



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3443

Introduced 2/22/2005, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.02

from Ch. 23, par. 6104.02

Amends the Illinois Act on the Aging. In provisions for a community care program of services to prevent unnecessary institutionalization of persons age 60 and older, provides that the Department on Aging's eligibility standards for the services must include a provision that, to be eligible for services, a person may not have assets totaling more than \$20,000 if (i) the person is unmarried or (ii) the person is married and the person or the person's spouse meets certain criteria. Provides that if the person is married and the person's spouse does not receive community care services, the person may not have assets totaling more than the asset disregard amount used by the Department of Public Aid in determining eligibility for medical assistance under the Illinois Public Aid Code. Effective January 1, 2006.

LRB094 03771 BDD 33780 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning State government.

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 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;
- 25 (i) adult day health services;
- 26 (j) habilitation services;
- 27 (k) respite care;
- 28 (k-5) community reintegration services;
- 29 (l) other nonmedical social services that may enable
30 the person to become self-supporting; or
- 31 (m) clearinghouse for information provided by senior
32 citizen home owners who want to rent rooms to or share

1 living space with other senior citizens.

2 The Department shall establish eligibility standards for
3 such services taking into consideration the unique economic and
4 social needs of the target population for whom they are to be
5 provided. The eligibility standards must include a provision
6 that, to be eligible for services under this Section, a person
7 may not have assets (other than specifically exempt assets)
8 totaling more than \$20,000 if:

9 (1) the person is unmarried; or

10 (2) the person is married and the Department determines
11 that:

12 (A) the person's spouse receives services under
13 this Section; or

14 (B) the person's spouse resides in a skilled
15 nursing or intermediate long-term care facility that
16 is subject to licensure by the Department of Public
17 Health under the Nursing Home Care Act; or

18 (C) the person's spouse does not reside on a
19 permanent basis with the person and does not receive
20 support from or give support to the person; or

21 (D) the person has been abandoned by his or her
22 spouse; or

23 (E) the person has been the subject of a report of
24 abuse (as defined in the Elder Abuse and Neglect Act)
25 by his or her spouse.

26 Notwithstanding the preceding paragraph, the eligibility
27 standards must include a provision that, to be eligible for
28 services under this Section, a person who is married and whose
29 spouse does not receive services under this Section may not
30 have assets (other than specifically exempt assets) totaling
31 more than the asset disregard amount used by the Department of
32 Public Aid in determining eligibility for medical assistance
33 under Article V of the Illinois Public Aid Code.

34 Such eligibility standards shall be based on the
35 recipient's ability to pay for services; provided, however,
36 that in determining the amount and nature of services for which

1 a person may qualify, consideration shall not be given to the
2 value of cash, property or other assets held in the name of the
3 person's spouse pursuant to a written agreement dividing
4 marital property into equal but separate shares or pursuant to
5 a transfer of the person's interest in a home to his spouse,
6 provided that the spouse's share of the marital property is not
7 made available to the person seeking such services.

8 Beginning July 1, 2002, the Department shall require as a
9 condition of eligibility that all financially eligible
10 applicants and recipients apply for medical assistance under
11 Article V of the Illinois Public Aid Code in accordance with
12 rules promulgated by the Department.

13 The Department shall, in conjunction with the Department of
14 Public Aid, seek appropriate amendments under Sections 1915 and
15 1924 of the Social Security Act. The purpose of the amendments
16 shall be to extend eligibility for home and community based
17 services under Sections 1915 and 1924 of the Social Security
18 Act to persons who transfer to or for the benefit of a spouse
19 those amounts of income and resources allowed under Section
20 1924 of the Social Security Act. Subject to the approval of
21 such amendments, the Department shall extend the provisions of
22 Section 5-4 of the Illinois Public Aid Code to persons who, but
23 for the provision of home or community-based services, would
24 require the level of care provided in an institution, as is
25 provided for in federal law. Those persons no longer found to
26 be eligible for receiving noninstitutional services due to
27 changes in the eligibility criteria shall be given 60 days
28 notice prior to actual termination. Those persons receiving
29 notice of termination may contact the Department and request
30 the determination be appealed at any time during the 60 day
31 notice period. With the exception of the lengthened notice and
32 time frame for the appeal request, the appeal process shall
33 follow the normal procedure. In addition, each person affected
34 regardless of the circumstances for discontinued eligibility
35 shall be given notice and the opportunity to purchase the
36 necessary services through the Community Care Program. If the

1 individual does not elect to purchase services, the Department
2 shall advise the individual of alternative services. The target
3 population identified for the purposes of this Section are
4 persons age 60 and older with an identified service need.
5 Priority shall be given to those who are at imminent risk of
6 institutionalization. The services shall be provided to
7 eligible persons age 60 and older to the extent that the cost
8 of the services together with the other personal maintenance
9 expenses of the persons are reasonably related to the standards
10 established for care in a group facility appropriate to the
11 person's condition. These non-institutional services, pilot
12 projects or experimental facilities may be provided as part of
13 or in addition to those authorized by federal law or those
14 funded and administered by the Department of Human Services.
15 The Departments of Human Services, Public Aid, Public Health,
16 Veterans' Affairs, and Commerce and Economic Opportunity and
17 other appropriate agencies of State, federal and local
18 governments shall cooperate with the Department on Aging in the
19 establishment and development of the non-institutional
20 services. The Department shall require an annual audit from all
21 chore/housekeeping and homemaker vendors contracting with the
22 Department under this Section. The annual audit shall assure
23 that each audited vendor's procedures are in compliance with
24 Department's financial reporting guidelines requiring a 27%
25 administrative cost split and a 73% employee wages and benefits
26 cost split. The audit is a public record under the Freedom of
27 Information Act. The Department shall execute, relative to the
28 nursing home prescreening project, written inter-agency
29 agreements with the Department of Human Services and the
30 Department of Public Aid, to effect the following: (1) intake
31 procedures and common eligibility criteria for those persons
32 who are receiving non-institutional services; and (2) the
33 establishment and development of non-institutional services in
34 areas of the State where they are not currently available or
35 are undeveloped. On and after July 1, 1996, all nursing home
36 prescreenings for individuals 60 years of age or older shall be

1 conducted by the Department.

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

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

1 house and contiguous real estate occupied by a surviving spouse
2 or relative, as defined by the rules and regulations of the
3 Illinois Department of Public Aid, regardless of the value of
4 the property.

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 homemaker
14 services under a program authorized by this Section unless that
15 person has been issued a certificate of pre-service to do so by
16 his or her employing agency. Information gathered to effect
17 such certification shall include (i) the person's name, (ii)
18 the date the person was hired by his or her current employer,
19 and (iii) the training, including dates and levels. Persons
20 engaged in the program authorized by this Section before the
21 effective date of this amendatory Act of 1991 shall be issued a
22 certificate of all pre- and in-service training from his or her
23 employer upon submitting the necessary information. The
24 employing agency shall be required to retain records of all
25 staff pre- and in-service training, and shall provide such
26 records to the Department upon request and upon termination of
27 the employer's contract with the Department. In addition, the
28 employing agency is responsible for the issuance of
29 certifications of in-service training completed to their
30 employees.

31 The Department is required to develop a system to ensure
32 that persons working as homemakers and chore housekeepers
33 receive increases in their wages when the federal minimum wage
34 is increased by requiring vendors to certify that they are
35 meeting the federal minimum wage statute for homemakers and
36 chore housekeepers. An employer that cannot ensure that the

1 minimum wage increase is being given to homemakers and chore
2 housekeepers shall be denied any increase in reimbursement
3 costs.

4 The Department on Aging and the Department of Human
5 Services shall cooperate in the development and submission of
6 an annual report on programs and services provided under this
7 Section. Such joint report shall be filed with the Governor and
8 the General Assembly on or before September 30 each year.

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

19 Those persons previously found eligible for receiving
20 non-institutional services whose services were discontinued
21 under the Emergency Budget Act of Fiscal Year 1992, and who do
22 not meet the eligibility standards in effect on or after July
23 1, 1992, shall remain ineligible on and after July 1, 1992.
24 Those persons previously not required to cost-share and who
25 were required to cost-share effective March 1, 1992, shall
26 continue to meet cost-share requirements on and after July 1,
27 1992. Beginning July 1, 1992, all clients will be required to
28 meet eligibility, cost-share, and other requirements and will
29 have services discontinued or altered when they fail to meet
30 these requirements.

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

33 Section 99. Effective date. This Act takes effect on
34 January 1, 2006.