



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB0012

Introduced 1/15/2015, by Sen. Mattie Hunter

#### SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02 from Ch. 23, par. 6104.02  
20 ILCS 505/5a-1 new  
20 ILCS 1305/10-75 new  
305 ILCS 5/12-4.49 new  
405 ILCS 30/7 new

Amends the Illinois Act on the Aging, the Children and Family Services Act, the Department of Human Services Act, the Illinois Public Aid Code, and the Community Services Act. Requires the Department on Aging, the Department of Children and Family Services, the Department of Human Services, and the Department of Healthcare and Family Services to annually recalculate rates and reimbursements paid to providers or vendors that do business with or are under contract with the Departments. Provides that when recalculating rate and reimbursement methodologies, the Departments shall account for (i) mandated increases in the State minimum wage rate; and (ii) any increased payroll taxes required of providers or vendors contracting with the Departments. Provides that the Departments must fully fund recalculated rate and reimbursement methodologies.

LRB099 03986 KTG 25192 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 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  
17 limited to, any or all of the following:

18 (a) (blank);

19 (b) (blank);

20 (c) home care aide services;

21 (d) personal assistant services;

22 (e) adult day services;

23 (f) home-delivered meals;

- 1 (g) education in self-care;
- 2 (h) personal care services;
- 3 (i) adult day health services;
- 4 (j) habilitation services;
- 5 (k) respite care;
- 6 (k-5) community reintegration services;
- 7 (k-6) flexible senior services;
- 8 (k-7) medication management;
- 9 (k-8) emergency home response;
- 10 (l) other nonmedical social services that may enable
- 11 the person to become self-supporting; or
- 12 (m) clearinghouse for information provided by senior
- 13 citizen home owners who want to rent rooms to or share
- 14 living space with other senior citizens.

15 The Department shall establish eligibility standards for

16 such services. In determining the amount and nature of services

17 for which a person may qualify, consideration shall not be

18 given to the value of cash, property or other assets held in

19 the name of the person's spouse pursuant to a written agreement

20 dividing marital property into equal but separate shares or

21 pursuant to a transfer of the person's interest in a home to

22 his spouse, provided that the spouse's share of the marital

23 property is not made available to the person seeking such

24 services.

25 Beginning January 1, 2008, the Department shall require as

26 a condition of eligibility that all new financially eligible

1 applicants apply for and enroll in medical assistance under  
2 Article V of the Illinois Public Aid Code in accordance with  
3 rules promulgated by the Department.

4 The Department shall, in conjunction with the Department of  
5 Public Aid (now Department of Healthcare and Family Services),  
6 seek appropriate amendments under Sections 1915 and 1924 of the  
7 Social Security Act. The purpose of the amendments shall be to  
8 extend eligibility for home and community based services under  
9 Sections 1915 and 1924 of the Social Security Act to persons  
10 who transfer to or for the benefit of a spouse those amounts of  
11 income and resources allowed under Section 1924 of the Social  
12 Security Act. Subject to the approval of such amendments, the  
13 Department shall extend the provisions of Section 5-4 of the  
14 Illinois Public Aid Code to persons who, but for the provision  
15 of home or community-based services, would require the level of  
16 care provided in an institution, as is provided for in federal  
17 law. Those persons no longer found to be eligible for receiving  
18 noninstitutional services due to changes in the eligibility  
19 criteria shall be given 45 days notice prior to actual  
20 termination. Those persons receiving notice of termination may  
21 contact the Department and request the determination be  
22 appealed at any time during the 45 day notice period. The  
23 target population identified for the purposes of this Section  
24 are persons age 60 and older with an identified service need.  
25 Priority shall be given to those who are at imminent risk of  
26 institutionalization. The services shall be provided to

1 eligible persons age 60 and older to the extent that the cost  
2 of the services together with the other personal maintenance  
3 expenses of the persons are reasonably related to the standards  
4 established for care in a group facility appropriate to the  
5 person's condition. These non-institutional services, pilot  
6 projects or experimental facilities may be provided as part of  
7 or in addition to those authorized by federal law or those  
8 funded and administered by the Department of Human Services.  
9 The Departments of Human Services, Healthcare and Family  
10 Services, Public Health, Veterans' Affairs, and Commerce and  
11 Economic Opportunity and other appropriate agencies of State,  
12 federal and local governments shall cooperate with the  
13 Department on Aging in the establishment and development of the  
14 non-institutional services. The Department shall require an  
15 annual audit from all personal assistant and home care aide  
16 vendors contracting with the Department under this Section. The  
17 annual audit shall assure that each audited vendor's procedures  
18 are in compliance with Department's financial reporting  
19 guidelines requiring an administrative and employee wage and  
20 benefits cost split as defined in administrative rules. The  
21 audit is a public record under the Freedom of Information Act.  
22 The Department shall execute, relative to the nursing home  
23 prescreening project, written inter-agency agreements with the  
24 Department of Human Services and the Department of Healthcare  
25 and Family Services, to effect the following: (1) intake  
26 procedures and common eligibility criteria for those persons

1 who are receiving non-institutional services; and (2) the  
2 establishment and development of non-institutional services in  
3 areas of the State where they are not currently available or  
4 are undeveloped. On and after July 1, 1996, all nursing home  
5 prescreenings for individuals 60 years of age or older shall be  
6 conducted by the Department.

7 As part of the Department on Aging's routine training of  
8 case managers and case manager supervisors, the Department may  
9 include information on family futures planning for persons who  
10 are age 60 or older and who are caregivers of their adult  
11 children with developmental disabilities. The content of the  
12 training shall be at the Department's discretion.

13 The Department is authorized to establish a system of  
14 recipient copayment for services provided under this Section,  
15 such copayment to be based upon the recipient's ability to pay  
16 but in no case to exceed the actual cost of the services  
17 provided. Additionally, any portion of a person's income which  
18 is equal to or less than the federal poverty standard shall not  
19 be considered by the Department in determining the copayment.  
20 The level of such copayment shall be adjusted whenever  
21 necessary to reflect any change in the officially designated  
22 federal poverty standard.

23 The Department, or the Department's authorized  
24 representative, may recover the amount of moneys expended for  
25 services provided to or in behalf of a person under this  
26 Section by a claim against the person's estate or against the

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

26 The Department shall increase the effectiveness of the

1 existing Community Care Program by:

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

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

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

16 (4) ensuring that the determination of need tool is  
17 accurate in determining the participants' level of need; to  
18 achieve this, the Department, in conjunction with the Older  
19 Adult Services Advisory Committee, shall institute a study  
20 of the relationship between the Determination of Need  
21 scores, level of need, service cost maximums, and the  
22 development and utilization of service plans no later than  
23 May 1, 2008; findings and recommendations shall be  
24 presented to the Governor and the General Assembly no later  
25 than January 1, 2009; recommendations shall include all  
26 needed changes to the service cost maximums schedule and



1 additional covered services;

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

5 (A) bathing;

6 (B) grooming;

7 (C) toileting;

8 (D) nail care;

9 (E) transferring;

10 (F) respiratory services;

11 (G) exercise; or

12 (H) positioning;

13 (6) ensuring that homemaker program vendors are not  
14 restricted from hiring homemakers who are family members of  
15 clients or recommended by clients; the Department may not,  
16 by rule or policy, require homemakers who are family  
17 members of clients or recommended by clients to accept  
18 assignments in homes other than the client;

19 (7) ensuring that the State may access maximum federal  
20 matching funds by seeking approval for the Centers for  
21 Medicare and Medicaid Services for modifications to the  
22 State's home and community based services waiver and  
23 additional waiver opportunities, including applying for  
24 enrollment in the Balance Incentive Payment Program by May  
25 1, 2013, in order to maximize federal matching funds; this  
26 shall include, but not be limited to, modification that

1 reflects all changes in the Community Care Program services  
2 and all increases in the services cost maximum;

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

6 (9) ensuring that services are authorized accurately  
7 and consistently for the Community Care Program (CCP); the  
8 Department shall implement a Service Authorization policy  
9 directive; the purpose shall be to ensure that eligibility  
10 and services are authorized accurately and consistently in  
11 the CCP program; the policy directive shall clarify service  
12 authorization guidelines to Care Coordination Units and  
13 Community Care Program providers no later than May 1, 2013;

14 (10) working in conjunction with Care Coordination  
15 Units, the Department of Healthcare and Family Services,  
16 the Department of Human Services, Community Care Program  
17 providers, and other stakeholders to make improvements to  
18 the Medicaid claiming processes and the Medicaid  
19 enrollment procedures or requirements as needed,  
20 including, but not limited to, specific policy changes or  
21 rules to improve the up-front enrollment of participants in  
22 the Medicaid program and specific policy changes or rules  
23 to insure more prompt submission of bills to the federal  
24 government to secure maximum federal matching dollars as  
25 promptly as possible; the Department on Aging shall have at  
26 least 3 meetings with stakeholders by January 1, 2014 in

1 order to address these improvements;

2 (11) requiring home care service providers to comply  
3 with the rounding of hours worked provisions under the  
4 federal Fair Labor Standards Act (FLSA) and as set forth in  
5 29 CFR 785.48(b) by May 1, 2013;

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

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

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

24 The Department shall develop procedures to enhance  
25 availability of services on evenings, weekends, and on an  
26 emergency basis to meet the respite needs of caregivers.

1 Procedures shall be developed to permit the utilization of  
2 services in successive blocks of 24 hours up to the monthly  
3 maximum established by the Department. Workers providing these  
4 services shall be appropriately trained.

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

24 The Department is required to develop a system to ensure  
25 that persons working as home care aides and personal assistants  
26 receive increases in their wages when the federal minimum wage

1 is increased by requiring vendors to certify that they are  
2 meeting the federal minimum wage statute for home care aides  
3 and personal assistants. Additionally, the Department shall  
4 annually recalculate rates and reimbursements paid to  
5 providers or vendors that do business with or are under  
6 contract with the Department. When recalculating rate and  
7 reimbursement methodologies, the Department shall account for  
8 (i) mandated increases in the State minimum wage rate; and (ii)  
9 any increased payroll taxes required of providers or vendors  
10 contracting with the Department. The Department must fully fund  
11 recalculated rate and reimbursement methodologies. An employer  
12 that cannot ensure that the minimum wage increase is being  
13 given to home care aides and personal assistants shall be  
14 denied any increase in reimbursement costs.

15 The Community Care Program Advisory Committee is created in  
16 the Department on Aging. The Director shall appoint individuals  
17 to serve in the Committee, who shall serve at their own  
18 expense. Members of the Committee must abide by all applicable  
19 ethics laws. The Committee shall advise the Department on  
20 issues related to the Department's program of services to  
21 prevent unnecessary institutionalization. The Committee shall  
22 meet on a bi-monthly basis and shall serve to identify and  
23 advise the Department on present and potential issues affecting  
24 the service delivery network, the program's clients, and the  
25 Department and to recommend solution strategies. Persons  
26 appointed to the Committee shall be appointed on, but not

1 limited to, their own and their agency's experience with the  
2 program, geographic representation, and willingness to serve.  
3 The Director shall appoint members to the Committee to  
4 represent provider, advocacy, policy research, and other  
5 constituencies committed to the delivery of high quality home  
6 and community-based services to older adults. Representatives  
7 shall be appointed to ensure representation from community care  
8 providers including, but not limited to, adult day service  
9 providers, homemaker providers, case coordination and case  
10 management units, emergency home response providers, statewide  
11 trade or labor unions that represent home care aides and direct  
12 care staff, area agencies on aging, adults over age 60,  
13 membership organizations representing older adults, and other  
14 organizational entities, providers of care, or individuals  
15 with demonstrated interest and expertise in the field of home  
16 and community care as determined by the Director.

17 Nominations may be presented from any agency or State  
18 association with interest in the program. The Director, or his  
19 or her designee, shall serve as the permanent co-chair of the  
20 advisory committee. One other co-chair shall be nominated and  
21 approved by the members of the committee on an annual basis.  
22 Committee members' terms of appointment shall be for 4 years  
23 with one-quarter of the appointees' terms expiring each year. A  
24 member shall continue to serve until his or her replacement is  
25 named. The Department shall fill vacancies that have a  
26 remaining term of over one year, and this replacement shall

1 occur through the annual replacement of expiring terms. The  
2 Director shall designate Department staff to provide technical  
3 assistance and staff support to the committee. Department  
4 representation shall not constitute membership of the  
5 committee. All Committee papers, issues, recommendations,  
6 reports, and meeting memoranda are advisory only. The Director,  
7 or his or her designee, shall make a written report, as  
8 requested by the Committee, regarding issues before the  
9 Committee.

10 The Department on Aging and the Department of Human  
11 Services shall cooperate in the development and submission of  
12 an annual report on programs and services provided under this  
13 Section. Such joint report shall be filed with the Governor and  
14 the General Assembly on or before September 30 each year.

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

25 Those persons previously found eligible for receiving  
26 non-institutional services whose services were discontinued

1 under the Emergency Budget Act of Fiscal Year 1992, and who do  
2 not meet the eligibility standards in effect on or after July  
3 1, 1992, shall remain ineligible on and after July 1, 1992.  
4 Those persons previously not required to cost-share and who  
5 were required to cost-share effective March 1, 1992, shall  
6 continue to meet cost-share requirements on and after July 1,  
7 1992. Beginning July 1, 1992, all clients will be required to  
8 meet eligibility, cost-share, and other requirements and will  
9 have services discontinued or altered when they fail to meet  
10 these requirements.

11 For the purposes of this Section, "flexible senior  
12 services" refers to services that require one-time or periodic  
13 expenditures including, but not limited to, respite care, home  
14 modification, assistive technology, housing assistance, and  
15 transportation.

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

20 The Department shall require, as a condition of  
21 eligibility, enrollment in the medical assistance program  
22 under Article V of the Illinois Public Aid Code (i) beginning  
23 August 1, 2013, if the Auditor General has reported that the  
24 Department has failed to comply with the reporting requirements  
25 of Section 2-27 of the Illinois State Auditing Act; or (ii)  
26 beginning June 1, 2014, if the Auditor General has reported



1 that the Department has not undertaken the required actions  
2 listed in the report required by subsection (a) of Section 2-27  
3 of the Illinois State Auditing Act.

4 The Department shall delay Community Care Program services  
5 until an applicant is determined eligible for medical  
6 assistance under Article V of the Illinois Public Aid Code (i)  
7 beginning August 1, 2013, if the Auditor General has reported  
8 that the Department has failed to comply with the reporting  
9 requirements of Section 2-27 of the Illinois State Auditing  
10 Act; or (ii) beginning June 1, 2014, if the Auditor General has  
11 reported that the Department has not undertaken the required  
12 actions listed in the report required by subsection (a) of  
13 Section 2-27 of the Illinois State Auditing Act.

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

23 The Department shall provide a bi-monthly report on the  
24 progress of the Community Care Program reforms set forth in  
25 this amendatory Act of the 98th General Assembly to the  
26 Governor, the Speaker of the House of Representatives, the

1 Minority Leader of the House of Representatives, the President  
2 of the Senate, and the Minority Leader of the Senate.

3 The Department shall conduct a quarterly review of Care  
4 Coordination Unit performance and adherence to service  
5 guidelines. The quarterly review shall be reported to the  
6 Speaker of the House of Representatives, the Minority Leader of  
7 the House of Representatives, the President of the Senate, and  
8 the Minority Leader of the Senate. The Department shall collect  
9 and report longitudinal data on the performance of each care  
10 coordination unit. Nothing in this paragraph shall be construed  
11 to require the Department to identify specific care  
12 coordination units.

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

22 (Source: P.A. 97-333, eff. 8-12-11; 98-8, eff. 5-3-13.)

23 Section 10. The Children and Family Services Act is amended  
24 by adding Section 5a-1 as follows:

1 (20 ILCS 505/5a-1 new)

2 Sec. 5a-1. Recalculate rates and reimbursements. The  
3 Department shall annually recalculate rates and reimbursements  
4 paid to providers or vendors that do business with or are under  
5 contract with the Department. When recalculating rate and  
6 reimbursement methodologies, the Department shall account for  
7 (i) mandated increases in the State minimum wage rate; and (ii)  
8 any increased payroll taxes required of providers or vendors  
9 contracting with the Department. The Department must fully fund  
10 recalculated rate and reimbursement methodologies.

11 Section 15. The Department of Human Services Act is amended  
12 by adding Section 10-75 as follows:

13 (20 ILCS 1305/10-75 new)

14 Sec. 10-75. Recalculate rates and reimbursements. The  
15 Department shall annually recalculate rates and reimbursements  
16 paid to providers or vendors that do business with or are under  
17 contract with the Department. When recalculating rate and  
18 reimbursement methodologies, the Department shall account for  
19 (i) mandated increases in the State minimum wage rate; and (ii)  
20 any increased payroll taxes required of providers or vendors  
21 contracting with the Department. The Department must fully fund  
22 recalculated rate and reimbursement methodologies.

23 Section 20. The Illinois Public Aid Code is amended by

1 adding Section 12-4.49 as follows:

2 (305 ILCS 5/12-4.49 new)

3 Sec. 12-4.49. Recalculate rates and reimbursements. The  
4 Department of Human Services, the Department of Healthcare and  
5 Family Services, the Department of Children and Family  
6 Services, and the Department on Aging shall annually  
7 recalculate rates and reimbursements paid to providers or  
8 vendors that do business with or are under contract with the  
9 Departments. When recalculating rate and reimbursement  
10 methodologies, the Departments shall account for (i) mandated  
11 increases in the State minimum wage rate; and (ii) any  
12 increased payroll taxes required of providers or vendors  
13 contracting with the Departments. The Departments must fully  
14 fund recalculated rate and reimbursement methodologies.

15 Section 25. The Community Services Act is amended by adding  
16 Section 7 as follows:

17 (405 ILCS 30/7 new)

18 Sec. 7. Recalculate rates and reimbursements. The  
19 Department of Human Services shall annually recalculate rates  
20 and reimbursements paid to providers or vendors that do  
21 business with or are under contract with the Department. When  
22 recalculating rate and reimbursement methodologies, the  
23 Department shall account for (i) mandated increases in the

1 State minimum wage rate; and (ii) any increased payroll taxes  
2 required of providers or vendors contracting with the  
3 Department. The Department must fully fund recalculated rate  
4 and reimbursement methodologies.