



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3629

Introduced 2/17/2023, by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

210 ILCS 45/Art. V heading new
210 ILCS 45/5-101 new
210 ILCS 45/5-105 new
210 ILCS 45/5-110 new

Amends the Nursing Home Care Act. Creates the Transition and Emergency Home Services Article. Provides that within 4 months after the effective date of the amendatory Act, the Department of Human Services shall create a program to provide nursing services and assistance with activities of daily living sufficient to allow individuals who otherwise qualify for placement in a nursing facility to receive short-term services in the community. Provides that the short-term services shall cover both: (1) emergency home services for individuals currently receiving home services who experience a temporary need for a substitute personal assistant because of the unavailability of their other home services providers; and (2) short-term services to bridge periods between release from medical or institutional settings and establishment of long-term home services under a State waiver or other arrangements that allow the individual to live in the community. Provides that a person receiving benefits under Title XVI of the Social Security Act and residing in a facility, shall receive a personal needs allowance of \$90 per monthly, with the Department providing \$60 per month in addition to the amount required under Title XVI of the Social Security Act. Provides that facility owners, management, and employees are prohibited from retaliating against facility residents or employees who complain about facility services, including the facility's physical condition, medical care, social supports and services, access to visitation and time outside the facility, and any other attribute connected to a resident's experience of living in a facility. Makes other changes.

LRB103 30276 CPF 56704 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by adding
5 Article V as follows:

6 (210 ILCS 45/Art. V heading new)

7 ARTICLE VTRANSITIONAL AND EMERGENCY HOME SERVICES

8 (210 ILCS 45/5-101 new)

9 Sec. 5-101. Transitional and Emergency Home Services.

10 (a) Within 4 months of the effective date of this
11 amendatory Act of the 103rd General Assembly, the Department
12 of Human Services shall create a program to provide nursing
13 services and assistance with activities of daily living
14 sufficient to allow individuals who otherwise qualify for
15 placement in a nursing facility to receive short-term services
16 in the community. The short-term services shall cover both:
17 (i) emergency home services for individuals currently
18 receiving home services who experience a temporary need for a
19 substitute personal assistant because of the unavailability of
20 the individual's other home services providers; and (ii)
21 short-term services to bridge periods between release from
22 medical or institutional settings and establishment of

1 long-term home services under a State waiver or other
2 arrangements that allow the individual to live in the
3 community. To accomplish this goal, at a minimum the program
4 must:

5 (1) determine eligibility for those at risk of
6 placement in a facility in no more than 24 hours from the
7 time of the request for services;

8 (2) provide every service available under any State
9 Medicaid waiver program. Those services shall include, but
10 not be limited to, medication management, toileting,
11 transferring, catheterization, and bathing;

12 (3) provide emergency services to State waiver
13 recipients who experience a temporary, unanticipated
14 interruption in services, regardless of the type of waiver
15 servng the recipient or the age of the recipient; and

16 (4) for those at risk of placement in a facility, the
17 short-term service must continue until a full assessment
18 of waiver eligibility is complete and there is either a
19 finding of ineligibility for waiver services or long-term
20 services under the appropriate waiver have begun.

21 (210 ILCS 45/5-105 new)

22 Sec. 5-105. Personal needs allowance.

23 (a) A person receiving benefits under Title XVI of the
24 Social Security Act, or 42 U.S.C. 1381 and residing in a
25 facility, shall receive a personal needs allowance of \$90 per

1 month, with the Department of Human Services providing \$60 per
2 month in addition to the amount required under Title XVI of the
3 Social Security Act.

4 (b) Beginning January 1 of the year following the
5 effective date of this amendatory Act of the 103rd General
6 Assembly, and each year thereafter, the personal needs
7 allowance shall be increased by the percentage cost-of-living
8 adjustment for the Old Age, Survivors, and Disability Social
9 Security Benefits as published by the federal Social Security
10 Administration, subject to the maximum personal needs
11 allowance permissible under the federal Social Security Act.

12 (210 ILCS 45/5-110 new)

13 Sec. 5-110. Prohibition on retaliation for resident or
14 facility employee complaint.

15 (a) Facility owners, management, and employees are
16 prohibited from retaliating against facility residents or
17 employees who complain about facility services including the
18 facility's physical condition, medical care, social supports
19 and services, access to visitation and time outside the
20 facility, and any other attribute connected to a resident's
21 experience of living in a facility.

22 (b) There is a rebuttable presumption of retaliation if a
23 resident or employee experiences reduced access to services,
24 neglect, selective restrictions, hostility, transfer to
25 another facility, reduction of work hours, reassignment to

1 less desirable hours, or threats to take any of these actions
2 within a year after a resident or employee:

3 (1) complains of violations or problems applicable to
4 the facility to a competent governmental agency, elected
5 representative, or other individual responsible for
6 enforcing any code applicable to a facility;

7 (2) complains of violations or problems applicable to
8 a facility to a community organization or the news media;

9 (3) complains of violations or problems applicable to
10 a facility to an ombudsman;

11 (4) complains of building, health, or similar code
12 violations or an illegal facility practice to any
13 government official, ombudsman, or member of the public;

14 (5) seeks the assistance of a community organization,
15 union, or the news media to remedy a violation or improper
16 practice;

17 (6) seeks assistance for themselves or others to
18 transition to independent living;

19 (7) requests the facility make repairs, address
20 grievances, meet regulatory requirements under a building
21 code, health ordinance, or other regulation;

22 (8) requests the facility comply with a care plan;

23 (9) becomes a member of a resident council, resident
24 union, employee union, or similar organization;

25 (10) testifies in any court or administrative
26 proceeding concerning the condition of the facility; or

1 (11) took other good faith action in support of any
2 other right or remedy provided by law.

3 (c) Whoever retaliates as prohibited by this Act is liable
4 for each and every offense for all remedies available at law,
5 including, but not limited to, future pecuniary losses,
6 emotional pain, suffering, inconvenience, mental anguish, loss
7 of enjoyment of life, and other nonpecuniary losses, plus
8 attorney's fees and costs. In addition, where the facility or
9 facility management is found to have retaliated as prohibited
10 by this Act, the facility is liable to the complaining
11 resident for a penalty in the additional amount of 2 times the
12 facility's monthly billing for that resident.

13 (d) A resident may allege retaliation as an affirmative
14 defense to any action to remove or transfer the resident from a
15 facility.

16 (e) A claim for retaliation under this Act may be filed in
17 any court of competent jurisdiction or any administrative
18 hearing process operated by or through the State and its
19 departments.

20 (f) The Office of the State Long Term Care Ombudsman shall
21 have the power, either directly or by contract with another
22 entity, to provide legal services to represent residents who
23 experience retaliation as prohibited by this Act.

24 (g) The Attorney General shall have the power to enjoin
25 retaliation and seek payment of the penalty provided in
26 subsection (c) when the retaliatory conduct impacts 3 or more

1 residents or employees.