



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3997

Introduced 2/26/2009, by Rep. Careen M Gordon

SYNOPSIS AS INTRODUCED:

20 ILCS 2405/3

from Ch. 23, par. 3434

Amends the Disabled Persons Rehabilitation Act. Provides that the Department of Human Services may delegate the conduct of nursing home prescreenings by contract to preadmission screeners employed by social service agencies. Requires the Department to guard against conflicts of interest or the appearance of a conflict of interest, and to that end imposes certain limitations on social service agencies with which the Department may contract. Effective immediately.

LRB096 08979 DRJ 19118 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Disabled Persons Rehabilitation Act is
5 amended by changing Section 3 as follows:

6 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

7 Sec. 3. Powers and duties. The Department shall have the
8 powers and duties enumerated herein:

9 (a) To co-operate with the federal government in the
10 administration of the provisions of the federal Rehabilitation
11 Act of 1973, as amended, of the Workforce Investment Act of
12 1998, and of the federal Social Security Act to the extent and
13 in the manner provided in these Acts.

14 (b) To prescribe and supervise such courses of vocational
15 training and provide such other services as may be necessary
16 for the habilitation and rehabilitation of persons with one or
17 more disabilities, including the administrative activities
18 under subsection (e) of this Section, and to co-operate with
19 State and local school authorities and other recognized
20 agencies engaged in habilitation, rehabilitation and
21 comprehensive rehabilitation services; and to cooperate with
22 the Department of Children and Family Services regarding the
23 care and education of children with one or more disabilities.

1 (c) (Blank).

2 (d) To report in writing, to the Governor, annually on or
3 before the first day of December, and at such other times and
4 in such manner and upon such subjects as the Governor may
5 require. The annual report shall contain (1) a statement of the
6 existing condition of comprehensive rehabilitation services,
7 habilitation and rehabilitation in the State; (2) a statement
8 of suggestions and recommendations with reference to the
9 development of comprehensive rehabilitation services,
10 habilitation and rehabilitation in the State; and (3) an
11 itemized statement of the amounts of money received from
12 federal, State and other sources, and of the objects and
13 purposes to which the respective items of these several amounts
14 have been devoted.

15 (e) (Blank).

16 (f) To establish a program of services to prevent
17 unnecessary institutionalization of persons with Alzheimer's
18 disease and related disorders or persons in need of long term
19 care who are established as blind or disabled as defined by the
20 Social Security Act, thereby enabling them to remain in their
21 own homes or other living arrangements. Such preventive
22 services may include, but are not limited to, any or all of the
23 following:

24 (1) home health services;

25 (2) home nursing services;

26 (3) homemaker services;

- 1 (4) chore and housekeeping services;
- 2 (5) day care services;
- 3 (6) home-delivered meals;
- 4 (7) education in self-care;
- 5 (8) personal care services;
- 6 (9) adult day health services;
- 7 (10) habilitation services;
- 8 (11) respite care; or
- 9 (12) other nonmedical social services that may enable
- 10 the person to become self-supporting.

11 The Department shall establish eligibility standards for
12 such services taking into consideration the unique economic and
13 social needs of the population for whom they are to be
14 provided. Such eligibility standards may be based on the
15 recipient's ability to pay for services; provided, however,
16 that any portion of a person's income that is equal to or less
17 than the "protected income" level shall not be considered by
18 the Department in determining eligibility. The "protected
19 income" level shall be determined by the Department, shall
20 never be less than the federal poverty standard, and shall be
21 adjusted each year to reflect changes in the Consumer Price
22 Index For All Urban Consumers as determined by the United
23 States Department of Labor. The standards must provide that a
24 person may have not more than \$10,000 in assets to be eligible
25 for the services, and the Department may increase the asset
26 limitation by rule. Additionally, in determining the amount and

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

9 The services shall be provided to eligible persons to
10 prevent unnecessary or premature institutionalization, to the
11 extent that the cost of the services, together with the other
12 personal maintenance expenses of the persons, are reasonably
13 related to the standards established for care in a group
14 facility appropriate to their condition. These
15 non-institutional services, pilot projects or experimental
16 facilities may be provided as part of or in addition to those
17 authorized by federal law or those funded and administered by
18 the Illinois Department on Aging.

19 Personal care attendants shall be paid:

20 (i) A \$5 per hour minimum rate beginning July 1, 1995.

21 (ii) A \$5.30 per hour minimum rate beginning July 1,
22 1997.

23 (iii) A \$5.40 per hour minimum rate beginning July 1,
24 1998.

25 Solely for the purposes of coverage under the Illinois
26 Public Labor Relations Act (5 ILCS 315/), personal care

1 attendants and personal assistants providing services under
2 the Department's Home Services Program shall be considered to
3 be public employees and the State of Illinois shall be
4 considered to be their employer as of the effective date of
5 this amendatory Act of the 93rd General Assembly, but not
6 before. The State shall engage in collective bargaining with an
7 exclusive representative of personal care attendants and
8 personal assistants working under the Home Services Program
9 concerning their terms and conditions of employment that are
10 within the State's control. Nothing in this paragraph shall be
11 understood to limit the right of the persons receiving services
12 defined in this Section to hire and fire personal care
13 attendants and personal assistants or supervise them within the
14 limitations set by the Home Services Program. The State shall
15 not be considered to be the employer of personal care
16 attendants and personal assistants for any purposes not
17 specifically provided in this amendatory Act of the 93rd
18 General Assembly, including but not limited to, purposes of
19 vicarious liability in tort and purposes of statutory
20 retirement or health insurance benefits. Personal care
21 attendants and personal assistants shall not be covered by the
22 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

23 The Department shall execute, relative to the nursing home
24 prescreening project, as authorized by Section 4.03 of the
25 Illinois Act on the Aging, written inter-agency agreements with
26 the Department on Aging and the Department of Public Aid (now

1 Department of Healthcare and Family Services), to effect the
2 following: (i) intake procedures and common eligibility
3 criteria for those persons who are receiving non-institutional
4 services; and (ii) the establishment and development of
5 non-institutional services in areas of the State where they are
6 not currently available or are undeveloped. On and after July
7 1, 1996, and before the effective date of this amendatory Act
8 of the 96th General Assembly, all nursing home prescreenings
9 for individuals 18 through 59 years of age shall be conducted
10 by the Department. On and after the effective date of this
11 amendatory Act of the 96th General Assembly, the Department may
12 delegate the conduct of prescreenings by contract to
13 preadmission screeners employed by social service agencies.
14 For the purposes of this Section, "preadmission screener" means
15 a counselor or appropriate representative of a cooperating
16 social service agency who has been trained by the Department or
17 the Department on Aging to perform prescreenings. The
18 Department shall guard against conflict of interest or the
19 appearance of conflict of interest in awarding such contracts.
20 To that end, the Department is prohibited from contracting with
21 a social service agency to provide prescreening services in any
22 of the following circumstances:

23 (A) The social service agency provides residential or
24 nonresidential services to the developmentally disabled in
25 the same service delivery area.

26 (B) The social service agency has a financial interest

1 in or an arrangement with a provider of residential or
2 nonresidential services to individuals with developmental
3 disabilities in the same delivery area.

4 (C) The social service agency has one or more providers
5 serving on its board of directors or in any other advisory
6 capacity.

7 The Department is authorized to establish a system of
8 recipient cost-sharing for services provided under this
9 Section. The cost-sharing shall be based upon the recipient's
10 ability to pay for services, but in no case shall the
11 recipient's share exceed the actual cost of the services
12 provided. Protected income shall not be considered by the
13 Department in its determination of the recipient's ability to
14 pay a share of the cost of services. The level of cost-sharing
15 shall be adjusted each year to reflect changes in the
16 "protected income" level. The Department shall deduct from the
17 recipient's share of the cost of services any money expended by
18 the recipient for disability-related expenses.

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 and the Department on Aging shall cooperate
23 in the development and submission of an annual report on
24 programs and services provided under this Section. Such joint
25 report shall be filed with the Governor and the General
26 Assembly on or before March 30 each year.

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

10 (g) To establish such subdivisions of the Department as
11 shall be desirable and assign to the various subdivisions the
12 responsibilities and duties placed upon the Department by law.

13 (h) To cooperate and enter into any necessary agreements
14 with the Department of Employment Security for the provision of
15 job placement and job referral services to clients of the
16 Department, including job service registration of such clients
17 with Illinois Employment Security offices and making job
18 listings maintained by the Department of Employment Security
19 available to such clients.

20 (i) To possess all powers reasonable and necessary for the
21 exercise and administration of the powers, duties and
22 responsibilities of the Department which are provided for by
23 law.

24 (j) To establish a procedure whereby new providers of
25 personal care attendant services shall submit vouchers to the
26 State for payment two times during their first month of

1 employment and one time per month thereafter. In no case shall
2 the Department pay personal care attendants an hourly wage that
3 is less than the federal minimum wage.

4 (k) To provide adequate notice to providers of chore and
5 housekeeping services informing them that they are entitled to
6 an interest payment on bills which are not promptly paid
7 pursuant to Section 3 of the State Prompt Payment Act.

8 (l) To establish, operate and maintain a Statewide Housing
9 Clearinghouse of information on available, government
10 subsidized housing accessible to disabled persons and
11 available privately owned housing accessible to disabled
12 persons. The information shall include but not be limited to
13 the location, rental requirements, access features and
14 proximity to public transportation of available housing. The
15 Clearinghouse shall consist of at least a computerized database
16 for the storage and retrieval of information and a separate or
17 shared toll free telephone number for use by those seeking
18 information from the Clearinghouse. Department offices and
19 personnel throughout the State shall also assist in the
20 operation of the Statewide Housing Clearinghouse. Cooperation
21 with local, State and federal housing managers shall be sought
22 and extended in order to frequently and promptly update the
23 Clearinghouse's information.

24 (m) To assure that the names and case records of persons
25 who received or are receiving services from the Department,
26 including persons receiving vocational rehabilitation, home

1 services, or other services, and those attending one of the
2 Department's schools or other supervised facility shall be
3 confidential and not be open to the general public. Those case
4 records and reports or the information contained in those
5 records and reports shall be disclosed by the Director only to
6 proper law enforcement officials, individuals authorized by a
7 court, the General Assembly or any committee or commission of
8 the General Assembly, and other persons and for reasons as the
9 Director designates by rule. Disclosure by the Director may be
10 only in accordance with other applicable law.

11 (Source: P.A. 94-252, eff. 1-1-06; 95-331, eff. 8-21-07.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.