



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2765

Introduced 2/21/2013, by Rep. Jerry F. Costello, II

SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.03
305 ILCS 5/5-4

from Ch. 23, par. 6104.03
from Ch. 23, par. 5-4

Amends the Illinois Act on the Aging. In regard to a nursing home prescreening program administered by the Department on Aging for individuals with Alzheimer's Disease and related disorders, provides that case coordination units shall employ pre-screeners to perform all functions assigned to case coordination units under the Act and that in addition to information needed to properly assess an individual's need for services, the pre-screener shall be responsible for soliciting asset, income, and resource information needed to comply with federal spousal impoverishment requirements. Requires the pre-screener to (i) inform the individual and the individual's spouse, if any, of the consequences of failing to comply with full disclosure and (ii) enter asset, income, and resource information into the same database used to enter the Determination of Need score to ensure that the Department of Human Services and the Department of Healthcare and Family Services have open access to such information. Amends the Medical Assistance Article of the Illinois Public Aid Code. Provides that subject to federal approval, the community spouse resource allowance shall be established and maintained, based on asset, income, and resource information collected by a pre-screener, at the higher of \$109,560 or the minimum level permitted pursuant to certain federal guidelines, as now or hereafter amended, or an amount set after a fair hearing, whichever is greater (rather than the community spouse resource allowance shall be established and maintained at the higher of \$109,560 or the minimum level permitted pursuant to certain federal guidelines, as now or hereafter amended, or an amount set after a fair hearing, whichever is greater). Effective immediately.

LRB098 03998 KTG 34931 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

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 4.03 as follows:

6 (20 ILCS 105/4.03) (from Ch. 23, par. 6104.03)

7 Sec. 4.03. The Department on Aging, in cooperation with the
8 Department of Human Services and any other appropriate State,
9 local or federal agency, shall, without regard to income
10 guidelines, establish a nursing home prescreening program to
11 determine whether Alzheimer's Disease and related disorders
12 victims, and persons who are deemed as blind or disabled as
13 defined by the Social Security Act and who are in need of long
14 term care, may be satisfactorily cared for in their homes
15 through the use of home and community based services.
16 Responsibility for prescreening shall be vested with case
17 coordination units which shall employ pre-screeners to perform
18 all functions assigned to case coordination units under this
19 Act. Prescreening shall occur: (i) when hospital discharge
20 planners have advised the case coordination unit of the
21 imminent risk of nursing home placement of a patient who meets
22 the above criteria and in advance of discharge of the patient;
23 or (ii) when a case coordination unit has been advised of the

1 imminent risk of nursing home placement of an individual in the
2 community. The individual who is prescreened shall be informed
3 of all appropriate options, including placement in a nursing
4 home and the availability of in-home and community-based
5 services and shall be advised of her or his right to refuse
6 nursing home, in-home, community-based, or all services. Case
7 coordination units under contract with the Department may
8 charge a fee for the prescreening provided under this Section
9 and the fee shall be no greater than the cost of such services
10 to the case coordination unit. At the time of each
11 prescreening, case coordination units shall provide
12 information regarding the Office of State Long Term Care
13 Ombudsman's Residents Right to Know database as authorized in
14 subsection (c-5) of Section 4.04. In addition to information
15 needed to properly assess an individual's need for services,
16 the pre-screener shall be responsible for soliciting asset,
17 income, and resource information needed to comply with the
18 spousal impoverishment requirements of Title XIX of the federal
19 Social Security Act and the regulations duly promulgated
20 thereunder. The pre-screener shall inform the individual and
21 the individual's spouse, if any, of the consequences of failing
22 to comply with full disclosure. The pre-screener shall enter
23 asset, income, and resource information into the same database
24 used to enter the Determination of Need score to ensure that
25 the Department of Human Services and the Department of
26 Healthcare and Family Services have open access to such

1 information.

2 (Source: P.A. 95-80, eff. 8-13-07; 95-823, eff. 1-1-09; 96-328,
3 eff. 8-11-09.)

4 Section 10. The Illinois Public Aid Code is amended by
5 changing Section 5-4 as follows:

6 (305 ILCS 5/5-4) (from Ch. 23, par. 5-4)

7 Sec. 5-4. Amount and nature of medical assistance.

8 (a) The amount and nature of medical assistance shall be
9 determined in accordance with the standards, rules, and
10 regulations of the Department of Healthcare and Family
11 Services, with due regard to the requirements and conditions in
12 each case, including contributions available from legally
13 responsible relatives. However, the amount and nature of such
14 medical assistance shall not be affected by the payment of any
15 grant under the Senior Citizens and Disabled Persons Property
16 Tax Relief Act or any distributions or items of income
17 described under subparagraph (X) of paragraph (2) of subsection
18 (a) of Section 203 of the Illinois Income Tax Act. The amount
19 and nature of medical assistance shall not be affected by the
20 receipt of donations or benefits from fundraisers in cases of
21 serious illness, as long as neither the person nor members of
22 the person's family have actual control over the donations or
23 benefits or the disbursement of the donations or benefits.

24 In determining the income and resources available to the

1 institutionalized spouse and to the community spouse, the
2 Department of Healthcare and Family Services shall follow the
3 procedures established by federal law. If an institutionalized
4 spouse or community spouse refuses to comply with the
5 requirements of Title XIX of the federal Social Security Act
6 and the regulations duly promulgated thereunder by failing to
7 provide the total value of assets, including income and
8 resources, to the extent either the institutionalized spouse or
9 community spouse has an ownership interest in them pursuant to
10 42 U.S.C. 1396r-5, after being advised of the consequences of
11 refusal pursuant to Section 4.03 of the Illinois Act on the
12 Aging, such refusal may result in the institutionalized spouse
13 being denied eligibility and continuing to remain ineligible
14 for the medical assistance program based on failure to
15 cooperate.

16 Subject to federal approval, the community spouse resource
17 allowance shall be established and maintained, based on asset,
18 income, and resource information collected by a pre-screener
19 authorized by Section 4.03 of the Illinois Act on the Aging, at
20 the higher of \$109,560 or the minimum level permitted pursuant
21 to Section 1924(f)(2) of the Social Security Act, as now or
22 hereafter amended, or an amount set after a fair hearing,
23 whichever is greater. The monthly maintenance allowance for the
24 community spouse shall be established and maintained at the
25 higher of \$2,739 per month or the minimum level permitted
26 pursuant to Section 1924(d)(3)(C) of the Social Security Act,

1 as now or hereafter amended, or an amount set after a fair
2 hearing, whichever is greater. Subject to the approval of the
3 Secretary of the United States Department of Health and Human
4 Services, the provisions of this Section shall be extended to
5 persons who but for the provision of home or community-based
6 services under Section 4.02 of the Illinois Act on the Aging,
7 would require the level of care provided in an institution, as
8 is provided for in federal law.

9 (b) Spousal support for institutionalized spouses
10 receiving medical assistance.

11 (i) The Department may seek support for an
12 institutionalized spouse, who has assigned his or her right
13 of support from his or her spouse to the State, from the
14 resources and income available to the community spouse.

15 (ii) The Department may bring an action in the circuit
16 court to establish support orders or itself establish
17 administrative support orders by any means and procedures
18 authorized in this Code, as applicable, except that the
19 standard and regulations for determining ability to
20 support in Section 10-3 shall not limit the amount of
21 support that may be ordered.

22 (iii) Proceedings may be initiated to obtain support,
23 or for the recovery of aid granted during the period such
24 support was not provided, or both, for the obtainment of
25 support and the recovery of the aid provided. Proceedings
26 for the recovery of aid may be taken separately or they may

1 be consolidated with actions to obtain support. Such
2 proceedings may be brought in the name of the person or
3 persons requiring support or may be brought in the name of
4 the Department, as the case requires.

5 (iv) The orders for the payment of moneys for the
6 support of the person shall be just and equitable and may
7 direct payment thereof for such period or periods of time
8 as the circumstances require, including support for a
9 period before the date the order for support is entered. In
10 no event shall the orders reduce the community spouse
11 resource allowance below the level established in
12 subsection (a) of this Section or an amount set after a
13 fair hearing, whichever is greater, or reduce the monthly
14 maintenance allowance for the community spouse below the
15 level permitted pursuant to subsection (a) of this Section.

16 (Source: P.A. 97-689, eff. 6-14-12.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.