better coordinate service networks to
10 maximize resources and minimize duplication of services and
11 ease of application.

12 (13) Barriers to services. The Department shall identify
13 barriers to the provision, availability, and accessibility of
14 services and shall implement a plan to address those barriers.
15 The plan shall: (i) identify barriers, including but not
16 limited to, statutory and regulatory complexity, reimbursement
17 issues, payment issues, and labor force issues; (ii) recommend
18 changes to State or federal laws or administrative rules or
19 regulations; (iii) recommend application for federal waivers
20 to improve efficiency and reduce cost and paperwork; (iv)
21 develop innovative service delivery models; and (v) recommend
22 application for federal or private service grants.

23 (14) Reimbursement and funding. The Department shall
24 investigate and evaluate costs and payments by defining costs
25 to implement a uniform, audited provider cost reporting system
26 to be considered by all Departments in establishing payments.

1 To the extent possible, multiple cost reporting mandates shall
2 not be imposed.

3 (15) Medicaid nursing home cost containment and Medicare
4 utilization. The Department of Healthcare and Family Services
5 (formerly Department of Public Aid), in collaboration with the
6 Department on Aging and the Department of Public Health and in
7 consultation with the Advisory Committee, shall propose a plan
8 to contain Medicaid nursing home costs and maximize Medicare
9 utilization. The plan must not impair the ability of an older
10 adult to choose among available services. The plan shall
11 include, but not be limited to, (i) techniques to maximize the
12 use of the most cost-effective services without sacrificing
13 quality and (ii) methods to identify and serve older adults in
14 need of minimal services to remain independent, but who are
15 likely to develop a need for more extensive services in the
16 absence of those minimal services.

17 (16) Bed reduction. The Department of Public Health shall
18 implement a nursing home conversion program to reduce the
19 number of Medicaid-certified nursing home beds in areas with
20 excess beds. The Department of Healthcare and Family Services
21 shall investigate changes to the Medicaid nursing facility
22 reimbursement system in order to reduce beds. Such changes may
23 include, but are not limited to, incentive payments that will
24 enable facilities to adjust to the restructuring and expansion
25 of services required by the Older Adult Services Act, including
26 adjustments for the voluntary closure or layaway of nursing

1 home beds certified under Title XIX of the federal Social
2 Security Act. Any savings shall be reallocated to fund
3 home-based or community-based older adult services pursuant to
4 Section 20.

5 (17) Financing. The Department shall investigate and
6 evaluate financing options for older adult services and shall
7 make recommendations in the report required by Section 15
8 concerning the feasibility of these financing arrangements.
9 These arrangements shall include, but are not limited to:

10 (A) private long-term care insurance coverage for
11 older adult services;

12 (B) enhancement of federal long-term care financing
13 initiatives;

14 (C) employer benefit programs such as medical savings
15 accounts for long-term care;

16 (D) individual and family cost-sharing options;

17 (E) strategies to reduce reliance on government
18 programs;

19 (F) fraudulent asset divestiture and financial
20 planning prevention; and

21 (G) methods to supplement and support family and
22 community caregiving.

23 (18) Older Adult Services Demonstration Grants. The
24 Department shall implement a program of demonstration grants
25 that will assist in the restructuring of the older adult
26 services delivery system, and shall provide funding for

1 innovative service delivery models and system change and
2 integration initiatives pursuant to subsection (g) of Section
3 20.

4 (19) Bed need methodology update. For the purposes of
5 determining areas with excess beds, the Departments shall
6 provide information and assistance to the Health Facilities
7 Planning Board to update the Bed Need Methodology for Long-Term
8 Care to update the assumptions used to establish the
9 methodology to make them consistent with modern older adult
10 services.

11 (20) Affordable housing. The Departments shall utilize the
12 recommendations of Illinois' Annual Comprehensive Housing
13 Plan, as developed by the Affordable Housing Task Force through
14 the Governor's Executive Order 2003-18, in their efforts to
15 address the affordable housing needs of older adults.

16 The Older Adult Services Advisory Committee shall
17 investigate innovative and promising practices operating as
18 demonstration or pilot projects in Illinois and in other
19 states. The Department on Aging shall provide the Older Adult
20 Services Advisory Committee with a list of all demonstration or
21 pilot projects funded by the Department on Aging, including
22 those specified by rule, law, policy memorandum, or funding
23 arrangement. The Committee shall work with the Department on
24 Aging to evaluate the viability of expanding these programs
25 into other areas of the State.

26 Notwithstanding any other rulemaking authority that may

1 exist, neither the Governor nor any agency or agency head under
2 the jurisdiction of the Governor has any authority to make or
3 promulgate rules to implement or enforce the provisions of this
4 amendatory Act of the 95th General Assembly. If, however, the
5 Governor believes that rules are necessary to implement or
6 enforce the provisions of this amendatory Act of the 95th
7 General Assembly, the Governor may suggest rules to the General
8 Assembly by filing them with the Clerk of the House and
9 Secretary of the Senate and by requesting that the General
10 Assembly authorize such rulemaking by law, enact those
11 suggested rules into law, or take any other appropriate action
12 in the General Assembly's discretion. Nothing contained in this
13 amendatory Act of the 95th General Assembly shall be
14 interpreted to grant rulemaking authority under any other
15 Illinois statute where such authority is not otherwise
16 explicitly given. For the purposes of this amendatory Act of
17 the 95th General Assembly, "rules" is given the meaning
18 contained in Section 1-70 of the Illinois Administrative
19 Procedure Act, and "agency" and "agency head" are given the
20 meanings contained in Sections 1-20 and 1-25 of the Illinois
21 Administrative Procedure Act to the extent that such
22 definitions apply to agencies or agency heads under the
23 jurisdiction of the Governor.

24 (Source: P.A. 93-1031, eff. 8-27-04; 94-236, eff. 7-14-05;
25 94-766, eff. 1-1-07.)

1 (320 ILCS 60/Act rep.)

2 Section 15. The Community Senior Services and Resources Act
3 is repealed.

4 (320 ILCS 65/16 rep.)

5 Section 20. The Family Caregiver Act is amended by
6 repealing Section 16.

7 Section 95. No acceleration or delay. Where this Act makes
8 changes in a statute that is represented in this Act by text
9 that is not yet or no longer in effect (for example, a Section
10 represented by multiple versions), the use of that text does
11 not accelerate or delay the taking effect of (i) the changes
12 made by this Act or (ii) provisions derived from any other
13 Public Act.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.