

1 AN ACT concerning preventive services.

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

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

28 The Department, or the Department's authorized
29 representative, shall recover the amount of moneys expended
30 for services provided to or in behalf of a person under this
31 Section by a claim against the person's estate or against the
32 estate of the person's surviving spouse, but no recovery may
33 be had until after the death of the surviving spouse, if any,
34 and then only at such time when there is no surviving child

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

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

31 Beginning on the effective date of this Amendatory Act of
32 1991, no person may perform chore/housekeeping and homemaker
33 services under a program authorized by this Section unless
34 that person has been issued a certificate of pre-service to

1 do so by his or her employing agency. Information gathered
2 to effect such certification shall include (i) the person's
3 name, (ii) the date the person was hired by his or her
4 current employer, and (iii) the training, including dates and
5 levels. Persons engaged in the program authorized by this
6 Section before the effective date of this amendatory Act of
7 1991 shall be issued a certificate of all pre- and in-service
8 training from his or her employer upon submitting the
9 necessary information. The employing agency shall be
10 required to retain records of all staff pre- and in-service
11 training, and shall provide such records to the Department
12 upon request and upon termination of the employer's contract
13 with the Department. In addition, the employing agency is
14 responsible for the issuance of certifications of in-service
15 training completed to their employees.

16 The Department is required to develop a system to ensure
17 that persons working as homemakers and chore housekeepers
18 receive increases in their wages when the federal minimum
19 wage is increased by requiring vendors to certify that they
20 are meeting the federal minimum wage statute for homemakers
21 and chore housekeepers. An employer that cannot ensure that
22 the minimum wage increase is being given to homemakers and
23 chore housekeepers shall be denied any increase in
24 reimbursement costs. Beginning July 1, 2003, the vendors
25 shall receive a rate increase equal to the percent increase
26 in the federal minimum wage each time the federal minimum
27 wage is increased.

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;
22 92-597, eff. 6-28-02.)

23 Section 10. The Disabled Persons Rehabilitation Act is
24 amended by changing Section 3 as follows:

25 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

26 Sec. 3. Powers and duties. The Department shall have the
27 powers and duties enumerated herein:

28 (a) To co-operate with the federal government in the
29 administration of the provisions of the federal
30 Rehabilitation Act of 1973, as amended, of the Workforce
31 Investment Act of 1998, and of the federal Social Security
32 Act to the extent and in the manner provided in these Acts.

1 (b) To prescribe and supervise such courses of
2 vocational training and provide such other services as may be
3 necessary for the habilitation and rehabilitation of persons
4 with one or more disabilities, including the administrative
5 activities under subsection (e) of this Section, and to
6 co-operate with State and local school authorities and other
7 recognized agencies engaged in habilitation, rehabilitation
8 and comprehensive rehabilitation services; and to cooperate
9 with the Department of Children and Family Services regarding
10 the care and education of children with one or more
11 disabilities.

12 (c) (Blank).

13 (d) To report in writing, to the Governor, annually on
14 or before the first day of December, and at such other times
15 and in such manner and upon such subjects as the Governor may
16 require. The annual report shall contain (1) a statement of
17 the existing condition of comprehensive rehabilitation
18 services, habilitation and rehabilitation in the State; (2) a
19 statement of suggestions and recommendations with reference
20 to the development of comprehensive rehabilitation services,
21 habilitation and rehabilitation in the State; and (3) an
22 itemized statement of the amounts of money received from
23 federal, State and other sources, and of the objects and
24 purposes to which the respective items of these several
25 amounts have been devoted.

26 (e) (Blank).

27 (f) To establish a program of services to prevent
28 unnecessary institutionalization of persons with Alzheimer's
29 disease and related disorders or persons in need of long term
30 care who are established as blind or disabled as defined by
31 the Social Security Act, thereby enabling them to remain in
32 their own homes or other living arrangements. Such preventive
33 services may include, but are not limited to, any or all of
34 the following:

- 1 (1) home health services;
- 2 (2) home nursing services;
- 3 (3) homemaker services;
- 4 (4) chore and housekeeping services;
- 5 (5) day care services;
- 6 (6) home-delivered meals;
- 7 (7) education in self-care;
- 8 (8) personal care services;
- 9 (9) adult day health services;
- 10 (10) habilitation services;
- 11 (11) respite care; or
- 12 (12) other nonmedical social services that may
- 13 enable the person to become self-supporting.

14 The Department shall establish eligibility standards for
15 such services taking into consideration the unique economic
16 and social needs of the population for whom they are to be
17 provided. Such eligibility standards may be based on the
18 recipient's ability to pay for services; provided, however,
19 that any portion of a person's income that is equal to or
20 less than the "protected income" level shall not be
21 considered by the Department in determining eligibility. The
22 "protected income" level shall be determined by the
23 Department, shall never be less than the federal poverty
24 standard, and shall be adjusted each year to reflect changes
25 in the Consumer Price Index For All Urban Consumers as
26 determined by the United States Department of Labor.
27 Additionally, in determining the amount and nature of
28 services for which a person may qualify, consideration shall
29 not be given to the value of cash, property or other assets
30 held in the name of the person's spouse pursuant to a written
31 agreement dividing marital property into equal but separate
32 shares or pursuant to a transfer of the person's interest in
33 a home to his spouse, provided that the spouse's share of the
34 marital property is not made available to the person seeking

1 such services.

2 The services shall be provided to eligible persons to
3 prevent unnecessary or premature institutionalization, to the
4 extent that the cost of the services, together with the other
5 personal maintenance expenses of the persons, are reasonably
6 related to the standards established for care in a group
7 facility appropriate to their condition. These
8 non-institutional services, pilot projects or experimental
9 facilities may be provided as part of or in addition to those
10 authorized by federal law or those funded and administered by
11 the Illinois Department on Aging.

12 Personal care attendants shall be paid:

13 (i) A \$5 per hour minimum rate beginning July 1,
14 1995.

15 (ii) A \$5.30 per hour minimum rate beginning July
16 1, 1997.

17 (iii) A \$5.40 per hour minimum rate beginning July
18 1, 1998.

19 Beginning July 1, 2003, personal care attendants shall
20 receive a percentage increase in wages equal to the percent
21 increase in the federal minimum wage each time the federal
22 minimum wage is increased.

23 The Department shall execute, relative to the nursing
24 home prescreening project, as authorized by Section 4.03 of
25 the Illinois Act on the Aging, written inter-agency
26 agreements with the Department on Aging and the Department of
27 Public Aid, to effect the following: (i) intake procedures
28 and common eligibility criteria for those persons who are
29 receiving non-institutional services; and (ii) the
30 establishment and development of non-institutional services
31 in areas of the State where they are not currently available
32 or are undeveloped. On and after July 1, 1996, all nursing
33 home prescreenings for individuals 18 through 59 years of age
34 shall be conducted by the Department.

1 The Department is authorized to establish a system of
2 recipient cost-sharing for services provided under this
3 Section. The cost-sharing shall be based upon the
4 recipient's ability to pay for services, but in no case shall
5 the recipient's share exceed the actual cost of the services
6 provided. Protected income shall not be considered by the
7 Department in its determination of the recipient's ability to
8 pay a share of the cost of services. The level of
9 cost-sharing shall be adjusted each year to reflect changes
10 in the "protected income" level. The Department shall deduct
11 from the recipient's share of the cost of services any money
12 expended by the recipient for disability-related expenses.

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

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

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

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

24 (g) To establish such subdivisions of the Department as
25 shall be desirable and assign to the various subdivisions the
26 responsibilities and duties placed upon the Department by
27 law.

28 (h) To cooperate and enter into any necessary agreements
29 with the Department of Employment Security for the provision
30 of job placement and job referral services to clients of the
31 Department, including job service registration of such
32 clients with Illinois Employment Security offices and making
33 job listings maintained by the Department of Employment
34 Security available to such clients.

1 (i) To possess all powers reasonable and necessary for
2 the exercise and administration of the powers, duties and
3 responsibilities of the Department which are provided for by
4 law.

5 (j) To establish a procedure whereby new providers of
6 personal care attendant services shall submit vouchers to the
7 State for payment two times during their first month of
8 employment and one time per month thereafter. In no case
9 shall the Department pay personal care attendants an hourly
10 wage that is less than the federal minimum wage.

11 (k) To provide adequate notice to providers of chore and
12 housekeeping services informing them that they are entitled
13 to an interest payment on bills which are not promptly paid
14 pursuant to Section 3 of the State Prompt Payment Act.

15 (l) To establish, operate and maintain a Statewide
16 Housing Clearinghouse of information on available, government
17 subsidized housing accessible to disabled persons and
18 available privately owned housing accessible to disabled
19 persons. The information shall include but not be limited to
20 the location, rental requirements, access features and
21 proximity to public transportation of available housing. The
22 Clearinghouse shall consist of at least a computerized
23 database for the storage and retrieval of information and a
24 separate or shared toll free telephone number for use by
25 those seeking information from the Clearinghouse. Department
26 offices and personnel throughout the State shall also assist
27 in the operation of the Statewide Housing Clearinghouse.
28 Cooperation with local, State and federal housing managers
29 shall be sought and extended in order to frequently and
30 promptly update the Clearinghouse's information.

31 (m) To assure that the names and case records of persons
32 who received or are receiving services from the Department,
33 including persons receiving vocational rehabilitation, home
34 services, or other services, and those attending one of the

1 Department's schools or other supervised facility shall be
2 confidential and not be open to the general public. Those
3 case records and reports or the information contained in
4 those records and reports shall be disclosed by the Director
5 only to proper law enforcement officials, individuals
6 authorized by a court, the General Assembly or any committee
7 or commission of the General Assembly, and other persons and
8 for reasons as the Director designates by rule. Disclosure
9 by the Director may be only in accordance with other
10 applicable law.

11 (Source: P.A. 91-540, eff. 8-13-99; 92-84, eff. 7-1-02.)

12 Section 99. Effective date. This Act takes effect July
13 1, 2003.