

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

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

1 senior citizen home owners who want to rent rooms to or
2 share living space with other senior citizens.

3 The Department shall establish eligibility standards for
4 such services taking into consideration the unique economic
5 and social needs of the target population for whom they are
6 to be provided. The eligibility standards must include a
7 provision that, to be eligible for services under this
8 Section, a person may not have assets (other than
9 specifically exempt assets) totaling more than \$20,000 if:

- 10 (1) the person is unmarried; or
- 11 (2) the person is married and the Department
12 determines that:

13 (A) the person's spouse receives services under
14 this Section; or

15 (B) the person's spouse resides in a skilled
16 nursing or intermediate long-term care facility that
17 is subject to licensure by the Department of Public
18 Health under the Nursing Home Care Act; or

19 (C) the person's spouse does not reside on a
20 permanent basis with the person and does not receive
21 support from or give support to the person; or

22 (D) the person has been abandoned by his or her
23 spouse; or

24 (E) the person has been the subject of a report
25 of abuse (as defined in the Elder Abuse and Neglect
26 Act) by his or her spouse.

27 Notwithstanding the preceding paragraph, the eligibility
28 standards must also include a provision that, to be eligible
29 for services under this Section, a person who is married and
30 whose spouse does not receive services under this Section may
31 not have assets (other than specifically exempt assets)
32 totaling more than the asset disregard amount used by the
33 Department of Public Aid in determining eligibility for
34 medical assistance under Article V of the Illinois Public Aid

1 Code.

2 Such eligibility standards shall be based on the
3 recipient's ability to pay for services; provided, however,
4 that in determining the amount and nature of services for
5 which a person may qualify, consideration shall not be given
6 to the value of cash, property or other assets held in the
7 name of the person's spouse pursuant to a written agreement
8 dividing marital property into equal but separate shares or
9 pursuant to a transfer of the person's interest in a home to
10 his spouse, provided that the spouse's share of the marital
11 property is not made available to the person seeking such
12 services. The Department shall, in conjunction with the
13 Department of Public Aid, seek appropriate amendments under
14 Sections 1915 and 1924 of the Social Security Act. The
15 purpose of the amendments shall be to extend eligibility for
16 home and community based services under Sections 1915 and
17 1924 of the Social Security Act to persons who transfer to or
18 for the benefit of a spouse those amounts of income and
19 resources allowed under Section 1924 of the Social Security
20 Act. Subject to the approval of such amendments, the
21 Department shall extend the provisions of Section 5-4 of the
22 Illinois Public Aid Code to persons who, but for the
23 provision of home or community-based services, would require
24 the level of care provided in an institution, as is provided
25 for in federal law.

26 Those persons no longer found to be eligible for
27 receiving noninstitutional services due to changes in the
28 eligibility criteria shall be given 60 days notice prior to
29 actual termination. Those persons receiving notice of
30 termination may contact the Department and request the
31 determination be appealed at any time during the 60 day
32 notice period. With the exception of the lengthened notice
33 and time frame for the appeal request, the appeal process
34 shall follow the normal procedure. In addition, each person

1 affected regardless of the circumstances for discontinued
2 eligibility shall be given notice and the opportunity to
3 purchase the necessary services through the Community Care
4 Program. If the individual does not elect to purchase
5 services, the Department shall advise the individual of
6 alternative services.

7 The target population identified for the purposes of this
8 Section are persons age 60 and older with an identified
9 service need. Priority shall be given to those who are at
10 imminent risk of institutionalization. The services shall be
11 provided to eligible persons age 60 and older to the extent
12 that the cost of the services together with the other
13 personal maintenance expenses of the persons are reasonably
14 related to the standards established for care in a group
15 facility appropriate to the person's condition.

16 These non-institutional services, pilot projects or
17 experimental facilities may be provided as part of or in
18 addition to those authorized by federal law or those funded
19 and administered by the Department of Human Services. The
20 Departments of Human Services, Public Aid, Public Health,
21 Veterans' Affairs, and Commerce and Community Affairs and
22 other appropriate agencies of State, federal and local
23 governments shall cooperate with the Department on Aging in
24 the establishment and development of the non-institutional
25 services.

26 The Department shall require an annual audit from all
27 chore/housekeeping and homemaker vendors contracting with the
28 Department under this Section. The annual audit shall assure
29 that each audited vendor's procedures are in compliance with
30 Department's financial reporting guidelines requiring a 27%
31 administrative cost split and a 73% employee wages and
32 benefits cost split. The audit is a public record under the
33 Freedom of Information Act.

34 The Department shall execute, relative to the nursing

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

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

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

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

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

24 Beginning on the effective date of this Amendatory Act of
25 1991, no person may perform chore/housekeeping and homemaker
26 services under a program authorized by this Section unless
27 that person has been issued a certificate of pre-service to
28 do so by his or her employing agency. Information gathered
29 to effect such certification shall include (i) the person's
30 name, (ii) the date the person was hired by his or her
31 current employer, and (iii) the training, including dates and
32 levels. Persons engaged in the program authorized by this
33 Section before the effective date of this amendatory Act of
34 1991 shall be issued a certificate of all pre- and in-service

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

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

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

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

33 Those persons previously found eligible for receiving
34 non-institutional services whose services were discontinued

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

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

12 Section 99. Effective date. This Act takes effect on
13 January 1, 2002.