

1 AN ACT in relation to aging.

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. Assisted living; noninstitutional services.

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

- 19 (a) home health services;
- 20 (b) home nursing services;
- 21 (c) homemaker services;
- 22 (d) chore and housekeeping services;
- 23 (e) day care services;
- 24 (f) home-delivered meals;
- 25 (g) education in self-care;
- 26 (h) personal care services;
- 27 (i) adult day health services;
- 28 (j) habilitation services;
- 29 (k) respite care;
- 30 (l) other nonmedical social services that may
- 31 enable the person to become self-supporting; or

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

4 The Department shall establish eligibility standards for
5 such services taking into consideration the unique economic
6 and social needs of the target population for whom they are
7 to be provided. Such eligibility standards shall be based on
8 the recipient's ability to pay for services; provided,
9 however, that in determining the amount and nature of
10 services for which a person may qualify, consideration shall
11 not be given to the value of cash, property or other assets
12 held in the name of the person's spouse pursuant to a written
13 agreement dividing marital property into equal but separate
14 shares or pursuant to a transfer of the person's interest in
15 a home to his spouse, provided that the spouse's share of the
16 marital property is not made available to the person seeking
17 such services. The Department shall, in conjunction with the
18 Department of Public Aid, seek appropriate amendments under
19 Sections 1915 and 1924 of the Social Security Act. The
20 purpose of the amendments shall be to extend eligibility for
21 home and community based services under Sections 1915 and
22 1924 of the Social Security Act to persons who transfer to or
23 for the benefit of a spouse those amounts of income and
24 resources allowed under Section 1924 of the Social Security
25 Act. Subject to the approval of such amendments, the
26 Department shall extend the provisions of Section 5-4 of the
27 Illinois Public Aid Code to persons who, but for the
28 provision of home or community-based services, would require
29 the level of care provided in an institution, as is provided
30 for in federal law. Those persons no longer found to be
31 eligible for receiving noninstitutional services due to
32 changes in the eligibility criteria shall be given 60 days
33 notice prior to actual termination. Those persons receiving
34 notice of termination may contact the Department and request

1 the determination be appealed at any time during the 60 day
2 notice period. With the exception of the lengthened notice
3 and time frame for the appeal request, the appeal process
4 shall follow the normal procedure. In addition, each person
5 affected regardless of the circumstances for discontinued
6 eligibility shall be given notice and the opportunity to
7 purchase the necessary services through the Community Care
8 Program. If the individual does not elect to purchase
9 services, the Department shall advise the individual of
10 alternative services. The target population identified for
11 the purposes of this Section are persons age 60 and older
12 with an identified service need. Priority shall be given to
13 those who are at imminent risk of institutionalization. The
14 services shall be provided to eligible persons age 60 and
15 older to the extent that the cost of the services together
16 with the other personal maintenance expenses of the persons
17 are reasonably related to the standards established for care
18 in a group facility appropriate to the person's condition.
19 These non-institutional services, pilot projects or
20 experimental facilities may be provided as part of or in
21 addition to those authorized by federal law or those funded
22 and administered by the Department of Human Services. The
23 Departments of Human Services, Public Aid, Public Health,
24 Veterans' Affairs, and Commerce and Community Affairs and
25 other appropriate agencies of State, federal and local
26 governments shall cooperate with the Department on Aging in
27 the establishment and development of the non-institutional
28 services. The Department shall require an annual audit from
29 all chore/housekeeping and homemaker vendors contracting with
30 the Department under this Section. The annual audit shall
31 assure that each audited vendor's procedures are in
32 compliance with Department's financial reporting guidelines
33 requiring a 27% administrative cost split and a 73% employee
34 wages and benefits cost split. The audit is a public record

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

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

23 The Department, or the Department's authorized
24 representative, shall recover the amount of moneys expended
25 for services provided to or in behalf of a person under this
26 Section by a claim against the person's estate or against the
27 estate of the person's surviving spouse, but no recovery may
28 be had until after the death of the surviving spouse, if any,
29 and then only at such time when there is no surviving child
30 who is under age 21, blind, or permanently and totally
31 disabled. This paragraph, however, shall not bar recovery,
32 at the death of the person, of moneys for services provided
33 to the person or in behalf of the person under this Section
34 to which the person was not entitled; provided that such

1 recovery shall not be enforced against any real estate while
2 it is occupied as a homestead by the surviving spouse or
3 other dependent, if no claims by other creditors have been
4 filed against the estate, or, if such claims have been filed,
5 they remain dormant for failure of prosecution or failure of
6 the claimant to compel administration of the estate for the
7 purpose of payment. This paragraph shall not bar recovery
8 from the estate of a spouse, under Sections 1915 and 1924 of
9 the Social Security Act and Section 5-4 of the Illinois
10 Public Aid Code, who precedes a person receiving services
11 under this Section in death. All moneys for services paid to
12 or in behalf of the person under this Section shall be
13 claimed for recovery from the deceased spouse's estate.
14 "Homestead", as used in this paragraph, means the dwelling
15 house and contiguous real estate occupied by a surviving
16 spouse or relative, as defined by the rules and regulations
17 of the Illinois Department of Public Aid, regardless of the
18 value of the property.

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

26 Beginning on the effective date of this Amendatory Act of
27 1991, no person may perform chore/housekeeping and homemaker
28 services under a program authorized by this Section unless
29 that person has been issued a certificate of pre-service to
30 do so by his or her employing agency. Information gathered
31 to effect such certification shall include (i) the person's
32 name, (ii) the date the person was hired by his or her
33 current employer, and (iii) the training, including dates and
34 levels. Persons engaged in the program authorized by this

1 Section before the effective date of this amendatory Act of
2 1991 shall be issued a certificate of all pre- and in-service
3 training from his or her employer upon submitting the
4 necessary information. The employing agency shall be
5 required to retain records of all staff pre- and in-service
6 training, and shall provide such records to the Department
7 upon request and upon termination of the employer's contract
8 with the Department. In addition, the employing agency is
9 responsible for the issuance of certifications of in-service
10 training completed to their employees.

11 The Department is required to develop a system to ensure
12 that persons working as homemakers and chore housekeepers
13 receive increases in their wages when the federal minimum
14 wage is increased by requiring vendors to certify that they
15 are meeting the federal minimum wage statute for homemakers
16 and chore housekeepers. An employer that cannot ensure that
17 the minimum wage increase is being given to homemakers and
18 chore housekeepers shall be denied any increase in
19 reimbursement costs.

20 The Department on Aging and the Department of Human
21 Services shall cooperate in the development and submission of
22 an annual report on programs and services provided under this
23 Section. Such joint report shall be filed with the Governor
24 and the General Assembly on or before September 30 each year.

25 The requirement for reporting to the General Assembly
26 shall be satisfied by filing copies of the report with the
27 Speaker, the Minority Leader and the Clerk of the House of
28 Representatives and the President, the Minority Leader and
29 the Secretary of the Senate and the Legislative Research
30 Unit, as required by Section 3.1 of the General Assembly
31 Organization Act and filing such additional copies with the
32 State Government Report Distribution Center for the General
33 Assembly as is required under paragraph (t) of Section 7 of
34 the State Library Act.

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

13 (Source: P.A. 91-303, eff. 1-1-00; 91-798, eff. 7-9-00.)