



Rep. Lou Lang

Filed: 5/28/2011

09700SB2147ham005

LRB097 09338 KTG 56491 a

1 AMENDMENT TO SENATE BILL 2147

2 AMENDMENT NO. _____. Amend Senate Bill 2147 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 10. The Nursing Home Care Act is amended by

1 changing Section 3-202.05 as follows:

2 (210 ILCS 45/3-202.05)

3 Sec. 3-202.05. Staffing ratios effective July 1, 2010 and
4 thereafter.

5 (a) For the purpose of computing staff to resident ratios,
6 direct care staff shall include:

7 (1) registered nurses;

8 (2) licensed practical nurses;

9 (3) certified nurse assistants;

10 (4) psychiatric services rehabilitation aides;

11 (5) rehabilitation and therapy aides;

12 (6) psychiatric services rehabilitation coordinators;

13 (7) assistant directors of nursing;

14 (8) 50% of the Director of Nurses' time; and

15 (9) 30% of the Social Services Directors' time.

16 The Department shall, by rule, allow certain facilities
17 subject to 77 Ill. Admin. Code 300.4000 and following (Subpart
18 S) and 300.6000 and following (Subpart T) to utilize
19 specialized clinical staff, as defined in rules, to count
20 towards the staffing ratios.

21 (b) Beginning January 1, 2011, and thereafter, light
22 intermediate care shall be staffed at the same staffing ratio
23 as intermediate care.

24 (c) Facilities shall notify the Department within 60 days
25 after the effective date of this amendatory Act of the 96th

1 General Assembly, in a form and manner prescribed by the
2 Department, of the staffing ratios in effect on the effective
3 date of this amendatory Act of the 96th General Assembly for
4 both intermediate and skilled care and the number of residents
5 receiving each level of care.

6 (d) (1) Effective July 1, 2010, for each resident needing
7 skilled care, a minimum staffing ratio of 2.5 hours of nursing
8 and personal care each day must be provided; for each resident
9 needing intermediate care, 1.7 hours of nursing and personal
10 care each day must be provided.

11 (2) Effective January 1, 2011, the minimum staffing ratios
12 shall be increased to 2.7 hours of nursing and personal care
13 each day for a resident needing skilled care and 1.9 hours of
14 nursing and personal care each day for a resident needing
15 intermediate care.

16 (3) Effective January 1, 2012, the minimum staffing ratios
17 shall be increased to 3.0 hours of nursing and personal care
18 each day for a resident needing skilled care and 2.1 hours of
19 nursing and personal care each day for a resident needing
20 intermediate care.

21 (4) Effective January 1, 2013, the minimum staffing ratios
22 shall be increased to 3.4 hours of nursing and personal care
23 each day for a resident needing skilled care and 2.3 hours of
24 nursing and personal care each day for a resident needing
25 intermediate care.

26 (5) Effective January 1, 2014, the minimum staffing ratios

1 shall be increased to 3.8 hours of nursing and personal care
2 each day for a resident needing skilled care and 2.5 hours of
3 nursing and personal care each day for a resident needing
4 intermediate care.

5 (e) Staffing increases contained in paragraphs (3), (4),
6 and (5) of subsection (d) shall be delayed for one year after
7 the effective dates stated in the paragraphs, unless (i) the
8 federal Centers for Medicare & Medicaid Services reviews and
9 approves an appropriate State plan amendment containing the
10 methodologies contained in Section 5-5.4 of the Illinois Public
11 Aid Code and determines that the assessment imposed by Section
12 5B-2 of the Illinois Public Aid Code is a permissible tax under
13 Title XIX of the Social Security Act or (ii) the State of
14 Illinois identifies an alternative funding source, in which
15 case the effective dates shall not be delayed. In the event
16 that both this amendatory Act of the 97th General Assembly and
17 Senate Bill 145 of the 97th General Assembly become law, the
18 provisions under this subsection (e) shall not apply.

19 (Source: P.A. 96-1372, eff. 7-29-10; 96-1504, eff. 1-27-11.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."