



Rep. Sidney H. Mathias

Filed: 4/11/2005

09400HB2461ham001

LRB094 09552 DRJ 44884 a

1 AMENDMENT TO HOUSE BILL 2461

2 AMENDMENT NO. _____. Amend House Bill 2461 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. 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 a
11 related disorder under the Alzheimer's Disease Assistance Act,
12 thereby enabling them to remain in their own homes or in other
13 living arrangements. Such preventive services, which may be
14 coordinated with other programs for the aged and monitored by
15 area agencies on aging in cooperation with the Department, may
16 include, but are not limited to, any or all of the following:

- 17 (a) home health services;
- 18 (b) home nursing services;
- 19 (c) homemaker services;
- 20 (d) chore and housekeeping services;
- 21 (e) day care services;
- 22 (f) home-delivered meals;
- 23 (g) education in self-care;
- 24 (h) personal care services;

- 1 (i) adult day health services;
- 2 (j) habilitation services;
- 3 (k) respite care;
- 4 (k-5) community reintegration services;
- 5 (l) other nonmedical social services that may enable
- 6 the person to become self-supporting; or
- 7 (m) clearinghouse for information provided by senior
- 8 citizen home owners who want to rent rooms to or share
- 9 living space with other senior citizens.

10 The Department shall establish eligibility standards for

11 such services taking into consideration the unique economic and

12 social needs of the target population for whom they are to be

13 provided. Such eligibility standards shall be based on the

14 recipient's ability to pay for services; provided, however,

15 that in determining the amount and nature of services for which

16 a person may qualify, consideration shall not be given to the

17 value of cash, property or other assets held in the name of the

18 person's spouse pursuant to a written agreement dividing

19 marital property into equal but separate shares or pursuant to

20 a transfer of the person's interest in a home to his spouse,

21 provided that the spouse's share of the marital property is not

22 made available to the person seeking such services.

23 Beginning July 1, 2002, the Department shall require as a

24 condition of eligibility that all financially eligible

25 applicants and recipients apply for medical assistance under

26 Article V of the Illinois Public Aid Code in accordance with

27 rules promulgated by the Department.

28 The Department shall, in conjunction with the Department of

29 Public Aid, seek appropriate amendments under Sections 1915 and

30 1924 of the Social Security Act. The purpose of the amendments

31 shall be to extend eligibility for home and community based

32 services under Sections 1915 and 1924 of the Social Security

33 Act to persons who transfer to or for the benefit of a spouse

34 those amounts of income and resources allowed under Section

1 1924 of the Social Security Act. Subject to the approval of
2 such amendments, the Department shall extend the provisions of
3 Section 5-4 of the Illinois Public Aid Code to persons who, but
4 for the provision of home or community-based services, would
5 require the level of care provided in an institution, as is
6 provided for in federal law. Those persons no longer found to
7 be eligible for receiving noninstitutional services due to
8 changes in the eligibility criteria shall be given 60 days
9 notice prior to actual termination. Those persons receiving
10 notice of termination may contact the Department and request
11 the determination be appealed at any time during the 60 day
12 notice period. With the exception of the lengthened notice and
13 time frame for the appeal request, the appeal process shall
14 follow the normal procedure. In addition, each person affected
15 regardless of the circumstances for discontinued eligibility
16 shall be given notice and the opportunity to purchase the
17 necessary services through the Community Care Program. If the
18 individual does not elect to purchase services, the Department
19 shall advise the individual of alternative services. The target
20 population identified for the purposes of this Section are
21 persons age 60 and older with an identified service need.
22 Priority shall be given to those who are at imminent risk of
23 institutionalization. The services shall be provided to
24 eligible persons age 60 and older to the extent that the cost
25 of the services together with the other personal maintenance
26 expenses of the persons are reasonably related to the standards
27 established for care in a group facility appropriate to the
28 person's condition. These non-institutional services, pilot
29 projects or experimental facilities may be provided as part of
30 or in addition to those authorized by federal law or those
31 funded and administered by the Department of Human Services.
32 The Departments of Human Services, Public Aid, Public Health,
33 Veterans' Affairs, and Commerce and Economic Opportunity and
34 other appropriate agencies of State, federal and local

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

21 As part of the Department on Aging's routine training of
22 case managers and case manager supervisors, the Department may
23 include information on family futures planning for persons who
24 are age 60 or older and who are caregivers of their adult
25 children with developmental disabilities. The content of the
26 training shall be at the Department's discretion.

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

1 necessary to reflect any change in the officially designated
2 federal poverty standard.

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

32 The Department shall develop procedures to enhance
33 availability of services on evenings, weekends, and on an
34 emergency basis to meet the respite needs of caregivers.

1 Procedures shall be developed to permit the utilization of
2 services in successive blocks of 24 hours up to the monthly
3 maximum established by the Department. Workers providing these
4 services shall be appropriately trained.

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

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

33 The Department on Aging and the Department of Human
34 Services shall cooperate in the development and submission of

1 an annual report on programs and services provided under this
2 Section. Such joint report shall be filed with the Governor and
3 the General Assembly on or before September 30 each year.

4 The requirement for reporting to the General Assembly shall
5 be satisfied by filing copies of the report with the Speaker,
6 the Minority Leader and the Clerk of the House of
7 Representatives and the President, the Minority Leader and the
8 Secretary of the Senate and the Legislative Research Unit, as
9 required by Section 3.1 of the General Assembly Organization
10 Act and filing such additional copies with the State Government
11 Report Distribution Center for the General Assembly as is
12 required under paragraph (t) of Section 7 of the State Library
13 Act.

14 Those persons previously found eligible for receiving
15 non-institutional services whose services were discontinued
16 under the Emergency Budget Act of Fiscal Year 1992, and who do
17 not meet the eligibility standards in effect on or after July
18 1, 1992, shall remain ineligible on and after July 1, 1992.
19 Those persons previously not required to cost-share and who
20 were required to cost-share effective March 1, 1992, shall
21 continue to meet cost-share requirements on and after July 1,
22 1992. Beginning July 1, 1992, all clients will be required to
23 meet eligibility, cost-share, and other requirements and will
24 have services discontinued or altered when they fail to meet
25 these requirements.

26 (Source: P.A. 92-597, eff. 6-28-02; 93-85, eff. 1-1-04; 93-902,
27 eff. 8-10-04.)

28 Section 10. The Family Caregiver Act is amended by adding
29 Section 27 as follows:

30 (320 ILCS 65/27 new)

31 Sec. 27. Elder caregivers of adult children with
32 developmental disabilities. Subject to appropriation or to

1 inclusion of this population in the federal Older Americans
2 Act, the Department may provide support to caregivers who are
3 age 60 or older and who are caring for their adult children
4 with developmental disabilities, in collaboration with the
5 Department of Human Services.

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