

1 AN ACT in relation to aging.

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 4.02 as follows:

6 (20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

7 Sec. 4.02. The Department shall establish a program of  
8 services to prevent unnecessary institutionalization of  
9 persons age 60 and older in need of long term care or who are  
10 established as persons who suffer from Alzheimer's disease or  
11 a related disorder under the Alzheimer's Disease Assistance  
12 Act, thereby enabling them to remain in their own homes or in  
13 other living arrangements. Such preventive services, which  
14 may be coordinated with other programs for the aged and  
15 monitored by area agencies on aging in cooperation with the  
16 Department, may include, but are not limited to, any or all  
17 of the following:

- 18 (a) home health services;
- 19 (b) home nursing services;
- 20 (c) homemaker services;
- 21 (d) chore and housekeeping services;
- 22 (e) day care services;
- 23 (f) home-delivered meals;
- 24 (g) education in self-care;
- 25 (h) personal care services;
- 26 (i) adult day health services;
- 27 (j) habilitation services;
- 28 (k) respite care;
- 29 (l) other nonmedical social services that may  
30 enable the person to become self-supporting; or
- 31 (m) clearinghouse for information provided by

1 senior citizen home owners who want to rent rooms to or  
2 share living space with other senior citizens.

3 The Department shall establish eligibility standards for  
4 such services taking into consideration the unique economic  
5 and social needs of the target population for whom they are  
6 to be provided. The eligibility standards must include a  
7 provision that, to be eligible for services under this  
8 Section, a person may not have assets (other than  
9 specifically exempt assets) totaling more than \$20,000 if:

10 (1) the person is unmarried; or

11 (2) the person is married and the Department  
12 determines that:

13 (A) the person's spouse receives services under  
14 this Section; or

15 (B) the person's spouse resides in a skilled  
16 nursing or intermediate long-term care facility that  
17 is subject to licensure by the Department of Public  
18 Health under the Nursing Home Care Act; or

19 (C) the person's spouse does not reside on a  
20 permanent basis with the person and does not receive  
21 support from or give support to the person; or

22 (D) the person has been abandoned by his or her  
23 spouse; or

24 (E) the person has been the subject of a report  
25 of abuse (as defined in the Elder Abuse and Neglect  
26 Act) by his or her spouse.

27 Notwithstanding the preceding paragraph, the eligibility  
28 standards must also include a provision that, to be eligible  
29 for services under this Section, a person who is married and  
30 whose spouse does not receive services under this Section may  
31 not have assets (other than specifically exempt assets)  
32 totaling more than the asset disregard amount used by the  
33 Department of Public Aid in determining eligibility for  
34 medical assistance under Article V of the Illinois Public Aid

1 Code.

2       Such eligibility standards shall be based on the  
3 recipient's ability to pay for services; provided, however,  
4 that in determining the amount and nature of services for  
5 which a person may qualify, consideration shall not be given  
6 to the value of cash, property or other assets held in the  
7 name of the person's spouse pursuant to a written agreement  
8 dividing marital property into equal but separate shares or  
9 pursuant to a transfer of the person's interest in a home to  
10 his spouse, provided that the spouse's share of the marital  
11 property is not made available to the person seeking such  
12 services. The Department shall, in conjunction with the  
13 Department of Public Aid, seek appropriate amendments under  
14 Sections 1915 and 1924 of the Social Security Act. The  
15 purpose of the amendments shall be to extend eligibility for  
16 home and community based services under Sections 1915 and  
17 1924 of the Social Security Act to persons who transfer to or  
18 for the benefit of a spouse those amounts of income and  
19 resources allowed under Section 1924 of the Social Security  
20 Act. Subject to the approval of such amendments, the  
21 Department shall extend the provisions of Section 5-4 of the  
22 Illinois Public Aid Code to persons who, but for the  
23 provision of home or community-based services, would require  
24 the level of care provided in an institution, as is provided  
25 for in federal law.

26       Those persons no longer found to be eligible for  
27 receiving noninstitutional services due to changes in the  
28 eligibility criteria shall be given 60 days notice prior to  
29 actual termination. Those persons receiving notice of  
30 termination may contact the Department and request the  
31 determination be appealed at any time during the 60 day  
32 notice period. With the exception of the lengthened notice  
33 and time frame for the appeal request, the appeal process  
34 shall follow the normal procedure. In addition, each person

1 affected regardless of the circumstances for discontinued  
2 eligibility shall be given notice and the opportunity to  
3 purchase the necessary services through the Community Care  
4 Program. If the individual does not elect to purchase  
5 services, the Department shall advise the individual of  
6 alternative services.

7 The target population identified for the purposes of this  
8 Section are persons age 60 and older with an identified  
9 service need. Priority shall be given to those who are at  
10 imminent risk of institutionalization. The services shall be  
11 provided to eligible persons age 60 and older to the extent  
12 that the cost of the services together with the other  
13 personal maintenance expenses of the persons are reasonably  
14 related to the standards established for care in a group  
15 facility appropriate to the person's condition.

16 These non-institutional services, pilot projects or  
17 experimental facilities may be provided as part of or in  
18 addition to those authorized by federal law or those funded  
19 and administered by the Department of Human Services. The  
20 Departments of Human Services, Public Aid, Public Health,  
21 Veterans' Affairs, and Commerce and Community Affairs and  
22 other appropriate agencies of State, federal and local  
23 governments shall cooperate with the Department on Aging in  
24 the establishment and development of the non-institutional  
25 services.

26 The Department shall require an annual audit from all  
27 chore/housekeeping and homemaker vendors contracting with the  
28 Department under this Section. The annual audit shall assure  
29 that each audited vendor's procedures are in compliance with  
30 Department's financial reporting guidelines requiring a 27%  
31 administrative cost split and a 73% employee wages and  
32 benefits cost split. The audit is a public record under the  
33 Freedom of Information Act.

34 The Department shall execute, relative to the nursing

1 home prescreening project, written inter-agency agreements  
2 with the Department of Human Services and the Department of  
3 Public Aid, to effect the following: (1) intake procedures  
4 and common eligibility criteria for those persons who are  
5 receiving non-institutional services; and (2) the  
6 establishment and development of non-institutional services  
7 in areas of the State where they are not currently available  
8 or are undeveloped. On and after July 1, 1996, all nursing  
9 home prescreenings for individuals 60 years of age or older  
10 shall be conducted by the Department.

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

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

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

17 The Department shall develop procedures to enhance  
18 availability of services on evenings, weekends, and on an  
19 emergency basis to meet the respite needs of caregivers.  
20 Procedures shall be developed to permit the utilization of  
21 services in successive blocks of 24 hours up to the monthly  
22 maximum established by the Department. Workers providing  
23 these services shall be appropriately trained.

24 Beginning on the effective date of this Amendatory Act of  
25 1991, no person may perform chore/housekeeping and homemaker  
26 services under a program authorized by this Section unless  
27 that person has been issued a certificate of pre-service to  
28 do so by his or her employing agency. Information gathered  
29 to effect such certification shall include (i) the person's  
30 name, (ii) the date the person was hired by his or her  
31 current employer, and (iii) the training, including dates and  
32 levels. Persons engaged in the program authorized by this  
33 Section before the effective date of this amendatory Act of  
34 1991 shall be issued a certificate of all pre- and in-service

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

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

18 The Department on Aging and the Department of Human  
19 Services shall cooperate in the development and submission of  
20 an annual report on programs and services provided under this  
21 Section. Such joint report shall be filed with the Governor  
22 and the General Assembly on or before September 30 each year.

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

33 Those persons previously found eligible for receiving  
34 non-institutional services whose services were discontinued

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

11 (Source: P.A. 91-303, eff. 1-1-00; 91-798, eff. 7-9-00.)

12 Section 99. Effective date. This Act takes effect on  
13 January 1, 2003.