



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4892

Introduced 1/19/2006, by Rep. Robert Rita

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2405/3

from Ch. 23, par. 3434

Amends the Disabled Persons Rehabilitation Act. Requires the Department of Human Services to pay an amount into a health care fund jointly administered by the Department and the exclusive representative under the Illinois Public Labor Relations Act or, if no such representative exists, the representatives of the individuals that perform those services. Sets forth that for fiscal year 2007, the amount must equal \$1.33 for each hour of preventive services provided under this Section. Provides that the Department must use the moneys in the fund to provide comprehensive health care coverage for all individuals that perform more than 86 hours of preventative services per month. Sets forth that if such an individual has dependents, the comprehensive health care coverage provided by the Department under this Section must also extend to those dependents. Effective July 1, 2006.

LRB094 15814 RSP 51030 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 Disabled Persons Rehabilitation Act is  
5 amended by changing Section 3 as follows:

6 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

7 Sec. 3. Powers and duties. The Department shall have the  
8 powers and duties enumerated herein:

9 (a) To co-operate with the federal government in the  
10 administration of the provisions of the federal Rehabilitation  
11 Act of 1973, as amended, of the Workforce Investment Act of  
12 1998, and of the federal Social Security Act to the extent and  
13 in the manner provided in these Acts.

14 (b) To prescribe and supervise such courses of vocational  
15 training and provide such other services as may be necessary  
16 for the habilitation and rehabilitation of persons with one or  
17 more disabilities, including the administrative activities  
18 under subsection (e) of this Section, and to co-operate with  
19 State and local school authorities and other recognized  
20 agencies engaged in habilitation, rehabilitation and  
21 comprehensive rehabilitation services; and to cooperate with  
22 the Department of Children and Family Services regarding the  
23 care and education of children with one or more disabilities.

24 (c) (Blank).

25 (d) To report in writing, to the Governor, annually on or  
26 before the first day of December, and at such other times and  
27 in such manner and upon such subjects as the Governor may  
28 require. The annual report shall contain (1) a statement of the  
29 existing condition of comprehensive rehabilitation services,  
30 habilitation and rehabilitation in the State; (2) a statement  
31 of suggestions and recommendations with reference to the  
32 development of comprehensive rehabilitation services,

1 habilitation and rehabilitation in the State; and (3) an  
2 itemized statement of the amounts of money received from  
3 federal, State and other sources, and of the objects and  
4 purposes to which the respective items of these several amounts  
5 have been devoted.

6 (e) (Blank).

7 (f) To establish a program of services to prevent  
8 unnecessary institutionalization of persons with Alzheimer's  
9 disease and related disorders or persons in need of long term  
10 care who are established as blind or disabled as defined by the  
11 Social Security Act, thereby enabling them to remain in their  
12 own homes or other living arrangements. Such preventive  
13 services may include, but are not limited to, any or all of the  
14 following:

- 15 (1) home health services;
- 16 (2) home nursing services;
- 17 (3) homemaker services;
- 18 (4) chore and housekeeping services;
- 19 (5) day care services;
- 20 (6) home-delivered meals;
- 21 (7) education in self-care;
- 22 (8) personal care services;
- 23 (9) adult day health services;
- 24 (10) habilitation services;
- 25 (11) respite care; or
- 26 (12) other nonmedical social services that may enable  
27 the person to become self-supporting.

28 The Department shall establish eligibility standards for  
29 such services taking into consideration the unique economic and  
30 social needs of the population for whom they are to be  
31 provided. Such eligibility standards may be based on the  
32 recipient's ability to pay for services; provided, however,  
33 that any portion of a person's income that is equal to or less  
34 than the "protected income" level shall not be considered by  
35 the Department in determining eligibility. The "protected  
36 income" level shall be determined by the Department, shall

1 never be less than the federal poverty standard, and shall be  
2 adjusted each year to reflect changes in the Consumer Price  
3 Index For All Urban Consumers as determined by the United  
4 States Department of Labor. The standards must provide that a  
5 person may have not more than \$10,000 in assets to be eligible  
6 for the services, and the Department may increase the asset  
7 limitation by rule. Additionally, in determining the amount and  
8 nature of services for which a person may qualify,  
9 consideration shall not be given to the value of cash, property  
10 or other assets held in the name of the person's spouse  
11 pursuant to a written agreement dividing marital property into  
12 equal but separate shares or pursuant to a transfer of the  
13 person's interest in a home to his spouse, provided that the  
14 spouse's share of the marital property is not made available to  
15 the person seeking such services.

16 The services shall be provided to eligible persons to  
17 prevent unnecessary or premature institutionalization, to the  
18 extent that the cost of the services, together with the other  
19 personal maintenance expenses of the persons, are reasonably  
20 related to the standards established for care in a group  
21 facility appropriate to their condition. These  
22 non-institutional services, pilot projects or experimental  
23 facilities may be provided as part of or in addition to those  
24 authorized by federal law or those funded and administered by  
25 the Illinois Department on Aging.

26 Personal care attendants shall be paid:

27 (i) A \$5 per hour minimum rate beginning July 1, 1995.

28 (ii) A \$5.30 per hour minimum rate beginning July 1,  
29 1997.

30 (iii) A \$5.40 per hour minimum rate beginning July 1,  
31 1998.

32 Solely for the purposes of coverage under the Illinois  
33 Public Labor Relations Act (5 ILCS 315/), personal care  
34 attendants and personal assistants providing services under  
35 the Department's Home Services Program shall be considered to  
36 be public employees and the State of Illinois shall be

1 considered to be their employer as of the effective date of  
2 this amendatory Act of the 93rd General Assembly, but not  
3 before. The State shall engage in collective bargaining with an  
4 exclusive representative of personal care attendants and  
5 personal assistants working under the Home Services Program  
6 concerning their terms and conditions of employment that are  
7 within the State's control. Nothing in this paragraph shall be  
8 understood to limit the right of the persons receiving services  
9 defined in this Section to hire and fire personal care  
10 attendants and personal assistants or supervise them within the  
11 limitations set by the Home Services Program. The State shall  
12 not be considered to be the employer of personal care  
13 attendants and personal assistants for any purposes not  
14 specifically provided in this amendatory Act of the 93rd  
15 General Assembly, including but not limited to, purposes of  
16 vicarious liability in tort and purposes of statutory  
17 retirement or health insurance benefits. Personal care  
18 attendants and personal assistants shall not be covered by the  
19 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

20 The Department shall pay an amount into a health care fund  
21 jointly administered by the Department and the exclusive  
22 representative under the Illinois Public Labor Relations Act  
23 or, if no such representative exists, the representatives of  
24 the individuals that perform those services. For fiscal year  
25 2007, the amount must equal \$1.33 for each hour of preventive  
26 services provided under this Section. The Department must use  
27 the moneys in the fund to provide comprehensive health care  
28 coverage for all individuals that perform more than 86 hours of  
29 preventative services per month. If such an individual has  
30 dependents, the comprehensive health care coverage provided by  
31 the Department under this Section must also extend to those  
32 dependents.

33 The Department shall execute, relative to the nursing home  
34 prescreening project, as authorized by Section 4.03 of the  
35 Illinois Act on the Aging, written inter-agency agreements with  
36 the Department on Aging and the Department of Public Aid, to

1 effect the following: (i) intake procedures and common  
2 eligibility criteria for those persons who are receiving  
3 non-institutional services; and (ii) the establishment and  
4 development of non-institutional services in areas of the State  
5 where they are not currently available or are undeveloped. On  
6 and after July 1, 1996, all nursing home prescreenings for  
7 individuals 18 through 59 years of age shall be conducted by  
8 the Department.

9 The Department is authorized to establish a system of  
10 recipient cost-sharing for services provided under this  
11 Section. The cost-sharing shall be based upon the recipient's  
12 ability to pay for services, but in no case shall the  
13 recipient's share exceed the actual cost of the services  
14 provided. Protected income shall not be considered by the  
15 Department in its determination of the recipient's ability to  
16 pay a share of the cost of services. The level of cost-sharing  
17 shall be adjusted each year to reflect changes in the  
18 "protected income" level. The Department shall deduct from the  
19 recipient's share of the cost of services any money expended by  
20 the recipient for disability-related expenses.

21 The Department, or the Department's authorized  
22 representative, shall recover the amount of moneys expended for  
23 services provided to or in behalf of a person under this  
24 Section by a claim against the person's estate or against the  
25 estate of the person's surviving spouse, but no recovery may be  
26 had until after the death of the surviving spouse, if any, and  
27 then only at such time when there is no surviving child who is  
28 under age 21, blind, or permanently and totally disabled. This  
29 paragraph, however, shall not bar recovery, at the death of the  
30 person, of moneys for services provided to the person or in  
31 behalf of the person under this Section to which the person was  
32 not entitled; provided that such recovery shall not be enforced  
33 against any real estate while it is occupied as a homestead by  
34 the surviving spouse or other dependent, if no claims by other  
35 creditors have been filed against the estate, or, if such  
36 claims have been filed, they remain dormant for failure of

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

14 The Department and the Department on Aging shall cooperate  
15 in the development and submission of an annual report on  
16 programs and services provided under this Section. Such joint  
17 report shall be filed with the Governor and the General  
18 Assembly on or before March 30 each year.

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

28 (g) To establish such subdivisions of the Department as  
29 shall be desirable and assign to the various subdivisions the  
30 responsibilities and duties placed upon the Department by law.

31 (h) To cooperate and enter into any necessary agreements  
32 with the Department of Employment Security for the provision of  
33 job placement and job referral services to clients of the  
34 Department, including job service registration of such clients  
35 with Illinois Employment Security offices and making job  
36 listings maintained by the Department of Employment Security

1 available to such clients.

2 (i) To possess all powers reasonable and necessary for the  
3 exercise and administration of the powers, duties and  
4 responsibilities of the Department which are provided for by  
5 law.

6 (j) To establish a procedure whereby new providers of  
7 personal care attendant services shall submit vouchers to the  
8 State for payment two times during their first month of  
9 employment and one time per month thereafter. In no case shall  
10 the Department pay personal care attendants an hourly wage that  
11 is less than the federal minimum wage.

12 (k) To provide adequate notice to providers of chore and  
13 housekeeping services informing them that they are entitled to  
14 an interest payment on bills which are not promptly paid  
15 pursuant to Section 3 of the State Prompt Payment Act.

16 (l) To establish, operate and maintain a Statewide Housing  
17 Clearinghouse of information on available, government  
18 subsidized housing accessible to disabled persons and  
19 available privately owned housing accessible to disabled  
20 persons. The information shall include but not be limited to  
21 the location, rental requirements, access features and  
22 proximity to public transportation of available housing. The  
23 Clearinghouse shall consist of at least a computerized database  
24 for the storage and retrieval of information and a separate or  
25 shared toll free telephone number for use by those seeking  
26 information from the Clearinghouse. Department offices and  
27 personnel throughout the State shall also assist in the  
28 operation of the Statewide Housing Clearinghouse. Cooperation  
29 with local, State and federal housing managers shall be sought  
30 and extended in order to frequently and promptly update the  
31 Clearinghouse's information.

32 (m) To assure that the names and case records of persons  
33 who received or are receiving services from the Department,  
34 including persons receiving vocational rehabilitation, home  
35 services, or other services, and those attending one of the  
36 Department's schools or other supervised facility shall be



1 confidential and not be open to the general public. Those case  
2 records and reports or the information contained in those  
3 records and reports shall be disclosed by the Director only to  
4 proper law enforcement officials, individuals authorized by a  
5 court, the General Assembly or any committee or commission of  
6 the General Assembly, and other persons and for reasons as the  
7 Director designates by rule. Disclosure by the Director may be  
8 only in accordance with other applicable law.

9 (Source: P.A. 93-204, eff. 7-16-03; 94-252, eff. 1-1-06.)

10 Section 99. Effective date. This Act takes effect July 1,  
11 2006.