



Rep. Sara Feigenholtz

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1 AMENDMENT TO HOUSE BILL 1423

2 AMENDMENT NO. _____. Amend House Bill 1423 by replacing
3 everything after the enacting clause with the following:

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

1 limited to, any or all of the following:

2 (a) (blank);

3 (b) (blank);

4 (c) home care aide services;

5 (d) personal assistant services;

6 (e) adult day services;

7 (f) home-delivered meals;

8 (g) education in self-care;

9 (h) personal care services;

10 (i) adult day health services;

11 (j) habilitation services;

12 (k) respite care;

13 (k-5) community reintegration services;

14 (k-6) flexible senior services;

15 (k-7) medication management;

16 (k-8) emergency home response;

17 (l) other nonmedical social services that may enable
18 the person to become self-supporting; or

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

22 The Department shall establish eligibility standards for
23 such services. In determining the amount and nature of services
24 for which a person may qualify, consideration shall not be
25 given to the value of cash, property or other assets held in
26 the name of the person's spouse pursuant to a written agreement

1 dividing marital property into equal but separate shares or
2 pursuant to a transfer of the person's interest in a home to
3 his spouse, provided that the spouse's share of the marital
4 property is not made available to the person seeking such
5 services.

6 Beginning January 1, 2008, the Department shall require as
7 a condition of eligibility that all new financially eligible
8 applicants apply for and enroll in medical assistance under
9 Article V of the Illinois Public Aid Code in accordance with
10 rules promulgated by the Department.

11 The Department shall, in conjunction with the Department of
12 Public Aid (now Department of Healthcare and Family Services),
13 seek appropriate amendments under Sections 1915 and 1924 of the
14 Social Security Act. The purpose of the amendments shall be to
15 extend eligibility for home and community based services under
16 Sections 1915 and 1924 of the Social Security Act to persons
17 who transfer to or for the benefit of a spouse those amounts of
18 income and resources allowed under Section 1924 of the Social
19 Security Act. Subject to the approval of such amendments, the
20 Department shall extend the provisions of Section 5-4 of the
21 Illinois Public Aid Code to persons who, but for the provision
22 of home or community-based services, would require the level of
23 care provided in an institution, as is provided for in federal
24 law. Those persons no longer found to be eligible for receiving
25 noninstitutional services due to changes in the eligibility
26 criteria shall be given 45 days notice prior to actual

1 termination. Those persons receiving notice of termination may
2 contact the Department and request the determination be
3 appealed at any time during the 45 day notice period. The
4 target population identified for the purposes of this Section
5 are persons age 60 and older with an identified service need.
6 Priority shall be given to those who are at imminent risk of
7 institutionalization. The services shall be provided to
8 eligible persons age 60 and older to the extent that the cost
9 of the services together with the other personal maintenance
10 expenses of the persons are reasonably related to the standards
11 established for care in a group facility appropriate to the
12 person's condition. These non-institutional services, pilot
13 projects or experimental facilities may be provided as part of
14 or in addition to those authorized by federal law or those
15 funded and administered by the Department of Human Services.
16 The Departments of Human Services, Healthcare and Family
17 Services, Public Health, Veterans' Affairs, and Commerce and
18 Economic Opportunity and other appropriate agencies of State,
19 federal and local governments shall cooperate with the
20 Department on Aging in the establishment and development of the
21 non-institutional services. The Department shall require an
22 annual audit from all personal assistant and home care aide
23 vendors contracting with the Department under this Section. The
24 annual audit shall assure that each audited vendor's procedures
25 are in compliance with Department's financial reporting
26 guidelines requiring an administrative and employee wage and

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

14 As part of the Department on Aging's routine training of
15 case managers and case manager supervisors, the Department may
16 include information on family futures planning for persons who
17 are age 60 or older and who are caregivers of their adult
18 children with developmental disabilities. The content of the
19 training shall be at the Department's discretion.

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

1 The level of such copayment shall be adjusted whenever
2 necessary to reflect any change in the officially designated
3 federal poverty standard.

4 The Department, or the Department's authorized
5 representative, may recover the amount of moneys expended for
6 services provided to or in behalf of a person under this
7 Section by a claim against the person's estate or against the
8 estate of the person's surviving spouse, but no recovery may be
9 had until after the death of the surviving spouse, if any, and
10 then only at such time when there is no surviving child who is
11 under age 21 or blind or who has a permanent and total
12 disability. This paragraph, however, shall not bar recovery, at
13 the death of the person, of moneys for services provided to the
14 person or in behalf of the person under this Section to which
15 the person was not entitled; provided that such recovery shall
16 not be enforced against any real estate while it is occupied as
17 a homestead by the surviving spouse or other dependent, if no
18 claims by other creditors have been filed against the estate,
19 or, if such claims have been filed, they remain dormant for
20 failure of prosecution or failure of the claimant to compel
21 administration of the estate for the purpose of payment. This
22 paragraph shall not bar recovery from the estate of a spouse,
23 under Sections 1915 and 1924 of the Social Security Act and
24 Section 5-4 of the Illinois Public Aid Code, who precedes a
25 person receiving services under this Section in death. All
26 moneys for services paid to or in behalf of the person under

1 this Section shall be claimed for recovery from the deceased
2 spouse's estate. "Homestead", as used in this paragraph, means
3 the dwelling house and contiguous real estate occupied by a
4 surviving spouse or relative, as defined by the rules and
5 regulations of the Department of Healthcare and Family
6 Services, regardless of the value of the property.

7 The Department shall increase the effectiveness of the
8 existing Community Care Program by:

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

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

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

23 (4) ensuring that the determination of need tool is
24 accurate in determining the participants' level of need; to
25 achieve this, the Department, in conjunction with the Older
26 Adult Services Advisory Committee, shall institute a study

1 of the relationship between the Determination of Need
2 scores, level of need, service cost maximums, and the
3 development and utilization of service plans no later than
4 May 1, 2008; findings and recommendations shall be
5 presented to the Governor and the General Assembly no later
6 than January 1, 2009; recommendations shall include all
7 needed changes to the service cost maximums schedule and
8 additional covered services;

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

- 12 (A) bathing;
- 13 (B) grooming;
- 14 (C) toileting;
- 15 (D) nail care;
- 16 (E) transferring;
- 17 (F) respiratory services;
- 18 (G) exercise; or
- 19 (H) positioning;

20 (6) ensuring that homemaker program vendors are not
21 restricted from hiring homemakers who are family members of
22 clients or recommended by clients; the Department may not,
23 by rule or policy, require homemakers who are family
24 members of clients or recommended by clients to accept
25 assignments in homes other than the client;

26 (7) ensuring that the State may access maximum federal

1 matching funds by seeking approval for the Centers for
2 Medicare and Medicaid Services for modifications to the
3 State's home and community based services waiver and
4 additional waiver opportunities, including applying for
5 enrollment in the Balance Incentive Payment Program by May
6 1, 2013, in order to maximize federal matching funds; this
7 shall include, but not be limited to, modification that
8 reflects all changes in the Community Care Program services
9 and all increases in the services cost maximum;

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

13 (9) ensuring that services are authorized accurately
14 and consistently for the Community Care Program (CCP); the
15 Department shall implement a Service Authorization policy
16 directive; the purpose shall be to ensure that eligibility
17 and services are authorized accurately and consistently in
18 the CCP program; the policy directive shall clarify service
19 authorization guidelines to Care Coordination Units and
20 Community Care Program providers no later than May 1, 2013;

21 (10) working in conjunction with Care Coordination
22 Units, the Department of Healthcare and Family Services,
23 the Department of Human Services, Community Care Program
24 providers, and other stakeholders to make improvements to
25 the Medicaid claiming processes and the Medicaid
26 enrollment procedures or requirements as needed,

1 including, but not limited to, specific policy changes or
2 rules to improve the up-front enrollment of participants in
3 the Medicaid program and specific policy changes or rules
4 to insure more prompt submission of bills to the federal
5 government to secure maximum federal matching dollars as
6 promptly as possible; the Department on Aging shall have at
7 least 3 meetings with stakeholders by January 1, 2014 in
8 order to address these improvements;

9 (11) requiring home care service providers to comply
10 with the rounding of hours worked provisions under the
11 federal Fair Labor Standards Act (FLSA) and as set forth in
12 29 CFR 785.48(b) by May 1, 2013;

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

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

22 By January 1, 2009 or as soon after the end of the Cash and
23 Counseling Demonstration Project as is practicable, the
24 Department may, based on its evaluation of the demonstration
25 project, promulgate rules concerning personal assistant
26 services, to include, but need not be limited to,

1 qualifications, employment screening, rights under fair labor
2 standards, training, fiduciary agent, and supervision
3 requirements. All applicants shall be subject to the provisions
4 of the Health Care Worker Background Check Act.

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

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

1 termination of the employer's contract with the Department. In
2 addition, the employing agency is responsible for the issuance
3 of certifications of in-service training completed to their
4 employees.

5 The Department is required to develop a system to ensure
6 that persons working as home care aides and personal assistants
7 receive increases in their wages when the federal minimum wage
8 is increased by requiring vendors to certify that they are
9 meeting the federal minimum wage statute for home care aides
10 and personal assistants. An employer that cannot ensure that
11 the minimum wage increase is being given to home care aides and
12 personal assistants shall be denied any increase in
13 reimbursement costs.

14 In order to provide funding to cover mandated increased
15 costs of wages and related benefits, the reimbursement rate for
16 work performed in counties with a population greater than
17 3,000,000 people, on and after the effective date of this
18 amendatory Act of the 100th General Assembly, is \$18.05 (rather
19 than \$17.14) per hour for all in-home care service providers
20 under the Department's Community Care Program.

21 The Community Care Program Advisory Committee is created in
22 the Department on Aging. The Director shall appoint individuals
23 to serve in the Committee, who shall serve at their own
24 expense. Members of the Committee must abide by all applicable
25 ethics laws. The Committee shall advise the Department on
26 issues related to the Department's program of services to

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

23 Nominations may be presented from any agency or State
24 association with interest in the program. The Director, or his
25 or her designee, shall serve as the permanent co-chair of the
26 advisory committee. One other co-chair shall be nominated and

1 approved by the members of the committee on an annual basis.
2 Committee members' terms of appointment shall be for 4 years
3 with one-quarter of the appointees' terms expiring each year. A
4 member shall continue to serve until his or her replacement is
5 named. The Department shall fill vacancies that have a
6 remaining term of over one year, and this replacement shall
7 occur through the annual replacement of expiring terms. The
8 Director shall designate Department staff to provide technical
9 assistance and staff support to the committee. Department
10 representation shall not constitute membership of the
11 committee. All Committee papers, issues, recommendations,
12 reports, and meeting memoranda are advisory only. The Director,
13 or his or her designee, shall make a written report, as
14 requested by the Committee, regarding issues before the
15 Committee.

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

21 The requirement for reporting to the General Assembly shall
22 be satisfied by filing copies of the report with the Speaker,
23 the Minority Leader and the Clerk of the House of
24 Representatives and the President, the Minority Leader and the
25 Secretary of the Senate and the Legislative Research Unit, as
26 required by Section 3.1 of the General Assembly Organization

1 Act and filing such additional copies with the State Government
2 Report Distribution Center for the General Assembly as is
3 required under paragraph (t) of Section 7 of the State Library
4 Act.

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

17 For the purposes of this Section, "flexible senior
18 services" refers to services that require one-time or periodic
19 expenditures including, but not limited to, respite care, home
20 modification, assistive technology, housing assistance, and
21 transportation.

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

26 The Department shall require, as a condition of

1 eligibility, enrollment in the medical assistance program
2 under Article V of the Illinois Public Aid Code (i) beginning
3 August 1, 2013, if the Auditor General has reported that the
4 Department has failed to comply with the reporting requirements
5 of Section 2-27 of the Illinois State Auditing Act; or (ii)
6 beginning June 1, 2014, if the Auditor General has reported
7 that the Department has not undertaken the required actions
8 listed in the report required by subsection (a) of Section 2-27
9 of the Illinois State Auditing Act.

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

20 The Department shall implement co-payments for the
21 Community Care Program at the federally allowable maximum level
22 (i) beginning August 1, 2013, if the Auditor General has
23 reported that the Department has failed to comply with the
24 reporting requirements of Section 2-27 of the Illinois State
25 Auditing Act; or (ii) beginning June 1, 2014, if the Auditor
26 General has reported that the Department has not undertaken the

1 required actions listed in the report required by subsection
2 (a) of Section 2-27 of the Illinois State Auditing Act.

3 The Department shall provide a bi-monthly report on the
4 progress of the Community Care Program reforms set forth in
5 this amendatory Act of the 98th General Assembly to the
6 Governor, the Speaker of the House of Representatives, the
7 Minority Leader of the House of Representatives, the President
8 of the Senate, and the Minority Leader of the Senate.

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

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

1 has complied with all Department policies.

2 The Director of the Department on Aging shall make
3 information available to the State Board of Elections as may be
4 required by an agreement the State Board of Elections has
5 entered into with a multi-state voter registration list
6 maintenance system.

7 (Source: P.A. 98-8, eff. 5-3-13; 98-1171, eff. 6-1-15; 99-143,
8 eff. 7-27-15.)

9 Section 10. The Illinois Public Aid Code is amended by
10 adding Section 5-35 as follows:

11 (305 ILCS 5/5-35 new)

12 Sec. 5-35. Reimbursement rates for in-home care services.
13 In order to provide funding to cover mandated increased costs
14 of wages and related benefits, the reimbursement rate for work
15 performed in counties with a population greater than 3,000,000
16 people, on and after the effective date of this amendatory Act
17 of the 100th General Assembly, is \$18.05 (rather than \$17.14)
18 per hour for all in-home care service providers for services
19 provided through managed care organizations under the
20 Integrated Care Program, the Medicare-Medicaid Alignment
21 Initiative, and the Managed Long Term Services and Supports
22 Program.

23 Section 99. Effective date. This Act takes effect upon

1 becoming law.".