

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. 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 The Department shall, in conjunction with the Department
18 of Public Aid, seek appropriate amendments under Sections
19 1915 and 1924 of the Social Security Act. The purpose of the
20 amendments shall be to extend eligibility for home and
21 community based services under Sections 1915 and 1924 of the
22 Social Security Act to persons who transfer to or for the
23 benefit of a spouse those amounts of income and resources
24 allowed under Section 1924 of the Social Security Act.
25 Subject to the approval of such amendments, the Department
26 shall extend the provisions of Section 5-4 of the Illinois
27 Public Aid Code to persons who, but for the provision of home
28 or community-based services, would require the level of care
29 provided in an institution, as is provided for in federal
30 law.

31 Those persons no longer found to be eligible for
32 receiving noninstitutional services due to changes in the
33 eligibility criteria shall be given 60 days notice prior to
34 actual termination. Those persons receiving notice of

1 termination may contact the Department and request the
2 determination be appealed at any time during the 60 day
3 notice period. With the exception of the lengthened notice
4 and time frame for the appeal request, the appeal process
5 shall follow the normal procedure. In addition, each person
6 affected regardless of the circumstances for discontinued
7 eligibility shall be given notice and the opportunity to
8 purchase the necessary services through the Community Care
9 Program. If the individual does not elect to purchase
10 services, the Department shall advise the individual of
11 alternative services.

12 The target population identified for the purposes of this
13 Section are persons age 60 and older with an identified
14 service need. Priority shall be given to those who are at
15 imminent risk of institutionalization.

16 The services shall be provided to eligible persons age 60
17 and older to the extent that the cost of the services
18 together with the other personal maintenance expenses of the
19 persons are reasonably related to the standards established
20 for care in a group facility appropriate to the person's
21 condition. These non-institutional services, pilot projects
22 or experimental facilities may be provided as part of or in
23 addition to those authorized by federal law or those funded
24 and administered by the Department of Human Services. The
25 Departments of Human Services, Public Aid, Public Health,
26 Veterans' Affairs, and Commerce and Community Affairs and
27 other appropriate agencies of State, federal and local
28 governments shall cooperate with the Department on Aging in
29 the establishment and development of the non-institutional
30 services.

31 The Department shall require an annual audit from all
32 chore/housekeeping and homemaker vendors contracting with the
33 Department under this Section. The annual audit shall assure
34 that each audited vendor's procedures are in compliance with

1 Department's financial reporting guidelines requiring a 27%
2 administrative cost split and a 73% employee wages and
3 benefits cost split. The audit is a public record under the
4 Freedom of Information Act.

5 The requirements of this paragraph are subject to an
6 increase in the rates paid to chore/housekeeping and
7 homemaker vendors contracting with the Department under this
8 Section. Out of the 27% of the hourly rate reserved for each
9 such vendor's administrative costs, the vendor must pay an
10 amount into an appropriate multi-vendor health care fund
11 jointly administered by vendors and individuals who perform
12 the chore/housekeeping and homemaker services. The amount
13 must equal \$1.40 for each hour of chore/housekeeping and
14 homemaker services performed pursuant to the vendor's
15 contract with the Department under this Section. The vendors
16 must use the moneys in the fund to provide comprehensive
17 health care coverage for all individuals employed by the
18 vendor or under contract with the vendor who perform more
19 than 20 hours of chore/housekeeping or homemaker services per
20 week. If such an individual has dependents, the health care
21 coverage must also be extended to those dependents. If a
22 vendor fails to pay an amount into the fund as required under
23 this paragraph, the vendor must pay that amount to the
24 Department. The annual audit required under this Section
25 shall ensure that vendors comply with the requirements of
26 this paragraph.

27 The Department shall execute, relative to the nursing
28 home prescreening project, written inter-agency agreements
29 with the Department of Human Services and the Department of
30 Public Aid, to effect the following: (1) intake procedures
31 and common eligibility criteria for those persons who are
32 receiving non-institutional services; and (2) the
33 establishment and development of non-institutional services
34 in areas of the State where they are not currently available

1 or are undeveloped. On and after July 1, 1996, all nursing
2 home prescreenings for individuals 60 years of age or older
3 shall be conducted by the Department.

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

14 The Department, or the Department's authorized
15 representative, shall recover the amount of moneys expended
16 for services provided to or in behalf of a person under this
17 Section by a claim against the person's estate or against the
18 estate of the person's surviving spouse, but no recovery may
19 be had until after the death of the surviving spouse, if any,
20 and then only at such time when there is no surviving child
21 who is under age 21, blind, or permanently and totally
22 disabled. This paragraph, however, shall not bar recovery,
23 at the death of the person, of moneys for services provided
24 to the person or in behalf of the person under this Section
25 to which the person was not entitled; provided that such
26 recovery shall not be enforced against any real estate while
27 it is occupied as a homestead by the surviving spouse or
28 other dependent, if no claims by other creditors have been
29 filed against the estate, or, if such claims have been filed,
30 they remain dormant for failure of prosecution or failure of
31 the claimant to compel administration of the estate for the
32 purpose of payment. This paragraph shall not bar recovery
33 from the estate of a spouse, under Sections 1915 and 1924 of
34 the Social Security Act and Section 5-4 of the Illinois

1 Public Aid Code, who precedes a person receiving services
2 under this Section in death. All moneys for services paid to
3 or in behalf of the person under this Section shall be
4 claimed for recovery from the deceased spouse's estate.
5 "Homestead", as used in this paragraph, means the dwelling
6 house and contiguous real estate occupied by a surviving
7 spouse or relative, as defined by the rules and regulations
8 of the Illinois Department of Public Aid, regardless of the
9 value of the property.

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

17 Beginning on the effective date of this Amendatory Act of
18 1991, no person may perform chore/housekeeping and homemaker
19 services under a program authorized by this Section unless
20 that person has been issued a certificate of pre-service to
21 do so by his or her employing agency. Information gathered
22 to effect such certification shall include (i) the person's
23 name, (ii) the date the person was hired by his or her
24 current employer, and (iii) the training, including dates and
25 levels. Persons engaged in the program authorized by this
26 Section before the effective date of this amendatory Act of
27 1991 shall be issued a certificate of all pre- and in-service
28 training from his or her employer upon submitting the
29 necessary information. The employing agency shall be
30 required to retain records of all staff pre- and in-service
31 training, and shall provide such records to the Department
32 upon request and upon termination of the employer's contract
33 with the Department. In addition, the employing agency is
34 responsible for the issuance of certifications of in-service

1 training completed to their employees.

2 The Department is required to develop a system to ensure
3 that persons working as homemakers and chore housekeepers
4 receive increases in their wages when the federal minimum
5 wage is increased by requiring vendors to certify that they
6 are meeting the federal minimum wage statute for homemakers
7 and chore housekeepers. An employer that cannot ensure that
8 the minimum wage increase is being given to homemakers and
9 chore housekeepers shall be denied any increase in
10 reimbursement costs.

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

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

26 Those persons previously found eligible for receiving
27 non-institutional services whose services were discontinued
28 under the Emergency Budget Act of Fiscal Year 1992, and who
29 do not meet the eligibility standards in effect on or after
30 July 1, 1992, shall remain ineligible on and after July 1,
31 1992. Those persons previously not required to cost-share
32 and who were required to cost-share effective March 1, 1992,
33 shall continue to meet cost-share requirements on and after
34 July 1, 1992. Beginning July 1, 1992, all clients will be

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

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

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.