



Rep. Sidney H. Mathias

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1 AMENDMENT TO SENATE BILL 340

2 AMENDMENT NO. _____. Amend Senate Bill 340, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Act on the Aging is amended by
6 changing Section 4.02 as follows:

7 (20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

8 Sec. 4.02. The Department shall establish a program of
9 services to prevent unnecessary institutionalization of
10 persons age 60 and older in need of long term care or who are
11 established as persons who suffer from Alzheimer's disease or a
12 related disorder under the Alzheimer's Disease Assistance Act,
13 thereby enabling them to remain in their own homes or in other
14 living arrangements. Such preventive services, which may be
15 coordinated with other programs for the aged and monitored by
16 area agencies on aging in cooperation with the Department, may

1 include, but are not limited to, any or all of the following:

2 (a) home health services;

3 (b) home nursing services;

4 (c) homemaker services;

5 (d) chore and housekeeping 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 (l) other nonmedical social services that may enable
15 the person to become self-supporting; or

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

19 The Department shall establish eligibility standards for
20 such services taking into consideration the unique economic and
21 social needs of the target population for whom they are to be
22 provided. Such eligibility standards shall be based on the
23 recipient's ability to pay for services; provided, however,
24 that in determining the amount and nature of services for which
25 a person may qualify, consideration shall not be given to the
26 value of cash, property or other assets held in the name of the

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

6 Beginning July 1, 2002, the Department shall require as a
7 condition of eligibility that all financially eligible
8 applicants and recipients apply for 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 60 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 60 day notice period. With the
4 exception of the lengthened notice and time frame for the
5 appeal request, the appeal process shall follow the normal
6 procedure. In addition, each person affected regardless of the
7 circumstances for discontinued eligibility shall be given
8 notice and the opportunity to purchase the necessary services
9 through the Community Care Program. If the individual does not
10 elect to purchase services, the Department shall advise the
11 individual of alternative services. The target population
12 identified for the purposes of this Section are persons age 60
13 and older with an identified service need. Priority shall be
14 given to those who are at imminent risk of
15 institutionalization. The services shall be provided to
16 eligible persons age 60 and older to the extent that the cost
17 of the services together with the other personal maintenance
18 expenses of the persons are reasonably related to the standards
19 established for care in a group facility appropriate to the
20 person's condition. These non-institutional services, pilot
21 projects or experimental facilities may be provided as part of
22 or in addition to those authorized by federal law or those
23 funded and administered by the Department of Human Services.
24 The Departments of Human Services, Healthcare and Family
25 Services, Public Health, Veterans' Affairs, and Commerce and
26 Economic Opportunity and other appropriate agencies of State,

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

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

1 training shall be at the Department's discretion.

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

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

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

22 Beginning on the effective date of this Amendatory Act of
23 1991, no person may perform chore/housekeeping and homemaker
24 services under a program authorized by this Section unless that
25 person has been issued a certificate of pre-service to do so by
26 his or her employing agency. Information gathered to effect

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

15 The Department is required to develop a system to ensure
16 that persons working as homemakers and chore housekeepers
17 receive increases in their wages when the federal minimum wage
18 is increased by requiring vendors to certify that they are
19 meeting the federal minimum wage statute for homemakers and
20 chore housekeepers. An employer that cannot ensure that the
21 minimum wage increase is being given to homemakers and chore
22 housekeepers shall be denied any increase in reimbursement
23 costs.

24 The Community Care Program Advisory Committee is created in
25 the Department on Aging. The Director shall appoint individuals
26 to serve in the Committee, who shall serve at their own

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

1 ~~following agencies and organizations:~~

2 ~~(a) at least 4 adult day service representatives;~~

3 ~~(b) at least 4 case coordination unit representatives;~~

4 ~~(c) at least 4 representatives from in-home direct care~~
5 ~~service agencies;~~

6 ~~(d) at least 2 representatives of statewide trade or~~
7 ~~labor unions that represent in-home direct care service~~
8 ~~staff;~~

9 ~~(e) at least 2 representatives of Area Agencies on~~
10 ~~Aging;~~

11 ~~(f) at least 2 non-provider representatives from a~~
12 ~~policy, advocacy, research, or other service organization;~~

13 ~~(g) at least 2 representatives from a statewide~~
14 ~~membership organization for senior citizens; and~~

15 ~~(h) at least 2 citizen members 60 years of age or~~
16 ~~older.~~

17 Nominations may be presented from any agency or State
18 association with interest in the program. The Director, or his
19 or her designee, shall serve as the permanent co-chair of the
20 advisory committee. One other co-chair shall be nominated and
21 approved by the members of the committee on an annual basis.
22 Committee members' terms of appointment shall be for 4 years
23 with one-quarter of the appointees' terms expiring each year. A
24 member shall continue to serve until his or her replacement is
25 named. ~~At no time may a member serve more than one consecutive~~
26 ~~term in any capacity on the committee.~~ The Department shall

1 fill vacancies that have a remaining term of over one year, and
2 this replacement shall occur through the annual replacement of
3 expiring terms. The Director shall designate Department staff
4 to provide technical assistance and staff support to the
5 committee. Department representation shall not constitute
6 membership of the committee. All Committee papers, issues,
7 recommendations, reports, and meeting memoranda are advisory
8 only. The Director, or his or her designee, shall make a
9 written report, as requested by the Committee, regarding issues
10 before the Committee.

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

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

26 Those persons previously found eligible for receiving

1 non-institutional services whose services were discontinued
2 under the Emergency Budget Act of Fiscal Year 1992, and who do
3 not meet the eligibility standards in effect on or after July
4 1, 1992, shall remain ineligible on and after July 1, 1992.
5 Those persons previously not required to cost-share and who
6 were required to cost-share effective March 1, 1992, shall
7 continue to meet cost-share requirements on and after July 1,
8 1992. Beginning July 1, 1992, all clients will be required to
9 meet eligibility, cost-share, and other requirements and will
10 have services discontinued or altered when they fail to meet
11 these requirements.

12 (Source: P.A. 93-85, eff. 1-1-04; 93-902, eff. 8-10-04; 94-48,
13 eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05;
14 94-954, eff. 6-27-06.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."