



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5762

by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

See Index

Amends the Rehabilitation of Persons with Disabilities Act. In a provision concerning the Department of Human Services' Home Services Program, provides that personal assistants and individual maintenance home health workers (rather than personal assistants) shall be paid at a rate negotiated between the State and the (rather than an) exclusive representative of personal assistants and individual maintenance home health workers (rather than personal assistants) under a collective bargaining agreement. Provides that beginning on July 1, 2016, the hourly rate paid to personal assistants and individual maintenance home health workers shall be no less than \$15 per hour. Requires personal assistants and individual maintenance home health workers to participate in a comprehensive in-person orientation, including standardized instruction or education as determined by the Department, concerning their obligations as an Individual Provider of Medicaid services, fraud training, and training on independent living philosophies. Requires personal assistants and individual maintenance home health workers to attend annual in-person training, including training in preventing fraud and abuse. Provides that personal assistants and individual maintenance home health workers shall be paid their regular hourly wage for all orientation and training hours. Requires the State to contribute into a Taft-Hartley health fund for the purpose of providing health insurance to qualified personal assistants and individual maintenance home health workers. Provides that for State fiscal year 2017, the rate shall be \$1.11 per hour paid to personal assistants and individual maintenance home health workers and that for future fiscal years, the rate shall be adjusted as determined by actuarial analysis. Effective July 1, 2016.

LRB099 19052 KTG 43441 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Rehabilitation of Persons with Disabilities
5 Act is 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.

1 (c) (Blank).

2 (d) To report in writing, to the Governor, annually on or
3 before the first day of December, and at such other times and
4 in such manner and upon such subjects as the Governor may
5 require. The annual report shall contain (1) a statement of the
6 existing condition of comprehensive rehabilitation services,
7 habilitation and rehabilitation in the State; (2) a statement
8 of suggestions and recommendations with reference to the
9 development of comprehensive rehabilitation services,
10 habilitation and rehabilitation in the State; and (3) an
11 itemized statement of the amounts of money received from
12 federal, State and other sources, and of the objects and
13 purposes to which the respective items of these several amounts
14 have been devoted.

15 (e) (Blank).

16 (f) To establish a program of services to prevent the
17 unnecessary institutionalization of persons in need of long
18 term care and who meet the criteria for blindness or disability
19 as defined by the Social Security Act, thereby enabling them to
20 remain in their own homes. Such preventive services include any
21 or all of the following:

22 (1) personal assistant services;

23 (2) homemaker services;

24 (3) home-delivered meals;

25 (4) adult day care services;

26 (5) respite care;

- 1 (6) home modification or assistive equipment;
- 2 (7) home health services;
- 3 (8) electronic home response;
- 4 (9) brain injury behavioral/cognitive services;
- 5 (10) brain injury habilitation;
- 6 (11) brain injury pre-vocational services; or
- 7 (12) brain injury supported employment.

8 The Department shall establish eligibility standards for
9 such services taking into consideration the unique economic and
10 social needs of the population for whom they are to be
11 provided. Such eligibility standards may be based on the
12 recipient's ability to pay for services; provided, however,
13 that any portion of a person's income that is equal to or less
14 than the "protected income" level shall not be considered by
15 the Department in determining eligibility. The "protected
16 income" level shall be determined by the Department, shall
17 never be less than the federal poverty standard, and shall be
18 adjusted each year to reflect changes in the Consumer Price
19 Index For All Urban Consumers as determined by the United
20 States Department of Labor. The standards must provide that a
21 person may not have more than \$10,000 in assets to be eligible
22 for the services, and the Department may increase or decrease
23 the asset limitation by rule. The Department may not decrease
24 the asset level below \$10,000.

25 The services shall be provided, as established by the
26 Department by rule, to eligible persons to prevent unnecessary

1 or premature institutionalization, to the extent that the cost
2 of the services, together with the other personal maintenance
3 expenses of the persons, are reasonably related to the
4 standards established for care in a group facility appropriate
5 to their condition. These non-institutional services, pilot
6 projects or experimental facilities may be provided as part of
7 or in addition to those authorized by federal law or those
8 funded and administered by the Illinois Department on Aging.
9 The Department shall set rates and fees for services in a fair
10 and equitable manner. Services identical to those offered by
11 the Department on Aging shall be paid at the same rate.

12 Personal assistants and individual maintenance home health
13 workers shall be paid at a rate negotiated between the State
14 and the ~~an~~ exclusive representative of personal assistants and
15 individual maintenance home health workers under a collective
16 bargaining agreement. In no case shall the Department pay
17 personal assistants or individual maintenance home health
18 workers an hourly wage that is less than the federal minimum
19 wage. Beginning on July 1, 2016, the hourly rate paid to
20 personal assistants and individual maintenance home health
21 workers shall be no less than \$15 per hour.

22 Solely for the purposes of coverage under the Illinois
23 Public Labor Relations Act (5 ILCS 315/), personal assistants
24 providing services under the Department's Home Services
25 Program shall be considered to be public employees and the
26 State of Illinois shall be considered to be their employer as

1 of the effective date of this amendatory Act of the 93rd
2 General Assembly, but not before. Solely for the purposes of
3 coverage under the Illinois Public Labor Relations Act, home
4 care and home health workers who function as personal
5 assistants and individual maintenance home health workers and
6 who also provide services under the Department's Home Services
7 Program shall be considered to be public employees, no matter
8 whether the State provides such services through direct
9 fee-for-service arrangements, with the assistance of a managed
10 care organization or other intermediary, or otherwise, and the
11 State of Illinois shall be considered to be the employer of
12 those persons as of January 29, 2013 (the effective date of
13 Public Act 97-1158), but not before except as otherwise
14 provided under this subsection (f). The State shall engage in
15 collective bargaining with an exclusive representative of home
16 care and home health workers who function as personal
17 assistants and individual maintenance home health workers
18 working under the Home Services Program concerning their terms
19 and conditions of employment that are within the State's
20 control. Nothing in this paragraph shall be understood to limit
21 the right of the persons receiving services defined in this
22 Section to hire and fire home care and home health workers who
23 function as personal assistants and individual maintenance
24 home health workers working under the Home Services Program or
25 to supervise them within the limitations set by the Home
26 Services Program. The State shall not be considered to be the

1 employer of home care and home health workers who function as
2 personal assistants and individual maintenance home health
3 workers working under the Home Services Program for any
4 purposes not specifically provided in Public Act 93-204 or
5 Public Act 97-1158, including but not limited to, purposes of
6 vicarious liability in tort and purposes of statutory
7 retirement or health insurance benefits. Home care and home
8 health workers who function as personal assistants and
9 individual maintenance home health workers and who also provide
10 services under the Department's Home Services Program shall not
11 be covered by the State Employees Group Insurance Act of 1971
12 (5 ILCS 375/).

13 Any person providing services for the first time as a
14 personal assistant or individual maintenance home health
15 worker under the Department's Home Services Program shall
16 participate in a comprehensive in-person orientation,
17 including standardized instruction or education as determined
18 by the Department, concerning his or her obligations as an
19 Individual Provider of Medicaid services under the Home
20 Services Program, fraud training, and training on independent
21 living philosophies. Any person providing services as a
22 personal assistant or individual maintenance home health
23 worker under the Department's Home Services Program shall
24 attend annual in-person training, including training in
25 preventing fraud and abuse. Training may include the following
26 training components: (i) basic first aid; (ii) working with

1 vulnerable adults; (iii) the Occupational Safety and Health
2 Administration's universal precautions; and (iv) basic roles
3 and responsibilities of home care and home health workers,
4 including information about assistance with lifting and
5 transfers for Program recipients, emergency preparedness,
6 orientation to positive behavioral practices, fraud issues,
7 electronic visit verification, and completion of time sheets.
8 Personal assistants and individual maintenance home health
9 workers shall be paid their regular hourly wage for all
10 orientation and training hours.

11 The State shall contribute into a Taft-Hartley health fund
12 for the purpose of providing health insurance to qualified
13 personal assistants and individual maintenance home health
14 workers. For State fiscal year 2017, the rate shall be \$1.11
15 per hour paid to personal assistants and individual maintenance
16 home health workers in the Home Services Program. For future
17 fiscal years, the rate shall be adjusted as determined by
18 actuarial analysis.

19 The Department shall execute, relative to nursing home
20 prescreening, as authorized by Section 4.03 of the Illinois Act
21 on the Aging, written inter-agency agreements with the
22 Department on Aging and the Department of Healthcare and Family
23 Services, to effect the intake procedures and eligibility
24 criteria for those persons who may need long term care. On and
25 after July 1, 1996, all nursing home prescreenings for
26 individuals 18 through 59 years of age shall be conducted by

1 the Department, or a designee of the Department.

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

14 To the extent permitted under the federal Social Security
15 Act, the Department, or the Department's authorized
16 representative, may recover the amount of moneys expended for
17 services provided to or in behalf of a person under this
18 Section by a claim against the person's estate or against the
19 estate of the person's surviving spouse, but no recovery may be
20 had until after the death of the surviving spouse, if any, and
21 then only at such time when there is no surviving child who is
22 under age 21 or blind or who has a permanent and total
23 disability. This paragraph, however, shall not bar recovery, at
24 the death of the person, of moneys for services provided to the
25 person or in behalf of the person under this Section to which
26 the person was not entitled; provided that such recovery shall

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

18 The Department shall submit an annual report on programs
19 and services provided under this Section. The report shall be
20 filed with the Governor and the General Assembly on or before
21 March 30 each year.

22 The requirement for reporting to the General Assembly shall
23 be satisfied by filing copies of the report with the Speaker,
24 the Minority Leader and the Clerk of the House of
25 Representatives and the President, the Minority Leader and the
26 Secretary of the Senate and the Legislative Research Unit, as

1 required by Section 3.1 of the General Assembly Organization
2 Act, and filing additional copies with the State Government
3 Report Distribution Center for the General Assembly as required
4 under paragraph (t) of Section 7 of the State Library Act.

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

8 (h) To cooperate and enter into any necessary agreements
9 with the Department of Employment Security for the provision of
10 job placement and job referral services to clients of the
11 Department, including job service registration of such clients
12 with Illinois Employment Security offices and making job
13 listings maintained by the Department of Employment Security
14 available to such clients.

15 (i) To possess all powers reasonable and necessary for the
16 exercise and administration of the powers, duties and
17 responsibilities of the Department which are provided for by
18 law.

19 (j) (Blank).

20 (k) (Blank).

21 (l) To establish, operate and maintain a Statewide Housing
22 Clearinghouse of information on available, government
23 subsidized housing accessible to persons with disabilities and
24 available privately owned housing accessible to persons with
25 disabilities. The information shall include but not be limited
26 to the location, rental requirements, access features and

1 proximity to public transportation of available housing. The
2 Clearinghouse shall consist of at least a computerized database
3 for the storage and retrieval of information and a separate or
4 shared toll free telephone number for use by those seeking
5 information from the Clearinghouse. Department offices and
6 personnel throughout the State shall also assist in the
7 operation of the Statewide Housing Clearinghouse. Cooperation
8 with local, State and federal housing managers shall be sought
9 and extended in order to frequently and promptly update the
10 Clearinghouse's information.

11 (m) To assure that the names and case records of persons
12 who received or are receiving services from the Department,
13 including persons receiving vocational rehabilitation, home
14 services, or other services, and those attending one of the
15 Department's schools or other supervised facility shall be
16 confidential and not be open to the general public. Those case
17 records and reports or the information contained in those
18 records and reports shall be disclosed by the Director only to
19 proper law enforcement officials, individuals authorized by a
20 court, the General Assembly or any committee or commission of
21 the General Assembly, and other persons and for reasons as the
22 Director designates by rule. Disclosure by the Director may be
23 only in accordance with other applicable law.

24 (Source: P.A. 98-1004, eff. 8-18-14; 99-143, eff. 7-27-15.)

25 Section 99. Effective date. This Act takes effect July 1,
26 2016.

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Statutes amended in order of appearance

3

20 ILCS 2405/3

from Ch. 23, par. 3434