



Rep. Robyn Gabel

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LRB097 03905 KTG 56351 a

1 AMENDMENT TO HOUSE BILL 387

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 387 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Act on the Aging is amended by  
5 changing Section 4.02 as follows:

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

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

1 limited to, any or all of the following:

2 (a) (blank);

3 (b) (blank);

4 (c) home care aide services;

5 (d) personal assistant services;

6 (e) adult day services;

7 (f) home-delivered meals;

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 (k-6) flexible senior services;

15 (k-7) medication management;

16 (k-8) emergency home response;

17 (l) other nonmedical social services that may enable  
18 the person to become self-supporting; or

19 (m) clearinghouse for information provided by senior  
20 citizen home owners who want to rent rooms to or share  
21 living space with other senior citizens.

22 The Department shall establish eligibility standards for  
23 such services. In determining the amount and nature of services  
24 for which a person may qualify, consideration shall not be  
25 given to the value of cash, property or other assets held in  
26 the name of the person's spouse pursuant to a written agreement

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

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

11 The Department shall, in conjunction with the Department of  
12 Public Aid (now Department of Healthcare and Family Services),  
13 seek appropriate amendments under Sections 1915 and 1924 of the  
14 Social Security Act. The purpose of the amendments shall be to  
15 extend eligibility for home and community based services under  
16 Sections 1915 and 1924 of the Social Security Act to persons  
17 who transfer to or for the benefit of a spouse those amounts of  
18 income and resources allowed under Section 1924 of the Social  
19 Security Act. Subject to the approval of such amendments, the  
20 Department shall extend the provisions of Section 5-4 of the  
21 Illinois Public Aid Code to persons who, but for the provision  
22 of home or community-based services, would require the level of  
23 care provided in an institution, as is provided for in federal  
24 law. Those persons no longer found to be eligible for receiving  
25 noninstitutional services due to changes in the eligibility  
26 criteria shall be given 45 days notice prior to actual

1 termination. Those persons receiving notice of termination may  
2 contact the Department and request the determination be  
3 appealed at any time during the 45 day notice period. The  
4 target population identified for the purposes of this Section  
5 are persons age 60 and older with an identified service need.  
6 Priority shall be given to those who are at imminent risk of  
7 institutionalization. The services shall be provided to  
8 eligible persons age 60 and older to the extent that the cost  
9 of the services together with the other personal maintenance  
10 expenses of the persons are reasonably related to the standards  
11 established for care in a group facility appropriate to the  
12 person's condition. These non-institutional services, pilot  
13 projects or experimental facilities may be provided as part of  
14 or in addition to those authorized by federal law or those  
15 funded and administered by the Department of Human Services.  
16 The Departments of Human Services, Healthcare and Family  
17 Services, Public Health, Veterans' Affairs, and Commerce and  
18 Economic Opportunity and other appropriate agencies of State,  
19 federal and local governments shall cooperate with the  
20 Department on Aging in the establishment and development of the  
21 non-institutional services. The Department shall require an  
22 annual audit from all personal assistant and home care aide  
23 vendors contracting with the Department under this Section. The  
24 annual audit shall assure that each audited vendor's procedures  
25 are in compliance with Department's financial reporting  
26 guidelines requiring an administrative and employee wage and

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

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

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

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

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

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

7 The Department shall increase the effectiveness of the  
8 existing Community Care Program by:

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

11 (2) ensuring that care plans contain the services that  
12 eligible participants need based on the number of days in a  
13 month, not limited to specific blocks of time, as  
14 identified by the comprehensive assessment tool selected  
15 by the Department for use statewide, not to exceed the  
16 total monthly service cost maximum allowed for each  
17 service; the Department shall develop administrative rules  
18 to implement this item (2);

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

23 (4) ensuring that the determination of need tool is  
24 accurate in determining the participants' level of need; to  
25 achieve this, the Department, in conjunction with the Older  
26 Adult Services Advisory Committee, shall institute a study

1 of the relationship between the Determination of Need  
2 scores, level of need, service cost maximums, and the  
3 development and utilization of service plans no later than  
4 May 1, 2008; findings and recommendations shall be  
5 presented to the Governor and the General Assembly no later  
6 than January 1, 2009; recommendations shall include all  
7 needed changes to the service cost maximums schedule and  
8 additional covered services;

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

- 12 (A) bathing;
- 13 (B) grooming;
- 14 (C) toileting;
- 15 (D) nail care;
- 16 (E) transferring;
- 17 (F) respiratory services;
- 18 (G) exercise; or
- 19 (H) positioning;

20 (6) ensuring that homemaker program vendors are not  
21 restricted from hiring homemakers who are family members of  
22 clients or recommended by clients; the Department may not,  
23 by rule or policy, require homemakers who are family  
24 members of clients or recommended by clients to accept  
25 assignments in homes other than the client;

26 (7) ensuring that the State may access maximum federal



1 matching funds by seeking approval for the Centers for  
2 Medicare and Medicaid Services for modifications to the  
3 State's home and community based services waiver and  
4 additional waiver opportunities in order to maximize  
5 federal matching funds; this shall include, but not be  
6 limited to, modification that reflects all changes in the  
7 Community Care Program services and all increases in the  
8 services cost maximum; and

9 (8) ensuring that the determination of need tool  
10 accurately reflects the service needs of individuals with  
11 Alzheimer's disease and related dementia disorders.

12 By January 1, 2009 or as soon after the end of the Cash and  
13 Counseling Demonstration Project as is practicable, the  
14 Department may, based on its evaluation of the demonstration  
15 project, promulgate rules concerning personal assistant  
16 services, to include, but need not be limited to,  
17 qualifications, employment screening, rights under fair labor  
18 standards, training, fiduciary agent, and supervision  
19 requirements. All applicants shall be subject to the provisions  
20 of the Health Care Worker Background Check Act.

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

1 services shall be appropriately trained.

2 Beginning on the effective date of this Amendatory Act of  
3 1991, no person may perform chore/housekeeping and home care  
4 aide services under a program authorized by this Section unless  
5 that person has been issued a certificate of pre-service to do  
6 so by his or her employing agency. Information gathered to  
7 effect such certification shall include (i) the person's name,  
8 (ii) the date the person was hired by his or her current  
9 employer, and (iii) the training, including dates and levels.  
10 Persons engaged in the program authorized by this Section  
11 before the effective date of this amendatory Act of 1991 shall  
12 be issued a certificate of all pre- and in-service training  
13 from his or her employer upon submitting the necessary  
14 information. The employing agency shall be required to retain  
15 records of all staff pre- and in-service training, and shall  
16 provide such records to the Department upon request and upon  
17 termination of the employer's contract with the Department. In  
18 addition, the employing agency is responsible for the issuance  
19 of certifications of in-service training completed to their  
20 employees.

21 The Department is required to develop a system to ensure  
22 that persons working as home care aides and personal assistants  
23 receive increases in their wages when the federal minimum wage  
24 is increased by requiring vendors to certify that they are  
25 meeting the federal minimum wage statute for home care aides  
26 and personal assistants. An employer that cannot ensure that

1 the minimum wage increase is being given to home care aides and  
2 personal assistants shall be denied any increase in  
3 reimbursement costs.

4 The Community Care Program Advisory Committee is created in  
5 the Department on Aging. The Director shall appoint individuals  
6 to serve in the Committee, who shall serve at their own  
7 expense. Members of the Committee must abide by all applicable  
8 ethics laws. The Committee shall advise the Department on  
9 issues related to the Department's program of services to  
10 prevent unnecessary institutionalization. The Committee shall  
11 meet on a bi-monthly basis and shall serve to identify and  
12 advise the Department on present and potential issues affecting  
13 the service delivery network, the program's clients, and the  
14 Department and to recommend solution strategies. Persons  
15 appointed to the Committee shall be appointed on, but not  
16 limited to, their own and their agency's experience with the  
17 program, geographic representation, and willingness to serve.  
18 The Director shall appoint members to the Committee to  
19 represent provider, advocacy, policy research, and other  
20 constituencies committed to the delivery of high quality home  
21 and community-based services to older adults. Representatives  
22 shall be appointed to ensure representation from community care  
23 providers including, but not limited to, adult day service  
24 providers, homemaker providers, case coordination and case  
25 management units, emergency home response providers, statewide  
26 trade or labor unions that represent home care aides and direct

1 care staff, area agencies on aging, adults over age 60,  
2 membership organizations representing older adults, and other  
3 organizational entities, providers of care, or individuals  
4 with demonstrated interest and expertise in the field of home  
5 and community care as determined by the Director.

6 Nominations may be presented from any agency or State  
7 association with interest in the program. The Director, or his  
8 or her designee, shall serve as the permanent co-chair of the  
9 advisory committee. One other co-chair shall be nominated and  
10 approved by the members of the committee on an annual basis.  
11 Committee members' terms of appointment shall be for 4 years  
12 with one-quarter of the appointees' terms expiring each year. A  
13 member shall continue to serve until his or her replacement is  
14 named. The Department shall fill vacancies that have a  
15 remaining term of over one year, and this replacement shall  
16 occur through the annual replacement of expiring terms. The  
17 Director shall designate Department staff to provide technical  
18 assistance and staff support to the committee. Department  
19 representation shall not constitute membership of the  
20 committee. All Committee papers, issues, recommendations,  
21 reports, and meeting memoranda are advisory only. The Director,  
22 or his or her designee, shall make a written report, as  
23 requested by the Committee, regarding issues before the  
24 Committee.

25 The Department on Aging and the Department of Human  
26 Services shall cooperate in the development and submission of

1 an annual report on programs and services provided under this  
2 Section. Such joint report shall be filed with the Governor and  
3 the General Assembly on or before September 30 each year.

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

14 Those persons previously found eligible for receiving  
15 non-institutional services whose services were discontinued  
16 under the Emergency Budget Act of Fiscal Year 1992, and who do  
17 not meet the eligibility standards in effect on or after July  
18 1, 1992, shall remain ineligible on and after July 1, 1992.  
19 Those persons previously not required to cost-share and who  
20 were required to cost-share effective March 1, 1992, shall  
21 continue to meet cost-share requirements on and after July 1,  
22 1992. Beginning July 1, 1992, all clients will be required to  
23 meet eligibility, cost-share, and other requirements and will  
24 have services discontinued or altered when they fail to meet  
25 these requirements.

26 The Department shall pay an enhanced rate under the

1 Community Care Program to those in-home service provider  
2 agencies that offer health insurance coverage as a benefit to  
3 their direct service worker employees consistent with the  
4 mandates of Public Act 95-713.

5 Notwithstanding any other eligibility rules in effect or  
6 subsequently promulgated by the Department, and consistent  
7 with the mandates of Public Act 95-713, vendors who receive or  
8 did receive an enhanced rate payment for the purpose of  
9 providing health insurance coverage to their employees by  
10 contributing to a Taft-Hartley welfare plan or other qualified  
11 self-funded health plan will be allowed to have such plans  
12 accumulate or have accumulated up to 6 months of enhanced rate  
13 payments prior to the actual provision of health insurance  
14 coverage to their direct service worker employees in order to  
15 be able to pay premiums, benefits, claims, or other attendant  
16 costs of such health coverage.

17 For the purposes of this Section, "flexible senior  
18 services" refers to services that require one-time or periodic  
19 expenditures including, but not limited to, respite care, home  
20 modification, assistive technology, housing assistance, and  
21 transportation.

22 (Source: P.A. 95-298, eff. 8-20-07; 95-473, eff. 8-27-07;  
23 95-565, eff. 6-1-08; 95-876, eff. 8-21-08; 96-918, eff. 6-9-10;  
24 96-1129, eff. 7-20-10; revised 9-2-10.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".