



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1351

Introduced 2/8/2011, by Sen. David Koehler

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2405/3

from Ch. 23, par. 3434

Amends the Disabled Persons Rehabilitation Act. Removes persons with Alzheimer's disease and related disorders from the list of persons receiving services under the Act. Changes the type of preventive services the Department may establish to prevent the unnecessary institutionalization of persons in need of long term care who meet the criteria for blindness or disability as defined under the Social Security Act. Removes language allowing the Department to base eligibility standards on the recipient's ability to pay. Removes language concerning the Department's authority to establish a system of recipient cost sharing; provider vouchers; interest payments to providers of chore and housekeeping services; and other matters. Effective immediately.

LRB097 02736 KTG 43160 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 the  
17 unnecessary institutionalization of ~~persons with Alzheimer's~~  
18 ~~disease and related disorders~~ or persons in need of long term  
19 care and who meet the criteria for blindness or disability ~~are~~  
20 ~~established as blind or disabled~~ as defined by the Social  
21 Security Act, thereby enabling them to remain in their own  
22 homes ~~or other living arrangements~~. Such preventive services  
23 may include, but are not limited to, any or all of the  
24 following:

25 (1) personal assistant services ~~home health services~~;

26 (2) homemaker services ~~home nursing services~~;

- 1           (3) home-delivered meals ~~homemaker services;~~  
2           (4) adult day care services ~~chore and housekeeping~~  
3 ~~services;~~  
4           (5) respite care ~~day care services;~~  
5           (6) home modification or assistive equipment  
6 ~~home delivered meals;~~  
7           (7) brain injury behavioral/cognitive services  
8 ~~education in self care;~~  
9           (8) brain injury habilitation ~~personal care services;~~  
10          (9) brain injury pre-vocational; or ~~adult day health~~  
11 ~~services;~~  
12          (10) brain injury supported employment. ~~habilitation~~  
13 ~~services;~~  
14          (11) (Blank). ~~respite care; or~~  
15          (12) (Blank). ~~other nonmedical social services that~~  
16 ~~may enable the person to become self supporting.~~

17          The Department shall establish eligibility standards for  
18 such services taking into consideration the unique economic and  
19 social needs of the population for whom they are to be  
20 provided. ~~Such eligibility standards may be based on the~~  
21 ~~recipient's ability to pay for services; provided, however,~~  
22 ~~that any portion of a person's income that is equal to or less~~  
23 ~~than the "protected income" level shall not be considered by~~  
24 ~~the Department in determining eligibility. The "protected~~  
25 ~~income" level shall be determined by the Department, shall~~  
26 ~~never be less than the federal poverty standard, and shall be~~

1 ~~adjusted each year to reflect changes in the Consumer Price~~  
2 ~~Index For All Urban Consumers as determined by the United~~  
3 ~~States Department of Labor.~~ The standards must provide that a  
4 person may not have ~~not~~ more than the amount of \$10,000 in  
5 assets established by the Department by rule to be eligible for  
6 the services, ~~and the Department may increase the asset~~  
7 ~~limitation by rule. Additionally, in determining the amount and~~  
8 ~~nature of services for which a person may qualify,~~  
9 ~~consideration shall not be given to the value of cash, property~~  
10 ~~or other assets held in the name of the person's spouse~~  
11 ~~pursuant to a written agreement dividing marital property into~~  
12 ~~equal but separate shares or pursuant to a transfer of the~~  
13 ~~person's interest in a home to his spouse, provided that the~~  
14 ~~spouse's share of the marital property is not made available to~~  
15 ~~the person seeking such services.~~

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

26 The Department shall set rates and fees for services in a

1 fair and equitable manner. Services identical to those offered  
2 by the Department on Aging shall be paid at the same rate.

3 Personal assistants shall be paid at a rate negotiated  
4 between the State and an exclusive representative of personal  
5 assistants under a collective bargaining agreement. In no case  
6 shall the Department pay personal assistants an hourly wage  
7 that is less than the federal minimum wage. ~~Personal care~~  
8 ~~attendants shall be paid:~~

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

10 ~~(ii) A \$5.30 per hour minimum rate beginning July 1,~~  
11 ~~1997.~~

12 ~~(iii) A \$5.40 per hour minimum rate beginning July 1,~~  
13 ~~1998.~~

14 Solely for the purposes of coverage under the Illinois  
15 Public Labor Relations Act (5 ILCS 315/), ~~personal care~~  
16 ~~attendants~~ and personal assistants providing services under  
17 the Department's Home Services Program shall be considered to  
18 be public employees and the State of Illinois shall be  
19 considered to be their employer as of the effective date of  
20 this amendatory Act of the 93rd General Assembly, but not  
21 before. The State shall engage in collective bargaining with an  
22 exclusive representative of ~~personal care attendants~~ and  
23 personal assistants working under the Home Services Program  
24 concerning their terms and conditions of employment that are  
25 within the State's control. Nothing in this paragraph shall be  
26 understood to limit the right of the persons receiving services

1 defined in this Section to hire and fire ~~personal care~~  
2 ~~attendants and~~ personal assistants or supervise them within the  
3 limitations set by the Home Services Program. The State shall  
4 not be considered to be the employer of ~~personal care~~  
5 ~~attendants and~~ personal assistants for any purposes not  
6 specifically provided in this amendatory Act of the 93rd  
7 General Assembly, including but not limited to, purposes of  
8 vicarious liability in tort and purposes of statutory  
9 retirement or health insurance benefits. Personal ~~care~~  
10 ~~attendants and personal~~ assistants shall not be covered by the  
11 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

12 The Department shall execute, relative to ~~the~~ nursing home  
13 prescreening ~~project~~, as authorized by Section 4.03 of the  
14 Illinois Act on the Aging, written inter-agency agreements with  
15 the Department on Aging and the ~~Department of Public Aid (now~~  
16 ~~Department of Healthcare and Family Services)~~, to effect the  
17 ~~following: (i) intake procedures and common eligibility~~  
18 ~~criteria for those persons who may need long term care. ~~are~~~~  
19 ~~receiving non institutional services; and (ii) the~~  
20 ~~establishment and development of non institutional services in~~  
21 ~~areas of the State where they are not currently available or~~  
22 ~~are undeveloped.~~ On and after July 1, 1996, all nursing home  
23 prescreenings for individuals 18 through 59 years of age shall  
24 be conducted by the Department, or a designee of the  
25 Department.

26 ~~The Department is authorized to establish a system of~~

1 ~~recipient cost sharing for services provided under this~~  
2 ~~Section. The cost sharing shall be based upon the recipient's~~  
3 ~~ability to pay for services, but in no case shall the~~  
4 ~~recipient's share exceed the actual cost of the services~~  
5 ~~provided. Protected income shall not be considered by the~~  
6 ~~Department in its determination of the recipient's ability to~~  
7 ~~pay a share of the cost of services. The level of cost sharing~~  
8 ~~shall be adjusted each year to reflect changes in the~~  
9 ~~"protected income" level. The Department shall deduct from the~~  
10 ~~recipient's share of the cost of services any money expended by~~  
11 ~~the recipient for disability related expenses.~~

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



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

15 The Department shall submit ~~and the Department on Aging~~  
16 ~~shall cooperate in the development and submission of~~ an annual  
17 report on programs and services provided under this Section.  
18 The ~~Such joint~~ report shall be filed with the Governor and the  
19 General Assembly on or before March 30 each year.

20 The requirement for reporting to the General Assembly shall  
21 be satisfied by filing copies of the report with the Speaker,  
22 the Minority Leader and the Clerk of the House of  
23 Representatives and the President, the Minority Leader and the  
24 Secretary of the Senate and the Legislative Research Unit, as  
25 required by Section 3.1 of the General Assembly Organization  
26 Act, and filing additional copies with the State Government

1 Report Distribution Center for the General Assembly as required  
2 under paragraph (t) of Section 7 of the State Library Act.

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

6 (h) To cooperate and enter into any necessary agreements  
7 with the Department of Employment Security for the provision of  
8 job placement and job referral services to clients of the  
9 Department, including job service registration of such clients  
10 with Illinois Employment Security offices and making job  
11 listings maintained by the Department of Employment Security  
12 available to such clients.

13 (i) To possess all powers reasonable and necessary for the  
14 exercise and administration of the powers, duties and  
15 responsibilities of the Department which are provided for by  
16 law.

17 (j) (Blank). ~~To establish a procedure whereby new providers~~  
18 ~~of personal care attendant services shall submit vouchers to~~  
19 ~~the State for payment two times during their first month of~~  
20 ~~employment and one time per month thereafter. In no case shall~~  
21 ~~the Department pay personal care attendants an hourly wage that~~  
22 ~~is less than the federal minimum wage.~~

23 (k) (Blank). ~~To provide adequate notice to providers of~~  
24 ~~ehore and housekeeping services informing them that they are~~  
25 ~~entitled to an interest payment on bills which are not promptly~~  
26 ~~paid pursuant to Section 3 of the State Prompt Payment Act.~~

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

17           (m) To assure that the names and case records of persons  
18 who received or are receiving services from the Department,  
19 including persons receiving vocational rehabilitation, home  
20 services, or other services, and those attending one of the  
21 Department's schools or other supervised facility shall be  
22 confidential and not be open to the general public. Those case  
23 records and reports or the information contained in those  
24 records and reports shall be disclosed by the Director only to  
25 proper law enforcement officials, individuals authorized by a  
26 court, the General Assembly or any committee or commission of

1 the General Assembly, and other persons and for reasons as the  
2 Director designates by rule. Disclosure by the Director may be  
3 only in accordance with other applicable law.

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

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.