

Sen. Louis S. Viverito

Filed: 3/23/2007

09500SB0591sam002

LRB095 10550 CMK 34523 a

1 AMENDMENT TO SENATE BILL 591

2 AMENDMENT NO. _____. Amend Senate Bill 591, AS AMENDED, by

3 replacing everything after the enacting clause with the

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5 "Section 5. The Illinois Act on the Aging is amended by

6 changing Sections 4.02 and 4.12 as follows:

7 (20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

Sec. 4.02. The Department shall establish a program of services to prevent unnecessary institutionalization of persons age 60 and older in need of long term care or who are established as persons who suffer from Alzheimer's disease or a related disorder under the Alzheimer's Disease Assistance Act, thereby enabling them to remain in their own homes or in other living arrangements. Such preventive services, which may be coordinated with other programs for the aged and monitored by area agencies on aging in cooperation with the Department, may

1	include, but are not limited to, any or all of the following:
2	(a) home health services;
3	(b) home nursing services;
4	(c) homemaker services;
5	(d) chore and housekeeping services;
6	(e) adult day services;
7	<pre>(f) home-delivered meals;</pre>
8	(g) education in self-care;
9	(h) personal care services;
10	(i) adult day health services;
11	(j) habilitation services;
12	(k) respite care;
13	(k-5) community reintegration services;
14	(1) other nonmedical social services that may enable
15	the person to become self-supporting; or
16	(m) clearinghouse for information provided by senior
17	citizen home owners who want to rent rooms to or share
18	living space with other senior citizens.
19	The Department shall establish eligibility standards for
20	such services taking into consideration the unique economic and
21	social needs of the target population for whom they are to be
22	provided. Such eligibility standards shall be based on the
23	recipient's ability to pay for services; provided, however,
24	that in determining the amount and nature of services for which
25	a person may qualify, consideration shall not be given to the
26	value of cash, property or other assets held in the name of the

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person's spouse pursuant to a written agreement dividing marital property into equal but separate shares or pursuant to a transfer of the person's interest in a home to his spouse, provided that the spouse's share of the marital property is not made available to the person seeking such services.

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

The Department shall, in conjunction with the Department of Public Aid (now Department of Healthcare and Family Services), seek appropriate amendments under Sections 1915 and 1924 of the Social Security Act. The purpose of the amendments shall be to extend eligibility for home and community based services under Sections 1915 and 1924 of the Social Security Act to persons who transfer to or for the benefit of a spouse those amounts of income and resources allowed under Section 1924 of the Social Security Act. Subject to the approval of such amendments, the Department shall extend the provisions of Section 5-4 of the Illinois Public Aid Code to persons who, but for the provision of home or community-based services, would require the level of care provided in an institution, as is provided for in federal law. Those persons no longer found to be eliqible for receiving noninstitutional services due to changes in the eligibility criteria shall be given 60 days notice prior to actual

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termination. Those persons receiving notice of termination may contact the Department and request the determination be appealed at any time during the 60 day notice period. With the exception of the lengthened notice and time frame for the appeal request, the appeal process shall follow the normal procedure. In addition, each person affected regardless of the circumstances for discontinued eligibility shall be given notice and the opportunity to purchase the necessary services through the Community Care Program. If the individual does not elect to purchase services, the Department shall advise the individual of alternative services. The target population identified for the purposes of this Section are persons age 60 and older with an identified service need. Priority shall be given to those who are at imminent risk of institutionalization. The services shall be provided to eligible persons age 60 and older to the extent that the cost of the services together with the other personal maintenance expenses of the persons are reasonably related to the standards established for care in a group facility appropriate to the person's condition. These non-institutional services, pilot projects or experimental facilities may be provided as part of or in addition to those authorized by federal law or those funded and administered by the Department of Human Services. The Departments of Human Services, Healthcare and Family Services, Public Health, Veterans' Affairs, and Commerce and Economic Opportunity and other appropriate agencies of State,

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federal and local governments shall cooperate with Department on Aging in the establishment and development of the non-institutional services. The Department shall require an annual audit from all chore/housekeeping and homemaker vendors contracting with the Department under this Section. The annual audit shall assure that each audited vendor's procedures are in compliance with Department's financial reporting guidelines requiring an administrative and employee wage and benefits cost split as defined in administrative rules. The audit is a public record under the Freedom of Information Act. The Department shall execute, relative to the nursing home prescreening project, written inter-agency agreements with the Department of Human Services and the Department of Healthcare and Family Services, to effect the following: (1) intake procedures and common eligibility criteria for those persons who are receiving non-institutional services; and (2) the establishment and development of non-institutional services in areas of the State where they are not currently available or are undeveloped. On and after July 1, 1996, all nursing home prescreenings for individuals 60 years of age or older shall be conducted by the Department.

As part of the Department on Aging's routine training of care coordinators ease managers and care coordinator ease manager supervisors, the Department may include information on family futures planning for persons who are age 60 or older and who are caregivers of their adult children with developmental

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disabilities. The content of the training shall be at the 1 Department's discretion. 2

No later than July 1, 2008, the Department's case management program shall be transitioned to a fully integrated care coordination program. The care coordination program shall incorporate the concepts of client direction and consumer focus and shall take into account the client's needs and preferences. Comprehensive care coordination shall include activities such as: (1) comprehensive assessment of the client; (2) development and implementation of a service plan with the client to mobilize the formal and family resources and services identified in the assessment to meet the needs of the client, including coordination of the resources and services with (A) any other plans that exist for various formal services, such as hospital discharge plans, and (B) the information and assistance services; (3) coordination and monitoring of formal and family service delivery, regardless of the funding source, including coordination and monitoring to ensure that services specified in the plan are being provided; (4) assistance with the completion of applications for services, referrals to non-government funded services, health promotion, and ensuring continuity of care across care settings; (5) periodic reassessment and revision of the status of the client with the client or, if necessary, the client's designated representative; and (6) in accordance with the wishes of the client, advocacy on behalf of the client for needed services or

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A comprehensive assessment shall be performed, using a holistic tool identified by the Department and supported by an electronic intake assessment and care planning system linked to a central location. The comprehensive assessment process shall include a face to face interview in the client's home or temporary overnight abode and shall determine the level of physical, functional, cognitive, psycho-social, financial, and social needs of the client. Assessment interviews shall accommodate the scheduling needs of the client and the client's representative or representatives, who shall participate at the discretion of the client. The Department shall provide, by administrative rule, guidelines for determining the conditions under which a comprehensive assessment shall be performed and the activities of care coordination offered to each care recipient. The care plan shall include the needs identified by the assessment and incorporate the goals and preferences of the client. Care plans shall also include all services needed by the client regardless of the funding source and delineate between services provided, services unavailable, and services refused by the client. Case coordination units shall be reimbursed for care coordination in a just and equitable manner reflective of the actual cost of providing care coordination. By January 1, 2008, the Department shall develop a rate structure, in collaboration with case coordination units and advocates for care recipients, that reflects the activities of

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1 <u>coordination provided. The Department shall reevaluate the</u> 2 rate structure by July 2010.

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

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

creditors have been filed against the estate, or, if such claims have been filed, they remain dormant for failure of prosecution or failure of the claimant to compel administration of the estate for the purpose of payment. This paragraph shall not bar recovery from the estate of a spouse, under Sections 1915 and 1924 of the Social Security Act and Section 5-4 of the Illinois Public Aid Code, who precedes a person receiving services under this Section in death. All moneys for services paid to or in behalf of the person under this Section shall be claimed for recovery from the deceased spouse's estate. "Homestead", as used in this paragraph, means the dwelling house and contiguous real estate occupied by a surviving spouse or relative, as defined by the rules and regulations of the Department of Healthcare and Family Services, regardless of the value of the property.

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

Beginning on the effective date of this Amendatory Act of 1991, no person may perform chore/housekeeping and homemaker services under a program authorized by this Section unless that person has been issued a certificate of pre-service to do so by

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his or her employing agency. Information gathered to effect such certification shall include (i) the person's name, (ii) the date the person was hired by his or her current employer, and (iii) the training, including dates and levels. Persons engaged in the program authorized by this Section before the effective date of this amendatory Act of 1991 shall be issued a certificate of all pre- and in-service training from his or her employer upon submitting the necessary information. employing agency shall be required to retain records of all staff pre- and in-service training, and shall provide such records to the Department upon request and upon termination of the employer's contract with the Department. In addition, the employing agency is responsible for the issuance certifications of in-service training completed to their employees.

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

The Community Care Program Advisory Committee is created in the Department on Aging. The Director shall appoint individuals

to serve in the Committee, who shall serve at their own
expense. Members of the Committee must abide by all applicable
ethics laws. The Committee shall advise the Department on
issues related to the Department's program of services to
prevent unnecessary institutionalization. The Committee shall
meet on a bi-monthly basis and shall serve to identify and
advise the Department on present and potential issues affecting
the service delivery network, the program's clients, and the
Department and to recommend solution strategies. Persons
appointed to the Committee shall be appointed on, but not
limited to, their own and their agency's experience with the
program, geographic representation, and willingness to serve.
The Committee shall include, but not be limited to,
representatives from the following agencies and organizations:

- (a) at least 4 adult day service representatives;
- (b) at least 4 <u>care</u> case coordination unit representatives;
 - (c) at least 4 representatives from in-home direct care service agencies;
 - (d) at least 2 representatives of statewide trade or labor unions that represent in-home direct care service staff;
- (e) at least 2 representatives of Area Agencies on Aging;
- (f) at least 2 non-provider representatives from a policy, advocacy, research, or other service organization;

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- 1 at least 2 representatives from a statewide (a) membership organization for senior citizens; and 2
- (h) at least 2 citizen members 60 years of age or 3 4 older.

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

The Department on Aging and the Department of Human Services shall cooperate in the development and submission of an annual report on programs and services provided under this

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1 Section. Such joint report shall be filed with the Governor and 2 the General Assembly on or before September 30 each year.

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

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

25 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,

eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05; 26

- 94-954, eff. 6-27-06.) 1
- 2 (20 ILCS 105/4.12)
- 3 Sec. 4.12. Assistance to nursing home residents.
- 4 (a) The Department on Aging shall assist eligible nursing
- 5 home residents and their families to select long-term care
- options that meet their needs and reflect their preferences. At 6
- 7 any time during the process, the resident or his or her
- 8 representative may decline further assistance.
- 9 (b) To provide assistance, the Department shall develop a
- 10 program of transition services with follow-up in selected areas
- of the State, to be expanded statewide as funding becomes 11
- 12 available. The program shall be developed in consultation with
- 13 nursing homes, care coordinators case managers, Area Agencies
- 14 on Aging, and others interested in the well-being of frail
- 15 elderly Illinois residents. The Department shall establish
- administrative rules pursuant to the Illinois Administrative 16
- 17 Procedure Act with respect to resident eligibility, assessment
- of the resident's health, cognitive, social, and financial 18
- 19 needs, development of comprehensive service transition plans,
- and the level of services that must be available prior to 2.0
- 21 transition of a resident into the community.
- (Source: P.A. 93-902, eff. 8-10-04.) 22
- 23 Section 10. The Older Adult Services Act is amended by
- 24 changing Section 25 as follows:

1 (320 ILCS 42/25)

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Sec. 25. Older adult services restructuring. No later than

January 1, 2005, the Department shall commence the process of

restructuring the older adult services delivery system.

Priority shall be given to both the expansion of services and

the development of new services in priority service areas.

Subject to the availability of funding, the restructuring shall

include, but not be limited to, the following:

- (1) Planning. The Department shall develop a plan to restructure the State's service delivery system for older schedule adults. The plan shall include а for implementation of the initiatives outlined in this Act and all other initiatives identified by the participating agencies to fulfill the purposes of this Act. Financing for older adult services shall be based on the principle that "money follows the individual". The plan shall also identify potential impediments to delivery system restructuring and include any known regulatory or statutory barriers.
- (2) Comprehensive <u>care coordination</u> <u>case management</u>. The Department shall implement a statewide system of holistic comprehensive case management. The system shall include the identification and implementation of a universal, comprehensive assessment tool to be used statewide to determine the level of <u>physical</u>, functional, cognitive, <u>psycho-social</u>, <u>social socialization</u>, and financial needs of older adults. This

1 tool shall be supported by an electronic intake, assessment, and care planning system linked to a central location. 2 3 "Comprehensive care coordination case management" include activities such includes services and coordination 4 5 such as (i) comprehensive assessment of the older adult (including the physical, functional, cognitive, psycho social, 6 and social needs of the individual); (ii) development and 7 8 implementation of a service plan with the older adult to 9 mobilize the formal and family resources and services 10 identified in the assessment to meet the needs of the older 11 adult, including coordination of the resources and services with any other plans that exist for various formal services, 12 13 such as hospital discharge plans, and with the information and assistance services; (iii) coordination and monitoring of 14 15 formal and family service delivery, regardless of the funding 16 source, including coordination and monitoring to ensure that services specified in the plan are being provided; 17 assistance with completion of applications for services, 18 19 referrals to non-government funded services, health promotion, 20 and ensuring continuity of care across care settings; (v) periodic reassessment and revision of the status of the older 21 adult with the older adult or, if necessary, the older adult's 22 23 designated representative; and (vi) (v) in accordance with the 24 wishes of the older adult, advocacy on behalf of the older 25 adult for needed services or resources.

(3) Coordinated point of entry. The Department shall

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- 1 implement and publicize a statewide coordinated point of entry 2 using a uniform name, identity, logo, and toll-free number.
- (4) Public web site. The Department shall develop a public 3 4 web site that provides links to available services, resources, 5 and reference materials concerning caregiving, diseases, and best practices for use by professionals, older adults, and 6 7 family caregivers.
 - (5) Expansion of older adult services. The Department shall expand older adult services that promote independence and permit older adults to remain in their own homes and communities.
 - (6) Consumer-directed home and community-based services. The Department shall expand the range of service options available to permit older adults to exercise maximum choice and control over their care.
 - (7) Comprehensive delivery system. The Department shall expand opportunities for older adults to receive services in systems that integrate acute and chronic care.
- 19 Enhanced transition and follow-up services. (8) The 20 Department shall implement a program of transition from one 21 residential setting to another and follow-up services, 22 regardless of residential setting, pursuant to rules with respect to (i) resident eligibility, (ii) assessment of the 23 24 resident's health, cognitive, social, and financial needs, 25 (iii) development of transition plans, and (iv) the level of 26 services that must be available before transitioning a resident

- 1 from one setting to another.
- 2 (9) Family caregiver support. The Department shall develop
- 3 strategies for public and private financing of services that
- 4 supplement and support family caregivers.
- 5 (10) Quality standards and quality improvement. The
- 6 Department shall establish a core set of uniform quality
- 7 standards for all providers that focus on outcomes and take
- 8 into consideration consumer choice and satisfaction, and the
- 9 Department shall require each provider to implement a
- 10 continuous quality improvement process to address consumer
- 11 issues. The continuous quality improvement process must
- 12 benchmark performance, be person-centered and data-driven, and
- focus on consumer satisfaction.
- 14 (11) Workforce. The Department shall develop strategies to
- 15 attract and retain a qualified and stable worker pool, provide
- living wages and benefits, and create a work environment that
- is conducive to long-term employment and career development.
- 18 Resources such as grants, education, and promotion of career
- 19 opportunities may be used.
- 20 (12) Coordination of services. The Department shall
- 21 identify methods to better coordinate service networks to
- 22 maximize resources and minimize duplication of services and
- ease of application.
- 24 (13) Barriers to services. The Department shall identify
- 25 barriers to the provision, availability, and accessibility of
- 26 services and shall implement a plan to address those barriers.

- The plan shall: (i) identify barriers, including but not limited to, statutory and regulatory complexity, reimbursement issues, payment issues, and labor force issues; (ii) recommend changes to State or federal laws or administrative rules or regulations; (iii) recommend application for federal waivers to improve efficiency and reduce cost and paperwork; (iv) develop innovative service delivery models; and (v) recommend application for federal or private service grants.
 - (14) Reimbursement and funding. The Department shall investigate and evaluate costs and payments by defining costs to implement a uniform, audited provider cost reporting system to be considered by all Departments in establishing payments. To the extent possible, multiple cost reporting mandates shall not be imposed.
 - (15) Medicaid nursing home cost containment and Medicare utilization. The Department of Healthcare and Family Services (formerly Department of Public Aid), in collaboration with the Department on Aging and the Department of Public Health and in consultation with the Advisory Committee, shall propose a plan to contain Medicaid nursing home costs and maximize Medicare utilization. The plan must not impair the ability of an older adult to choose among available services. The plan shall include, but not be limited to, (i) techniques to maximize the use of the most cost-effective services without sacrificing quality and (ii) methods to identify and serve older adults in need of minimal services to remain independent, but who are

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- 1 likely to develop a need for more extensive services in the absence of those minimal services. 2
- (16) Bed reduction. The Department of Public Health shall 3 4 implement a nursing home conversion program to reduce the 5 number of Medicaid-certified nursing home beds in areas with excess beds. The Department of Healthcare and Family Services 6 shall investigate changes to the Medicaid nursing facility 7 8 reimbursement system in order to reduce beds. Such changes may 9 include, but are not limited to, incentive payments that will 10 enable facilities to adjust to the restructuring and expansion 11 of services required by the Older Adult Services Act, including adjustments for the voluntary closure or layaway of nursing 12 13 home beds certified under Title XIX of the federal Social Security Act. Any savings shall be reallocated to fund 14 15 home-based or community-based older adult services pursuant to 16 Section 20.
 - (17) Financing. The Department shall investigate and evaluate financing options for older adult services and shall make recommendations in the report required by Section 15 concerning the feasibility of these financing arrangements. These arrangements shall include, but are not limited to:
- 22 (A) private long-term care insurance coverage for 23 older adult services;
- 24 (B) enhancement of federal long-term care financing 25 initiatives;
- 26 (C) employer benefit programs such as medical savings

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- 1 accounts for long-term care;
- (D) individual and family cost-sharing options; 2
- 3 strategies to reduce reliance on government programs; 4
- 5 fraudulent asset divestiture and financial (F) 6 planning prevention; and
- (G) methods to supplement and support family and 7 8 community caregiving.
- 9 (18) Older Adult Services Demonstration Grants. The 10 Department shall implement a program of demonstration grants 11 that will assist in the restructuring of the older adult services delivery system, and shall provide funding for 12 innovative service delivery models and system change and 13 14 integration initiatives pursuant to subsection (g) of Section 15 20.
 - (19) Bed need methodology update. For the purposes of determining areas with excess beds, the Departments shall provide information and assistance to the Health Facilities Planning Board to update the Bed Need Methodology for Long-Term Care to update the assumptions used to establish the methodology to make them consistent with modern older adult services.
 - (20) Affordable housing. The Departments shall utilize the recommendations of Illinois' Annual Comprehensive Housing Plan, as developed by the Affordable Housing Task Force through the Governor's Executive Order 2003-18, in their efforts to

- 1 address the affordable housing needs of older adults.
- 2 Older Adult Services Advisory Committee The
- 3 investigate innovative and promising practices operating as
- 4 demonstration or pilot projects in Illinois and in other
- 5 states. The Department on Aging shall provide the Older Adult
- 6 Services Advisory Committee with a list of all demonstration or
- 7 pilot projects funded by the Department on Aging, including
- those specified by rule, law, policy memorandum, or funding 8
- 9 arrangement. The Committee shall work with the Department on
- 10 Aging to evaluate the viability of expanding these programs
- into other areas of the State. 11
- (Source: P.A. 93-1031, eff. 8-27-04; 94-236, eff. 7-14-05; 12
- 13 94-766, eff. 1-1-07.)
- 14 Section 99. Effective date. This Act takes effect upon
- 15 becoming law.".