



Disability Services Committee

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LRB095 05416 HLH 36754 a

1 AMENDMENT TO SENATE BILL 765

2 AMENDMENT NO. _____. Amend Senate Bill 765 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Disabilities Services Act of 2003 is
5 amended by adding a heading to Article 1 immediately before
6 Section 1 of the Act, by adding a heading to Article 2
7 immediately before Section 5 of the Act, by adding Article 3
8 and a heading to Article 99 immediately before Section 90 of
9 the Act as follows:

10 (20 ILCS 2407/Art. 1 heading new)

11 ARTICLE 1. SHORT TITLE

12 (20 ILCS 2407/Art. 2 heading new)

13 ARTICLE 2. DISABILITIES SERVICES ACT of 2003

14 (20 ILCS 2407/Art. 3 heading new)

1 ARTICLE 3. MONEY FOLLOWS THE PERSON IMPLEMENTATION ACT

2 (20 ILCS 2407/51 new)

3 Sec. 51. Legislative intent. It is the intent of the
4 General Assembly to promote the civil rights of persons with
5 disabilities by providing community-based service for persons
6 with disabilities when such services are determined
7 appropriate and desired, as required by Title II of the
8 Americans with Disabilities Act under the United States Supreme
9 Court's decision in Olmstead v. L.C., 527 U.S. 581 (1999). In
10 accordance with Section 6071 of the Deficit Reduction Act of
11 2005 (P.L. 109-171), the purpose of this Act is (i) to identify
12 and reduce barriers or mechanisms, whether in State law, the
13 State Medicaid Plan, the State budget, or otherwise, that
14 prevent or restrict the flexible use of public funds to enable
15 individuals with disabilities to receive support for
16 appropriate and necessary long-term care services in settings
17 of their choice; (ii) to increase the use of home and
18 community-based long-term care services, rather than
19 institutions or long-term care facilities; (iii) to increase
20 the ability of the State Medicaid program to assure continued
21 provision of home and community-based long-term care services
22 to eligible individuals who choose to transition from an
23 institution or a long-term care facility to a community
24 setting; and (iv) to ensure that procedures are in place that
25 are at least comparable to those required under the qualified

1 home and community-based program to provide quality assurance
2 for eligible individuals receiving Medicaid home and
3 community-based long-term care services and to provide for
4 continuous quality improvement in such services. Utilizing the
5 framework created by the "Money Follows the Person"
6 demonstration project, approval received by the State on May
7 14, 2007, the purpose of this Act is to codify and reinforce
8 the State's commitment to promote individual choice and control
9 and increase utilization of home and community-based services
10 through:

11 (a) Increased ability of the State Medicaid program to
12 ensure continued provision of home and community-based
13 long-term care services to eligible individuals who choose
14 to transition from an institution to a community setting.

15 (b) Assessment and removal of barriers to community
16 reintegration, including development of a comprehensive
17 housing strategy.

18 (c) Expand availability of consumer self-directed
19 service options.

20 (d) Increased use of home and community-based
21 long-term care services, rather than institutions or
22 long-term care facilities, such that the percentage of the
23 state long-term care budget expended for community-based
24 services increases from its current 28.5% to at least 37%
25 in the next 5 years.

26 (e) Creation and implementation of interagency

1 agreements or budgetary mechanisms to allow for the
2 flexible movement of allocated dollars from institutional
3 budget appropriations to appropriations supporting home
4 and community-based services or Medicaid State Plan
5 options.

6 (f) Creation of an equitable, clinically sound and
7 cost-effective system for identification and review of
8 community transition candidates across all long-term care
9 systems; including improvement of prescreening, assessment
10 for rapid reintegration and targeted review of longer stay
11 residents, training and outreach education for providers
12 and consumers on community alternatives across all
13 long-term care systems.

14 (g) Development and implementation of data and
15 information systems to track individuals across service
16 systems and funding streams; support responsive
17 eligibility determination; facilitate placement and care
18 decisions; identify individuals with potential for
19 transition; and drive planning for the development of
20 community-based alternatives.

21 (h) Establishment of procedures that are at least
22 comparable to those required under the qualified home and
23 community-based program to provide quality assurance for
24 eligible individuals receiving Medicaid home and
25 community-based long-term care services and to provide for
26 continuous quality improvement in such services.

1 (i) Nothing in this amendatory Act of the 95th General
2 Assembly shall diminish or restrict the choice of an
3 individual to reside in an institution or the quality of
4 care they receive.

5 (20 ILCS 2407/52 new)

6 Sec. 52. Applicability; definitions. In accordance with
7 Section 6071 of the Deficit Reduction Act of 2005 (P.L.
8 109-171), as used in this Article:

9 "Departments". The term "Departments" means for the
10 purposes of this Act, the Department of Human Services, the
11 Department on Aging, Department of Healthcare and Family
12 Services and Department of Public Health, unless otherwise
13 noted.

14 "Home and community-based long-term care services". The
15 term "home and community-based long-term care services" means,
16 with respect to the State Medicaid program, a service aid, or
17 benefit, home and community-based services, including but not
18 limited to home health and personal care services, that are
19 provided to a person with a disability, and are voluntarily
20 accepted, as part of his or her long-term care that: (i) is
21 provided under the State's qualified home and community-based
22 program or that could be provided under such a program but is
23 otherwise provided under the Medicaid program; (ii) is
24 delivered in a qualified residence; and (iii) is necessary for
25 the person with a disability to live in the community.

1 "Long-term care facility". The term "long-term care
2 facility", for the purposes of this Article, means a skilled
3 nursing or intermediate long-term care facility subject to
4 licensure by the Department of Public Health under the Nursing
5 Home Care Act, an intermediate care facility for the
6 developmentally disabled (ICF-DDs), and a State-operated
7 developmental center or mental health center, whether publicly
8 or privately owned.

9 "Money Follows the Person" Demonstration. Enacted by the
10 Deficit Reduction Act of 2005, the Money Follows the Person
11 (MFP) Rebalancing Demonstration is part of a comprehensive,
12 coordinated strategy to assist states, in collaboration with
13 stakeholders, to make widespread changes to their long-term
14 care support systems. This initiative will assist states in
15 their efforts to reduce their reliance on institutional care
16 while developing community-based long-term care opportunities,
17 enabling the elderly and people with disabilities to fully
18 participate in their communities.

19 "Public funds" mean any funds appropriated by the General
20 Assembly to the Departments of Human Services, on Aging, of
21 Healthcare and Family Services and of Public Health for
22 settings and services as defined in this Article.

23 "Qualified residence". The term "qualified residence"
24 means, with respect to an eligible individual: (i) a home owned
25 or leased by the individual or the individual's authorized
26 representative (as defined by P.L. 109-171); (ii) an apartment

1 with an individual lease, with lockable access and egress, and
2 which includes living, sleeping, bathing, and cooking areas
3 over which the individual or the individual's family has domain
4 and control; or (iii) a residence, in a community-based
5 residential setting, in which no more than 4 unrelated
6 individuals reside. Where qualified residences are not
7 sufficient to meet the demand of eligible individuals, time
8 limited exceptions to this definition may be developed through
9 administrative rule.

10 "Self-directed services". The term "self-directed
11 services" means, with respect to home and community-based
12 long-term services for an eligible individual, those services
13 for the individual that are planned and purchased under the
14 direction and control of the individual or the individual's
15 authorized representative, including the amount, duration,
16 scope, provider, and location of such services, under the State
17 Medicaid program consistent with the following requirements:

18 (a) Assessment: there is an assessment of the needs,
19 capabilities, and preference of the individual with
20 respect to such services.

21 (b) Individual service care or treatment plan: based on
22 the assessment, there is development jointly with such
23 individual or individual's authorized representative, a
24 plan for such services for the individual that (i)
25 specifies those services, if any, that the individual or
26 the individual's authorized representative would be

1 responsible for directing; (ii) identifies the methods by
2 which the individual or the individual's authorized
3 representative or an agency designated by an individual or
4 representative will select, manage, and dismiss providers
5 of such services.

6 (20 ILCS 2407/53 new)

7 Sec. 53. Rebalancing benchmarks.

8 (a) Illinois' long-term care system is in a state of
9 transformation, as evidenced by the creation and subsequent
10 work products of the Disability Services Advisory Committee,
11 Older Adult Services Advisory Committee, Housing Task Force and
12 other executive and legislative branch initiatives.

13 (b) Illinois' Money Follows the Person demonstration
14 approval capitalizes on this progress and commits the State to
15 transition approximately 3,357 older persons and persons with
16 developmental, physical or psychiatric disabilities from
17 institutional to home and community-based settings, resulting
18 in an increased percentage of long-term care community spending
19 over the next 5 years.

20 (c) The State will endeavor to increase the percentage of
21 community-based long-term care spending over the next 5 years
22 according to the following timeline:

23 Estimated baseline: 28.5%

24 Year 1: 30%

25 Year 2: 31%

1 Year 3: 32%

2 Year 4: 35%

3 Year 5: 37%

4 (d) The Departments will utilize interagency agreements
5 and will seek legislative authority to implement a Money
6 Follows the Person budgetary mechanism to allocate or
7 reallocate funds for the purpose of expanding the availability,
8 quality or stability of home and community-based long-term care
9 services and supports for persons with disabilities.

10 (e) The allocation of public funds for home and
11 community-based long-term care services shall not have the
12 effect of: (i) diminishing or reducing the quality of services
13 available to residents of long-term care facilities; (ii)
14 forcing any residents of long-term care facilities to
15 involuntarily accept home and community-based long-term care
16 services, or causing any residents of long-term care facilities
17 to be involuntarily transferred or discharged; (iii) causing
18 reductions in long-term care facility reimbursement rates in
19 effect as of July 1, 2008; or (iv) diminishing access to a full
20 array of long-term care options.

21 (20 ILCS 2407/54 new)

22 Sec. 54. Quality assurance and quality improvement.

23 (a) In accordance with subsection (11) of section 6071 of
24 the Deficit Reduction Act of 2005 (P.L. 109-171), the
25 Departments shall develop a plan for quality assurance and

1 quality improvement for home and community-based long-term
2 care services under the State Medicaid program, including a
3 plan to assure the health and welfare of eligible individuals
4 under this Act.

5 (b) This plan shall require the Departments to apply for
6 any available funding to support the intent of this
7 legislation, and to seek any appropriate federal Medicaid
8 approval.

9 (20 ILCS 2407/55 new)

10 Sec. 55. Dissemination of reports.

11 (a) On or before April 1 of each year, in conjunction with
12 their annual report, the Department of Healthcare and Family
13 Services, in cooperation with the other involved agencies,
14 shall report to the Governor and the General Assembly on the
15 implementation of this Act and include, at a minimum, the
16 following data: (i) a description of any interagency
17 agreements, fiscal payment mechanisms or methodologies
18 developed under this Act that effectively support choice; (ii)
19 information concerning the dollar amounts of State Medicaid
20 long-term care expenditures and the percentage of such
21 expenditures that were for institutional long-term care
22 services or were for home and community-based long-term care
23 services; and (iii) documentation that the Departments have met
24 the requirements under Section 54(a) to assure the health and
25 welfare of eligible individuals receiving home and

1 community-based long-term care services. This report must be
2 made available to the general public, including via the
3 Departmental websites.

4 (20 ILCS 2407/56 new)

5 Sec. 56. Effect on existing rights.

6 (a) This Article does not alter or affect the manner in
7 which persons with disabilities are determined eligible or
8 appropriate for home and community-based long-term care
9 services.

10 (b) This Article shall not be read to limit in any way the
11 rights of persons with disabilities under the U.S.
12 Constitution, the Americans with Disabilities Act, Section 504
13 of the Rehabilitation Act, the Social Security Act, or any
14 other federal or State law.

15 (20 ILCS 2407/57 new)

16 Sec. 57. Rules. The Departments of Human Services, on
17 Aging, of Healthcare and Family Services and of Public Health
18 shall adopt any rules necessary for the implementation and
19 administration of this Act."