



Executive Committee

Filed: 2/25/2009

09600HB0444ham001

LRB096 06138 DRJ 21444 a

1 AMENDMENT TO HOUSE BILL 444

2 AMENDMENT NO. _____. Amend House Bill 444 by replacing
3 everything after the enacting clause with the following:

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. Community Care Program. The ~~The~~ Department shall
8 establish a program of services to prevent unnecessary
9 institutionalization of persons age 60 and older in need of
10 long term care or who are established as persons who suffer
11 from Alzheimer's disease or a related disorder under the
12 Alzheimer's Disease Assistance Act, thereby enabling them to
13 remain in their own homes or in other living arrangements. Such
14 preventive services, which may be coordinated with other
15 programs for the aged and monitored by area agencies on aging
16 in cooperation with the Department, may include, but are not

1 limited to, any or all of the following:

2 (a) (blank);

3 (b) (blank);

4 (c) home care aide services;

5 (d) personal assistant 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 (k-6) flexible senior services;

15 (k-7) medication management;

16 (k-8) emergency home response;

17 (l) other nonmedical social services that may enable
18 the person to become self-supporting; or

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

22 The Department shall establish eligibility standards for
23 such services taking into consideration the unique economic and
24 social needs of the target population for whom they are to be
25 provided. Such eligibility standards shall be based on the
26 recipient's ability to pay for services; provided, however,

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

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

14 Beginning January 1, 2008, the Department shall require as
15 a condition of eligibility that all new financially eligible
16 applicants apply for and enroll in medical assistance under
17 Article V of the Illinois Public Aid Code in accordance with
18 rules promulgated by the Department.

19 The Department shall, in conjunction with the Department of
20 Public Aid (now Department of Healthcare and Family Services),
21 seek appropriate amendments under Sections 1915 and 1924 of the
22 Social Security Act. The purpose of the amendments shall be to
23 extend eligibility for home and community based services under
24 Sections 1915 and 1924 of the Social Security Act to persons
25 who transfer to or for the benefit of a spouse those amounts of
26 income and resources allowed under Section 1924 of the Social

1 Security Act. Subject to the approval of such amendments, the
2 Department shall extend the provisions of Section 5-4 of the
3 Illinois Public Aid Code to persons who, but for the provision
4 of home or community-based services, would require the level of
5 care provided in an institution, as is provided for in federal
6 law. Those persons no longer found to be eligible for receiving
7 noninstitutional services due to changes in the eligibility
8 criteria shall be given 60 days notice prior to actual
9 termination. Those persons receiving notice of termination may
10 contact the Department and request the determination be
11 appealed at any time during the 60 day notice period. With the
12 exception of the lengthened notice and time frame for the
13 appeal request, the appeal process shall follow the normal
14 procedure. In addition, each person affected regardless of the
15 circumstances for discontinued eligibility shall be given
16 notice and the opportunity to purchase the necessary services
17 through the Community Care Program. If the individual does not
18 elect to purchase services, the Department shall advise the
19 individual of alternative services. The target population
20 identified for the purposes of this Section are persons age 60
21 and older with an identified service need. Priority shall be
22 given to those who are at imminent risk of
23 institutionalization. The services shall be provided to
24 eligible persons age 60 and older to the extent that the cost
25 of the services together with the other personal maintenance
26 expenses of the persons are reasonably related to the standards

1 established for care in a group facility appropriate to the
2 person's condition. These non-institutional services, pilot
3 projects or experimental facilities may be provided as part of
4 or in addition to those authorized by federal law or those
5 funded and administered by the Department of Human Services.
6 The Departments of Human Services, Healthcare and Family
7 Services, Public Health, Veterans' Affairs, and Commerce and
8 Economic Opportunity and other appropriate agencies of State,
9 federal and local governments shall cooperate with the
10 Department on Aging in the establishment and development of the
11 non-institutional services. The Department shall require an
12 annual audit from all personal assistant and home care aide
13 vendors contracting with the Department under this Section. The
14 annual audit shall assure that each audited vendor's procedures
15 are in compliance with Department's financial reporting
16 guidelines requiring an administrative and employee wage and
17 benefits cost split as defined in administrative rules. The
18 audit is a public record under the Freedom of Information Act.
19 The Department shall execute, relative to the nursing home
20 prescreening project, written inter-agency agreements with the
21 Department of Human Services and the Department of Healthcare
22 and Family Services, to effect the following: (1) intake
23 procedures and common eligibility criteria for those persons
24 who are receiving non-institutional services; and (2) the
25 establishment and development of non-institutional services in
26 areas of the State where they are not currently available or

1 are undeveloped. On and after July 1, 1996, all nursing home
2 prescreenings for individuals 60 years of age or older shall be
3 conducted by the Department.

4 As part of the Department on Aging's routine training of
5 case managers and case manager supervisors, the Department may
6 include information on family futures planning for persons who
7 are age 60 or older and who are caregivers of their adult
8 children with developmental disabilities. The content of the
9 training shall be at the Department's discretion.

10 The Department is authorized to establish a system of
11 recipient copayment for services provided under this Section,
12 such copayment to be based upon the recipient's ability to pay
13 but in no case to exceed the actual cost of the services
14 provided. Additionally, any portion of a person's income which
15 is equal to or less than the federal poverty standard shall not
16 be considered by the Department in determining the copayment.
17 The level of such copayment shall be adjusted whenever
18 necessary to reflect any change in the officially designated
19 federal poverty standard.

20 The Department, or the Department's authorized
21 representative, shall recover the amount of moneys expended for
22 services provided to or in behalf of a person under this
23 Section by a claim against the person's estate or against the
24 estate of the person's surviving spouse, but no recovery may be
25 had until after the death of the surviving spouse, if any, and
26 then only at such time when there is no surviving child who is

1 under age 21, blind, or permanently and totally disabled. This
2 paragraph, however, shall not bar recovery, at the death of the
3 person, of moneys for services provided to the person or in
4 behalf of the person under this Section to which the person was
5 not entitled; provided that such recovery shall not be enforced
6 against any real estate while it is occupied as a homestead by
7 the surviving spouse or other dependent, if no claims by other
8 creditors have been filed against the estate, or, if such
9 claims have been filed, they remain dormant for failure of
10 prosecution or failure of the claimant to compel administration
11 of the estate for the purpose of payment. This paragraph shall
12 not bar recovery from the estate of a spouse, under Sections
13 1915 and 1924 of the Social Security Act and Section 5-4 of the
14 Illinois Public Aid Code, who precedes a person receiving
15 services under this Section in death. All moneys for services
16 paid to or in behalf of the person under this Section shall be
17 claimed for recovery from the deceased spouse's estate.
18 "Homestead", as used in this paragraph, means the dwelling
19 house and contiguous real estate occupied by a surviving spouse
20 or relative, as defined by the rules and regulations of the
21 Department of Healthcare and Family Services, regardless of the
22 value of the property.

23 The Department shall increase the effectiveness of the
24 existing Community Care Program by:

- 25 (1) ensuring that in-home services included in the care
26 plan are available on evenings and weekends;

1 (2) ensuring that care plans contain the services that
2 eligible participants need based on the number of days in a
3 month, not limited to specific blocks of time, as
4 identified by the comprehensive assessment tool selected
5 by the Department for use statewide, not to exceed the
6 total monthly service cost maximum allowed for each
7 service; the Department shall develop administrative rules
8 to implement this item (2);

9 (3) ensuring that the participants have the right to
10 choose the services contained in their care plan and to
11 direct how those services are provided, based on
12 administrative rules established by the Department;

13 (4) ensuring that the determination of need tool is
14 accurate in determining the participants' level of need; to
15 achieve this, the Department, in conjunction with the Older
16 Adult Services Advisory Committee, shall institute a study
17 of the relationship between the Determination of Need
18 scores, level of need, service cost maximums, and the
19 development and utilization of service plans no later than
20 May 1, 2008; findings and recommendations shall be
21 presented to the Governor and the General Assembly no later
22 than January 1, 2009; recommendations shall include all
23 needed changes to the service cost maximums schedule and
24 additional covered services;

25 (5) ensuring that homemakers can provide personal care
26 services that may or may not involve contact with clients,

1 including but not limited to:

2 (A) bathing;

3 (B) grooming;

4 (C) toileting;

5 (D) nail care;

6 (E) transferring;

7 (F) respiratory services;

8 (G) exercise; or

9 (H) positioning;

10 (6) ensuring that homemaker program vendors are not
11 restricted from hiring homemakers who are family members of
12 clients or recommended by clients; the Department may not,
13 by rule or policy, require homemakers who are family
14 members of clients or recommended by clients to accept
15 assignments in homes other than the client; and

16 (7) ensuring that the State may access maximum federal
17 matching funds by seeking approval for the Centers for
18 Medicare and Medicaid Services for modifications to the
19 State's home and community based services waiver and
20 additional waiver opportunities in order to maximize
21 federal matching funds; this shall include, but not be
22 limited to, modification that reflects all changes in the
23 Community Care Program services and all increases in the
24 services cost maximum.

25 By January 1, 2009 or as soon after the end of the Cash and
26 Counseling Demonstration Project as is practicable, the

1 Department may, based on its evaluation of the demonstration
2 project, promulgate rules concerning personal assistant
3 services, to include, but need not be limited to,
4 qualifications, employment screening, rights under fair labor
5 standards, training, fiduciary agent, and supervision
6 requirements. All applicants shall be subject to the provisions
7 of the Health Care Worker Background Check Act.

8 The Department shall develop procedures to enhance
9 availability of services on evenings, weekends, and on an
10 emergency basis to meet the respite needs of caregivers.
11 Procedures shall be developed to permit the utilization of
12 services in successive blocks of 24 hours up to the monthly
13 maximum established by the Department. Workers providing these
14 services shall be appropriately trained.

15 Beginning on the effective date of this Amendatory Act of
16 1991, no person may perform chore/housekeeping and home care
17 aide services under a program authorized by this Section unless
18 that person has been issued a certificate of pre-service to do
19 so by his or her employing agency. Information gathered to
20 effect such certification shall include (i) the person's name,
21 (ii) the date the person was hired by his or her current
22 employer, and (iii) the training, including dates and levels.
23 Persons engaged in the program authorized by this Section
24 before the effective date of this amendatory Act of 1991 shall
25 be issued a certificate of all pre- and in-service training
26 from his or her employer upon submitting the necessary

1 information. The employing agency shall be required to retain
2 records of all staff pre- and in-service training, and shall
3 provide such records to the Department upon request and upon
4 termination of the employer's contract with the Department. In
5 addition, the employing agency is responsible for the issuance
6 of certifications of in-service training completed to their
7 employees.

8 The Department is required to develop a system to ensure
9 that persons working as home care aides and personal assistants
10 receive increases in their wages when the federal minimum wage
11 is increased by requiring vendors to certify that they are
12 meeting the federal minimum wage statute for home care aides
13 and personal assistants . An employer that cannot ensure that
14 the minimum wage increase is being given to home care aides and
15 personal assistants shall be denied any increase in
16 reimbursement costs.

17 The Community Care Program Advisory Committee is created in
18 the Department on Aging. The Director shall appoint individuals
19 to serve in the Committee, who shall serve at their own
20 expense. Members of the Committee must abide by all applicable
21 ethics laws. The Committee shall advise the Department on
22 issues related to the Department's program of services to
23 prevent unnecessary institutionalization. The Committee shall
24 meet on a bi-monthly basis and shall serve to identify and
25 advise the Department on present and potential issues affecting
26 the service delivery network, the program's clients, and the

1 Department and to recommend solution strategies. Persons
2 appointed to the Committee shall be appointed on, but not
3 limited to, their own and their agency's experience with the
4 program, geographic representation, and willingness to serve.
5 The Director shall appoint members to the Committee to
6 represent provider, advocacy, policy research, and other
7 constituencies committed to the delivery of high quality home
8 and community-based services to older adults. Representatives
9 shall be appointed to ensure representation from community care
10 providers including, but not limited to, adult day service
11 providers, homemaker providers, case coordination and case
12 management units, emergency home response providers, statewide
13 trade or labor unions that represent home care aides and direct
14 care staff, area agencies on aging, adults over age 60,
15 membership organizations representing older adults, and other
16 organizational entities, providers of care, or individuals
17 with demonstrated interest and expertise in the field of home
18 and community care as determined by the Director.

19 Nominations may be presented from any agency or State
20 association with interest in the program. The Director, or his
21 or her designee, shall serve as the permanent co-chair of the
22 advisory committee. One other co-chair shall be nominated and
23 approved by the members of the committee on an annual basis.
24 Committee members' terms of appointment shall be for 4 years
25 with one-quarter of the appointees' terms expiring each year. A
26 member shall continue to serve until his or her replacement is

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

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

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

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

13 For the purposes of this Section, "flexible senior
14 services" refers to services that require one-time or periodic
15 expenditures including, but not limited to, respite care, home
16 modification, assistive technology, housing assistance, and
17 transportation.

18 (Source: P.A. 94-48, eff. 7-1-05; 94-269, eff. 7-19-05; 94-336,
19 eff. 7-26-05; 94-954, eff. 6-27-06; 95-298, eff. 8-20-07;
20 95-473, eff. 8-27-07; 95-565, eff. 6-1-08; 95-876, eff.
21 8-21-08.)".