

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 Beginning July 1, 2002, the Department shall require as a
18 condition of eligibility that all applicants and recipients
19 apply for medical assistance under Article V of the Illinois
20 Public Aid Code in accordance with rules promulgated by the
21 Department.

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

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

1 the Department under this Section. The annual audit shall
2 assure that each audited vendor's procedures are in
3 compliance with Department's financial reporting guidelines
4 requiring a 27% administrative cost split and a 73% employee
5 wages and benefits cost split. The audit is a public record
6 under the Freedom of Information Act. The requirements of
7 this paragraph are subject to an increase in the rates paid
8 to chore/housekeeping and homemaker vendors contracting with
9 the Department under this Section. Each 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 80 hours of chore/housekeeping or homemaker services per
20 month. That comprehensive health care coverage must be at
21 least equal to the program of medical assistance provided
22 under Article V of the Illinois Public Aid Code. If such an
23 individual has a spouse or dependents, or both, the health
24 care coverage must also be extended to the spouse and each
25 such dependent. If a vendor fails to pay an amount into the
26 fund as required under this paragraph, the vendor must pay
27 that amount to the Department. The annual audit required
28 under this Section shall ensure that vendors comply with the
29 requirements of this paragraph. The Department shall
30 execute, relative to the nursing home prescreening project,
31 written inter-agency agreements with the Department of Human
32 Services and the Department of Public Aid, to effect the
33 following: (1) intake procedures and common eligibility
34 criteria for those persons who are receiving

1 non-institutional services; and (2) the establishment and
2 development of non-institutional services in areas of the
3 State where they are not currently available or are
4 undeveloped. On and after July 1, 1996, all nursing home
5 prescreenings for individuals 60 years of age or older shall
6 be conducted by the Department.

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

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

1 purpose of payment. This paragraph shall not bar recovery
2 from the estate of a spouse, under Sections 1915 and 1924 of
3 the Social Security Act and Section 5-4 of the Illinois
4 Public Aid Code, who precedes a person receiving services
5 under this Section in death. All moneys for services paid to
6 or in behalf of the person under this Section shall be
7 claimed for recovery from the deceased spouse's estate.
8 "Homestead", as used in this paragraph, means the dwelling
9 house and contiguous real estate occupied by a surviving
10 spouse or relative, as defined by the rules and regulations
11 of the Illinois Department of Public Aid, regardless of the
12 value of the property.

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

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

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

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

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

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

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

1 and who were required to cost-share effective March 1, 1992,
2 shall continue to meet cost-share requirements on and after
3 July 1, 1992. Beginning July 1, 1992, all clients will be
4 required to meet eligibility, cost-share, and other
5 requirements and will have services discontinued or altered
6 when they fail to meet these requirements.

7 (Source: P.A. 91-303, eff. 1-1-00; 91-798, eff. 7-9-00;
8 92-597, eff. 6-28-02.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.