



Rep. Jaime M. Andrade, Jr.

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09900HB5764ham001

LRB099 19049 KTG 46507 a

1 AMENDMENT TO HOUSE BILL 5764

2 AMENDMENT NO. _____. Amend House Bill 5764 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 or blind or who has a permanent and total
12 disability. This paragraph, however, shall not bar recovery, at
13 the death of the person, of moneys for services provided to the
14 person or in behalf of the person under this Section to which
15 the person was not entitled; provided that such recovery shall
16 not be enforced against any real estate while it is occupied as
17 a homestead by the surviving spouse or other dependent, if no
18 claims by other creditors have been filed against the estate,
19 or, if such claims have been filed, they remain dormant for
20 failure of prosecution or failure of the claimant to compel
21 administration of the estate for the purpose of payment. This
22 paragraph shall not bar recovery from the estate of a spouse,
23 under Sections 1915 and 1924 of the Social Security Act and
24 Section 5-4 of the Illinois Public Aid Code, who precedes a
25 person receiving services under this Section in death. All
26 moneys for services paid to or in behalf of the person under

1 this Section shall be claimed for recovery from the deceased
2 spouse's estate. "Homestead", as used in this paragraph, means
3 the dwelling house and contiguous real estate occupied by a
4 surviving spouse or relative, as defined by the rules and
5 regulations of the Department of Healthcare and Family
6 Services, regardless of the 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, including applying for
5 enrollment in the Balance Incentive Payment Program by May
6 1, 2013, in order to maximize federal matching funds; this
7 shall include, but not be limited to, modification that
8 reflects all changes in the Community Care Program services
9 and all increases in the services cost maximum;

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

13 (9) ensuring that services are authorized accurately
14 and consistently for the Community Care Program (CCP); the
15 Department shall implement a Service Authorization policy
16 directive; the purpose shall be to ensure that eligibility
17 and services are authorized accurately and consistently in
18 the CCP program; the policy directive shall clarify service
19 authorization guidelines to Care Coordination Units and
20 Community Care Program providers no later than May 1, 2013;

21 (10) working in conjunction with Care Coordination
22 Units, the Department of Healthcare and Family Services,
23 the Department of Human Services, Community Care Program
24 providers, and other stakeholders to make improvements to
25 the Medicaid claiming processes and the Medicaid
26 enrollment procedures or requirements as needed,

1 including, but not limited to, specific policy changes or
2 rules to improve the up-front enrollment of participants in
3 the Medicaid program and specific policy changes or rules
4 to insure more prompt submission of bills to the federal
5 government to secure maximum federal matching dollars as
6 promptly as possible; the Department on Aging shall have at
7 least 3 meetings with stakeholders by January 1, 2014 in
8 order to address these improvements;

9 (11) requiring home care service providers to comply
10 with the rounding of hours worked provisions under the
11 federal Fair Labor Standards Act (FLSA) and as set forth in
12 29 CFR 785.48(b) by May 1, 2013;

13 (12) implementing any necessary policy changes or
14 promulgating any rules, no later than January 1, 2014, to
15 assist the Department of Healthcare and Family Services in
16 moving as many participants as possible, consistent with
17 federal regulations, into coordinated care plans if a care
18 coordination plan that covers long term care is available
19 in the recipient's area; and

20 (13) maintaining fiscal year 2014 rates at the same
21 level established on January 1, 2013.

22 By January 1, 2009 or as soon after the end of the Cash and
23 Counseling Demonstration Project as is practicable, the
24 Department may, based on its evaluation of the demonstration
25 project, promulgate rules concerning personal assistant
26 services, to include, but need not be limited to,

1 qualifications, employment screening, rights under fair labor
2 standards, training, fiduciary agent, and supervision
3 requirements. All applicants shall be subject to the provisions
4 of the Health Care Worker Background Check Act.

5 The Department shall develop procedures to enhance
6 availability of services on evenings, weekends, and on an
7 emergency basis to meet the respite needs of caregivers.
8 Procedures shall be developed to permit the utilization of
9 services in successive blocks of 24 hours up to the monthly
10 maximum established by the Department. Workers providing these
11 services shall be appropriately trained.

12 Beginning on the effective date of this amendatory Act of
13 1991, no person may perform chore/housekeeping and home care
14 aide services under a program authorized by this Section unless
15 that person has been issued a certificate of pre-service to do
16 so by his or her employing agency. Information gathered to
17 effect such certification shall include (i) the person's name,
18 (ii) the date the person was hired by his or her current
19 employer, and (iii) the training, including dates and levels.
20 Persons engaged in the program authorized by this Section
21 before the effective date of this amendatory Act of 1991 shall
22 be issued a certificate of all pre- and in-service training
23 from his or her employer upon submitting the necessary
24 information. The employing agency shall be required to retain
25 records of all staff pre- and in-service training, and shall
26 provide such records to the Department upon request and upon

1 termination of the employer's contract with the Department. In
2 addition, the employing agency is responsible for the issuance
3 of certifications of in-service training completed to their
4 employees.

5 The Department is required to develop a system to ensure
6 that persons working as home care aides and personal assistants
7 receive increases in their wages when the federal minimum wage
8 is increased by requiring vendors to certify that they are
9 meeting the federal minimum wage statute for home care aides
10 and personal assistants. An employer that cannot ensure that
11 the minimum wage increase is being given to home care aides and
12 personal assistants shall be denied any increase in
13 reimbursement costs. On July 1, 2016, rates shall be increased
14 to \$19.23 per hour, for the purpose of increasing, by at least
15 \$1.25 per hour, the wages paid by those vendors to their
16 employees who provide homemaker services. On July 1, 2017,
17 rates shall be increased to \$21.32 per hour, for the purpose of
18 increasing, by at least \$1.25 per hour, the wages paid by those
19 vendors to their employees who provide homemaker services. On
20 July 1, 2018, rates shall be increased to \$23.41 per hour, for
21 the purpose of increasing, by at least \$1.25 per hour, the
22 wages paid by those vendors to their employees who provide
23 homemaker services. On July 1, 2019, rates shall be increased
24 to \$25.08 per hour, for the purpose of increasing, by at least
25 \$1 per hour, the wages paid by those vendors to their employees
26 who provide homemaker services. The Department shall pay an

1 enhanced rate under the Community Care Program to those in-home
2 service provider agencies that offer health insurance coverage
3 as a benefit to their direct service worker employees
4 consistent with the mandates of Public Act 95-713. For State
5 fiscal year 2017, the enhanced rate shall be \$1.77 per hour.
6 The rate shall be adjusted using actuarial analysis based on
7 the cost of care, but shall not be set below \$1.77 per hour.

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

1 providers including, but not limited to, adult day service
2 providers, homemaker providers, case coordination and case
3 management units, emergency home response providers, statewide
4 trade or labor unions that represent home care aides and direct
5 care staff, area agencies on aging, adults over age 60,
6 membership organizations representing older adults, and other
7 organizational entities, providers of care, or individuals
8 with demonstrated interest and expertise in the field of home
9 and community care as determined by the Director.

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

1 requested by the Committee, regarding issues before the
2 Committee.

3 The Department on Aging and the Department of Human
4 Services shall cooperate in the development and submission of
5 an annual report on programs and services provided under this
6 Section. Such joint report shall be filed with the Governor and
7 the General Assembly on or before September 30 each year.

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

18 Those persons previously found eligible for receiving
19 non-institutional services whose services were discontinued
20 under the Emergency Budget Act of Fiscal Year 1992, and who do
21 not meet the eligibility standards in effect on or after July
22 1, 1992, shall remain ineligible on and after July 1, 1992.
23 Those persons previously not required to cost-share and who
24 were required to cost-share effective March 1, 1992, shall
25 continue to meet cost-share requirements on and after July 1,
26 1992. Beginning July 1, 1992, all clients will be required to

1 meet eligibility, cost-share, and other requirements and will
2 have services discontinued or altered when they fail to meet
3 these requirements.

4 For the purposes of this Section, "flexible senior
5 services" refers to services that require one-time or periodic
6 expenditures including, but not limited to, respite care, home
7 modification, assistive technology, housing assistance, and
8 transportation.

9 The Department shall implement an electronic service
10 verification based on global positioning systems or other
11 cost-effective technology for the Community Care Program no
12 later than January 1, 2014.

13 The Department shall require, as a condition of
14 eligibility, enrollment in the medical assistance program
15 under Article V of the Illinois Public Aid Code (i) beginning
16 August 1, 2013, if the Auditor General has reported that the
17 Department has failed to comply with the reporting requirements
18 of Section 2-27 of the Illinois State Auditing Act; or (ii)
19 beginning June 1, 2014, if the Auditor General has reported
20 that the Department has not undertaken the required actions
21 listed in the report required by subsection (a) of Section 2-27
22 of the Illinois State Auditing Act.

23 The Department shall delay Community Care Program services
24 until an applicant is determined eligible for medical
25 assistance under Article V of the Illinois Public Aid Code (i)
26 beginning August 1, 2013, if the Auditor General has reported

1 that the Department has failed to comply with the reporting
2 requirements of Section 2-27 of the Illinois State Auditing
3 Act; or (ii) beginning June 1, 2014, if the Auditor General has
4 reported that the Department has not undertaken the required
5 actions listed in the report required by subsection (a) of
6 Section 2-27 of the Illinois State Auditing Act.

7 The Department shall implement co-payments for the
8 Community Care Program at the federally allowable maximum level
9 (i) beginning August 1, 2013, if the Auditor General has
10 reported that the Department has failed to comply with the
11 reporting requirements of Section 2-27 of the Illinois State
12 Auditing Act; or (ii) beginning June 1, 2014, if the Auditor
13 General has reported that the Department has not undertaken the
14 required actions listed in the report required by subsection
15 (a) of Section 2-27 of the Illinois State Auditing Act.

16 The Department shall provide a bi-monthly report on the
17 progress of the Community Care Program reforms set forth in
18 this amendatory Act of the 98th General Assembly to the
19 Governor, the Speaker of the House of Representatives, the
20 Minority Leader of the House of Representatives, the President
21 of the Senate, and the Minority Leader of the Senate.

22 The Department shall conduct a quarterly review of Care
23 Coordination Unit performance and adherence to service
24 guidelines. The quarterly review shall be reported to the
25 Speaker of the House of Representatives, the Minority Leader of
26 the House of Representatives, the President of the Senate, and

1 the Minority Leader of the Senate. The Department shall collect
2 and report longitudinal data on the performance of each care
3 coordination unit. Nothing in this paragraph shall be construed
4 to require the Department to identify specific care
5 coordination units.

6 In regard to community care providers, failure to comply
7 with Department on Aging policies shall be cause for
8 disciplinary action, including, but not limited to,
9 disqualification from serving Community Care Program clients.
10 Each provider, upon submission of any bill or invoice to the
11 Department for payment for services rendered, shall include a
12 notarized statement, under penalty of perjury pursuant to
13 Section 1-109 of the Code of Civil Procedure, that the provider
14 has complied with all Department policies.

15 The Director of the Department on Aging shall make
16 information available to the State Board of Elections as may be
17 required by an agreement the State Board of Elections has
18 entered into with a multi-state voter registration list
19 maintenance system.

20 (Source: P.A. 98-8, eff. 5-3-13; 98-1171, eff. 6-1-15; 99-143,
21 eff. 7-27-15.)

22 Section 99. Effective date. This Act takes effect July 1,
23 2016."