

1 AN ACT concerning services for the 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. Such eligibility standards shall be based on  
7 the recipient's ability to pay for services; provided,  
8 however, that in determining the amount and nature of  
9 services for which a person may qualify, consideration shall  
10 not be given to the value of cash, property or other assets  
11 held in the name of the person's spouse pursuant to a written  
12 agreement dividing marital property into equal but separate  
13 shares or pursuant to a transfer of the person's interest in  
14 a home to his spouse, provided that the spouse's share of the  
15 marital property is not made available to the person seeking  
16 such services.

17 To be eligible to receive Community Care Program (CCP)  
18 services, an applicant or client may not own interests in  
19 non-exempt assets having a combined value in excess of  
20 \$15,000, if:

- 21 (1) unmarried; or
- 22 (2) married and:
  - 23 (A) the spouse is receiving CCP services;
  - 24 (B) the spouse is in a nursing home;
  - 25 (C) the spouse does not reside on a permanent  
26 basis with and does not receive support from or give  
27 support to the applicant or client;
  - 28 (D) the spouse is abandoned; or
  - 29 (E) the spouse is potentially abusing the  
30 applicant or client.

31 An applicant or client who is married and has a spouse  
32 that does not receive CCP services may not own interests in  
33 non-exempt assets having a total value in excess of 1.5 times  
34 the asset disregard amount allowed by the Illinois Department

1 of Public Aid for Medicaid. Non-exempt assets having a value  
2 over this amount must be transferred to or must be for the  
3 sole benefit of the community spouse. If the couple owns  
4 assets that exceed an amount equal to 1.5 times the asset  
5 disregard and prevention of spousal impoverishment amounts  
6 allowed by statute, the excess (up to \$8,000 of non-exempt  
7 assets after transfer or up to \$1,800 of countable monthly  
8 income after diversion) must be designated as a spend down,  
9 to be spent before Medicaid enrollment is established. The  
10 value of non-exempt assets must be considered in determining  
11 eligibility for the Community Care Program. All assets not  
12 specifically exempt are non-exempt. When a client's  
13 non-exempt assets are greater than the allowable amount as  
14 specified above, consideration of non-liquid assets may be  
15 deferred as follows:

16 (1) real property may be deferred from  
17 consideration for 6 months;

18 (2) the client must sign an agreement to dispose of  
19 the real property in excess of the allowable amount  
20 within 6 months after the date of the agreement; and

21 (3) the 6-month period for disposition may be  
22 extended an additional 6 months if the client fails to  
23 dispose of the asset (through no fault of his or her own)  
24 despite reasonable and diligent effort.

25 The Department shall, in conjunction with the Department  
26 of Public Aid, seek appropriate amendments under Sections  
27 1915 and 1924 of the Social Security Act. The purpose of the  
28 amendments shall be to extend eligibility for home and  
29 community based services under Sections 1915 and 1924 of the  
30 Social Security Act to persons who transfer to or for the  
31 benefit of a spouse those amounts of income and resources  
32 allowed under Section 1924 of the Social Security Act.  
33 Subject to the approval of such amendments, the Department  
34 shall extend the provisions of Section 5-4 of the Illinois

1 Public Aid Code to persons who, but for the provision of home  
2 or community-based services, would require the level of care  
3 provided in an institution, as is provided for in federal  
4 law. Those persons no longer found to be eligible for  
5 receiving noninstitutional services due to changes in the  
6 eligibility criteria shall be given 60 days notice prior to  
7 actual termination. Those persons receiving notice of  
8 termination may contact the Department and request the  
9 determination be appealed at any time during the 60 day  
10 notice period. With the exception of the lengthened notice  
11 and time frame for the appeal request, the appeal process  
12 shall follow the normal procedure. In addition, each person  
13 affected regardless of the circumstances for discontinued  
14 eligibility shall be given notice and the opportunity to  
15 purchase the necessary services through the Community Care  
16 Program. If the individual does not elect to purchase  
17 services, the Department shall advise the individual of  
18 alternative services. The target population identified for  
19 the purposes of this Section are persons age 60 and older  
20 with an identified service need. Priority shall be given to  
21 those who are at imminent risk of institutionalization. The  
22 services shall be provided to eligible persons age 60 and  
23 older to the extent that the cost of the services together  
24 with the other personal maintenance expenses of the persons  
25 are reasonably related to the standards established for care  
26 in a group facility appropriate to the person's condition.  
27 These non-institutional services, pilot projects or  
28 experimental facilities may be provided as part of or in  
29 addition to those authorized by federal law or those funded  
30 and administered by the Department of Human Services. The  
31 Departments of Human Services, Public Aid, Public Health,  
32 Veterans' Affairs, and Commerce and Community Affairs and  
33 other appropriate agencies of State, federal and local  
34 governments shall cooperate with the Department on Aging in

1 the establishment and development of the non-institutional  
2 services. The Department shall require an annual audit from  
3 all chore/housekeeping and homemaker vendors contracting with  
4 the Department under this Section. The annual audit shall  
5 assure that each audited vendor's procedures are in  
6 compliance with Department's financial reporting guidelines  
7 requiring a 27% administrative cost split and a 73% employee  
8 wages and benefits cost split. The audit is a public record  
9 under the Freedom of Information Act. The Department shall  
10 execute, relative to the nursing home prescreening project,  
11 written inter-agency agreements with the Department of Human  
12 Services and the Department of Public Aid, to effect the  
13 following: (1) intake procedures and common eligibility  
14 criteria for those persons who are receiving  
15 non-institutional services; and (2) the establishment and  
16 development of non-institutional services in areas of the  
17 State where they are not currently available or are  
18 undeveloped. On and after July 1, 1996, all nursing home  
19 prescreenings for individuals 60 years of age or older shall  
20 be conducted by the Department.

21 The Department is authorized to establish a system of  
22 recipient copayment for services provided under this Section,  
23 such copayment to be based upon the recipient's ability to  
24 pay but in no case to exceed the actual cost of the services  
25 provided. Additionally, any portion of a person's income  
26 which is equal to or less than the federal poverty standard  
27 shall not be considered by the Department in determining the  
28 copayment. The level of such copayment shall be adjusted  
29 whenever necessary to reflect any change in the officially  
30 designated federal poverty standard.

31 The Department, or the Department's authorized  
32 representative, shall recover the amount of moneys expended  
33 for services provided to or in behalf of a person under this  
34 Section by a claim against the person's estate or against the

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

27 The Department shall develop procedures to enhance  
28 availability of services on evenings, weekends, and on an  
29 emergency basis to meet the respite needs of caregivers.  
30 Procedures shall be developed to permit the utilization of  
31 services in successive blocks of 24 hours up to the monthly  
32 maximum established by the Department. Workers providing  
33 these services shall be appropriately trained.

34 Beginning on the effective date of this Amendatory Act of

1 1991, no person may perform chore/housekeeping and homemaker  
2 services under a program authorized by this Section unless  
3 that person has been issued a certificate of pre-service to  
4 do so by his or her employing agency. Information gathered  
5 to effect such certification shall include (i) the person's  
6 name, (ii) the date the person was hired by his or her  
7 current employer, and (iii) the training, including dates and  
8 levels. Persons engaged in the program authorized by this  
9 Section before the effective date of this amendatory Act of  
10 1991 shall be issued a certificate of all pre- and in-service  
11 training from his or her employer upon submitting the  
12 necessary information. The employing agency shall be  
13 required to retain records of all staff pre- and in-service  
14 training, and shall provide such records to the Department  
15 upon request and upon termination of the employer's contract  
16 with the Department. In addition, the employing agency is  
17 responsible for the issuance of certifications of in-service  
18 training completed to their employees.

19 The Department is required to develop a system to ensure  
20 that persons working as homemakers and chore housekeepers  
21 receive increases in their wages when the federal minimum  
22 wage is increased by requiring vendors to certify that they  
23 are meeting the federal minimum wage statute for homemakers  
24 and chore housekeepers. An employer that cannot ensure that  
25 the minimum wage increase is being given to homemakers and  
26 chore housekeepers shall be denied any increase in  
27 reimbursement costs.

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

33 The requirement for reporting to the General Assembly  
34 shall be satisfied by filing copies of the report with the

1 Speaker, the Minority Leader and the Clerk of the House of  
2 Representatives and the President, the Minority Leader and  
3 the Secretary of the Senate and the Legislative Research  
4 Unit, as required by Section 3.1 of the General Assembly  
5 Organization Act and filing such additional copies with the  
6 State Government Report Distribution Center for the General  
7 Assembly as is required under paragraph (t) of Section 7 of  
8 the State Library Act.

9 Those persons previously found eligible for receiving  
10 non-institutional services whose services were discontinued  
11 under the Emergency Budget Act of Fiscal Year 1992, and who  
12 do not meet the eligibility standards in effect on or after  
13 July 1, 1992, shall remain ineligible on and after July 1,  
14 1992. Those persons previously not required to cost-share  
15 and who were required to cost-share effective March 1, 1992,  
16 shall continue to meet cost-share requirements on and after  
17 July 1, 1992. Beginning July 1, 1992, all clients will be  
18 required to meet eligibility, cost-share, and other  
19 requirements and will have services discontinued or altered  
20 when they fail to meet these requirements.

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