Older Adult Services

This Act is designed to transform the state older adult services system into a primarily home and community-based system, taking into account the continuing need for 24-hour skilled nursing care and congregate housing with services. It encompasses the housing, health, financial and other supportive older adult services.

Submitted as:
Illinois
Public Act 93-1031
Status: Enacted into law in 2004.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act may be cited as “The Older Adult Services Act.”

Section 2. [Purpose.] The purpose of this Act is to transform [this state’s] comprehensive system of older adult services from a primarily facility-based service delivery system to primarily a home-based and community-based system, taking into account the continuing need for 24-hour skilled nursing care and congregate housing with services. Such restructuring shall encompass the provision of housing, health, financial, and supportive older adult services. It is envisioned that this restructuring will promote the development, availability, and accessibility of a comprehensive, affordable, and sustainable service delivery system that places a high priority on home-based and community-based services. Such restructuring will encompass all aspects of the delivery system regardless of the setting in which the service is provided.

Section 3. [Definitions.] As used in this Act:

“Advisory Committee” means the [Older Adult Services Advisory Committee].
“Certified nursing home” means any nursing home licensed under the [insert citation] and certified under Title XIX of the Social Security Act to participate as a vendor in the medical assistance program under [insert citation].
“Comprehensive case management” means the assessment of needs and preferences of an older adult at the direction of the older adult or the older adult’s designated representative and the arrangement, coordination, and monitoring of an optimum package of services to meet the needs of the older adult.
“Consumer-directed” means decisions made by an informed older adult from available services and care options, which may range from independently making all decisions and managing services directly to limited participation in decision-making, based upon the functional and cognitive level of the older adult.
“Coordinated point of entry” means an integrated access point where consumers receive information and assistance, assessment of needs, care planning, referral, assistance in completing applications, authorization of services where permitted, and follow-up to ensure that referrals and services are accessed.
“Department” means the [Department on Aging], in collaboration with the departments of [Public Health and Public Aid] and other relevant agencies and in consultation with the Advisory Committee, except as otherwise provided.
“Departments” means the [Department on Aging], the [departments of Public Health and Public Aid], and other relevant agencies in collaboration with each other and in consultation with the [Advisory Committee], except as otherwise provided.

“Family caregiver” means an adult family member or another individual who is an uncompensated provider of home-based or community-based care to an older adult.

“Health services” means activities that promote, maintain, improve, or restore mental or physical health or that are palliative in nature.

“Older adult” means a person age [60] or older and, if appropriate, the person’s family caregiver.

“Person-centered” means a process that builds upon an older adult’s strengths and capacities to engage in activities that promote community life and that reflect the older adult’s preferences, choices, and abilities, to the extent practicable.

“Priority service area” means an area identified by the [Departments] as being less-served with respect to the availability of and access to older adult services in [this state]. The [Departments] shall determine by rule the criteria and standards used to designate such areas.

“Priority service plan” means the plan developed pursuant to Section 5 of this Act.

“Provider” means any supplier of services under this Act.

“Residential setting” means the place where an older adult lives.

“Restructuring” means the transformation of [this state’s] comprehensive system of older adult services from funding primarily a facility-based service delivery system to primarily a home-based and community-based system, taking into account the continuing need for 24-hour skilled nursing care and congregate housing with services.

“Services” means the range of housing, health, financial, and supportive services, other than acute health care services, that are delivered to an older adult with functional or cognitive limitations, or socialization needs, who requires assistance to perform activities of daily living, regardless of the residential setting in which the services are delivered.

“Supportive services” means non-medical assistance given over a period of time to an older adult that is needed to compensate for the older adult’s functional or cognitive limitations, or socialization needs, or those services designed to restore, improve, or maintain the older adult’s functional or cognitive abilities.

Section 4. [Designation of Lead Agency; Annual Report.]
(a) The [Department on Aging] shall be the lead agency for: the provision of services to older adults and their family caregivers; restructuring [this state’s] service delivery system for older adults; and the implementation of this Act, except where otherwise provided. The [Department on Aging] shall collaborate with the [departments of Public Health and Public Aid] and any other relevant agencies, and shall consult with the [Advisory Committee], in all aspects of these duties, except as otherwise provided in this Act.
(b) The [Departments] shall promulgate rules to implement this Act pursuant to [insert citation].
(c) On [January 1, 2006], and each [January 1 thereafter], the [Department] shall issue a report to the [General Assembly] on progress made in complying with this Act, impediments thereto, recommendations of the [Advisory Committee], and any recommendations for legislative changes necessary to implement this Act. To the extent practicable, all reports required by this Act shall be consolidated into a single report.

Section 5. [Priority Service Areas; Service Expansion.]
(a) The requirements of this Section are subject to the availability of funding.
(b) The [Department] shall expand older adult services that promote independence and permit older adults to remain in their own homes and communities. Priority shall be given to both the expansion of services and the development of new services in priority service areas.

(c) Inventory of services. The [Department] shall develop and maintain an inventory and assessment of the types and quantities of public older adult services and, to the extent possible, privately provided older adult services, including the unduplicated count, location, and characteristics of individuals served by each facility, program, or service and the resources supporting those services.

(d) Priority service areas. The [Departments] shall assess the current and projected need for older adult services throughout the State, analyze the results of the inventory, and identify priority service areas, which shall serve as the basis for a priority service plan to be filed with the [Governor] and the [General Assembly] no later than [July 1, 2006], and every [5 years] thereafter.

(e) Moneys appropriated by the [General Assembly] for the purpose of this Section, receipts from donations, grants, fees, or taxes that may accrue from any public or private sources to the [Department] for the purpose of this Section, and savings attributable to the nursing home conversion program as calculated in subsection (h) shall be deposited into the [Department on Aging State Projects Fund]. Interest earned by those moneys in the [Fund] shall be credited to the [Fund].

(f) Moneys described in subsection (e) from the [Department on Aging State Projects Fund] shall be used for older adult services, regardless of where the older adult receives the service, with priority given to both the expansion of services and the development of new services in priority service areas. Fundable services shall include:

1. Housing, health services, and supportive services:
   1.1 adult day care;
   1.2 adult day care for persons with Alzheimer’s disease and related disorders;
   1.3 activities of daily living;
   1.4 care-related supplies and equipment;
   1.5 case management;
   1.6 community reintegration;
   1.7 companion;
   1.8 congregate meals;
   1.9 counseling and education;
   1.10 elder abuse prevention and intervention;
   1.11 emergency response and monitoring;
   1.12 environmental modifications;
   1.13 family caregiver support;
   1.14 financial;
   1.15 home delivered meals;
   1.16 homemaker;
   1.17 home health;
   1.18 hospice;
   1.19 laundry;
   1.20 long-term care ombudsman;
   1.21 medication reminders;
   1.22 money management;
   1.23 nutrition services;
   1.24 personal care;
(Y) respite care;
(Z) residential care;
(AA) senior benefits outreach;
(BB) senior centers;
(CC) services provided under the [insert citation], or sheltered care services that meet the requirements of the [insert citation];
-DD telemedicine devices to monitor recipients in their own homes as an alternative to hospital care, nursing home care, or home visits;
(EE) training for direct family caregivers;
(FF) transition;
(GG) transportation;
(HH) wellness and fitness programs; and
(I) other programs designed to assist older adults to remain independent and receive services in the most integrated residential setting possible for that person.

(2) Older Adult Services Demonstration Grants, pursuant to subsection (l) of this Section.

(g) Older Adult Services Demonstration Grants. The [Department] shall establish a program of demonstration grants to assist in the restructuring of the delivery system for older adult services and provide funding for innovative service delivery models and system change and integration initiatives. The [Department] shall prescribe, by rule, the grant application process. At a minimum, every application must include:

(1) The type of grant sought;
(2) A description of the project;
(3) The objective of the project;
(4) The likelihood of the project meeting identified needs;
(5) The plan for financing, administration, and evaluation of the project;
(6) The timetable for implementation;
(7) The roles and capabilities of responsible individuals and organizations;
(8) Documentation of collaboration with other service providers, local community government leaders, and other stakeholders, other providers, and any other stakeholders in the community;
(9) Documentation of community support for the project, including support by other service providers, local community government leaders, and other stakeholders;
(10) The total budget for the project;
(11) The financial condition of the applicant; and
(12) Any other application requirements that may be established by the [Department] by rule.

(h) Each project may include provisions for a designated staff person who is responsible for the development of the project and recruitment of providers.

(i) Projects may include, but are not limited to: adult family foster care; family adult day care; assisted living in a supervised apartment; personal services in a subsidized housing project; evening and weekend home care coverage; small incentive grants to attract new providers; money following the person; cash and counseling; managed long-term care; and at least one respite care project that establishes a local coordinated network of volunteer and paid respite workers, coordinates assignment of respite workers to caregivers and older adults, ensures the health and safety of the older adult, provides training for caregivers, and ensures that support groups are available in the community.

(j) A demonstration project funded in whole or in part by an Older Adult Services Demonstration Grant is exempt from the requirements of [insert citation]. To the extent
applicable, however, for the purpose of maintaining the statewide inventory authorized by the [insert citation], the [Department] shall send to the [Health Facilities Planning Board] a copy of each grant award made under this subsection (g).

(k) The [Department], in collaboration with the [Departments of Public Health and Public Aid], shall evaluate the effectiveness of the projects receiving grants under this Section.

(l) No later than [July 1] of each year, the [Department of Public Health] shall provide information to the [Department of Public Aid] to enable the [Department of Public Aid] to [annually] document and verify the savings attributable to the nursing home conversion program for the previous fiscal year to estimate an annual amount of such savings that may be appropriated to the [Department on Aging State Projects Fund] and notify the [General Assembly], the [Department on Aging], the [Department of Human Services], and the [Advisory Committee] of the savings no later than [October 1] of the same fiscal year.

Section 6. [Older Adult Services Restructuring.] No later than [January 1, 2005], the [Department] shall commence the process of restructuring the older adult services delivery system. Priority shall be given to both the expansion of services and the development of new services in priority service areas. Subject to the availability of funding, the restructuring shall include, but not be limited to, the following:

(1) Planning. The [Department] shall develop a plan to restructure the State’s service delivery system for older adults. The plan shall include a schedule for the implementation of the initiatives outlined in this Act and all other initiatives identified by the participating agencies to fulfill the purposes of this Act. Financing for older adult services shall be based on the principle that “money follows the individual.” The plan shall also identify potential impediments to delivery system restructuring and include any known regulatory or statutory barriers.

(2) Comprehensive case management. The [Department] shall implement a statewide system of holistic comprehensive case management. The system shall include the identification and implementation of a universal, comprehensive assessment tool to be used statewide to determine the level of functional, cognitive, socialization, and financial needs of older adults. This tool shall be supported by an electronic intake, assessment, and care planning system linked to a central location. “Comprehensive case management” includes services and coordination such as (i) comprehensive assessment of the older adult (including the physical, functional, cognitive, psycho-social, and social needs of the individual); (ii) development and implementation of a service plan with the older adult to mobilize the formal and family resources and services identified in the assessment to meet the needs of the older adult, including coordination of the resources and services with any other plans that exist for various formal services, such as hospital discharge plans, and with the information and assistance services; (iii) coordination and monitoring of formal and family service delivery, including coordination and monitoring to ensure that services specified in the plan are being provided; (iv) periodic reassessment and revision of the status of the older adult with the older adult or, if necessary, the older adult’s designated representative; and (v) in accordance with the wishes of the older adult, advocacy on behalf of the older adult for needed services or resources.

(3) Coordinated point of entry. The [Department] shall implement and publicize a statewide coordinated point of entry using a uniform name, identity, logo, and toll-free number.

(4) Public web site. The [Department] shall develop a public web site that provides links to available services, resources, and reference materials concerning caregiving, diseases, and best practices for use by professionals, older adults, and family caregivers.
(5) Expansion of older adult services. The [Department] shall expand older adult services that promote independence and permit older adults to remain in their own homes and communities.

(6) Consumer-directed home and community-based services. The [Department] shall expand the range of service options available to permit older adults to exercise maximum choice and control over their care.

(7) Comprehensive delivery system. The [Department] shall expand opportunities for older adults to receive services in systems that integrate acute and chronic care.

(8) Enhanced transition and follow-up services. The [Department] shall implement a program of transition from one residential setting to another and follow-up services, regardless of residential setting, pursuant to rules with respect to (i) resident eligibility, (ii) assessment of the resident’s health, cognitive, social, and financial needs, (iii) development of transition plans, and (iv) the level of services that must be available before transitioning a resident from one setting to another.

(9) Family caregiver support. The [Department] shall develop strategies for public and private financing of services that supplement and support family caregivers.

(10) Quality standards and quality improvement. The [Department] shall establish a core set of uniform quality standards for all providers that focus on outcomes and take into consideration consumer choice and satisfaction, and the [Department] shall require each provider to implement a continuous quality improvement process to address consumer issues. The continuous quality improvement process must benchmark performance, be person-centered and data-driven, and focus on consumer satisfaction.

(11) Workforce. The [Department] shall develop strategies to attract and retain a qualified and stable worker pool, provide living wages and benefits, and create a work environment that is conducive to long-term employment and career development. Resources such as grants, education, and promotion of career opportunities may be used.

(12) Coordination of services. The [Department] shall identify methods to better coordinate service networks to maximize resources and minimize duplication of services and ease of application.

(13) Barriers to services. The [Department] shall identify barriers to the provision, availability, and accessibility of services and shall implement a plan to address those barriers. The plan shall: (i) identify barriers, including but not limited to, statutory and regulatory complexity, reimbursement issues, payment issues, and labor force issues; (ii) recommend changes to State or federal laws or administrative rules or regulations; (iii) recommend application for federal waivers to improve efficiency and reduce cost and paperwork; (iv) develop innovative service delivery models; and (v) recommend application for federal or private service grants.

(14) Reimbursement and funding. The [Department] shall investigate and evaluate costs and payments by defining costs to implement a uniform, audited provider cost reporting system to be considered by all [Departments] in establishing payments. To the extent possible, multiple cost reporting mandates shall not be imposed.

(15) Medicaid nursing home cost containment and Medicare utilization. The [Department of Public Aid], in collaboration with the [Department on Aging and the Department of Public Health] and in consultation with the [Advisory Committee], shall propose a plan to contain Medicaid nursing home costs and maximize Medicare utilization. The plan must not impair the ability of an older adult to choose among available services. The plan shall include, but not be limited to, (i) techniques to maximize the use of the most cost-effective services without sacrificing quality and (ii) methods to identify and serve older adults in need of minimal
services to remain independent, but who are likely to develop a need for more extensive services in the absence of those minimal services.

(16) Bed reduction. The [Department of Public Health] shall implement a nursing home conversion program to reduce the number of Medicaid-certified nursing home beds in areas with excess beds. The [Department of Public Aid] shall investigate changes to the Medicaid nursing facility reimbursement system in order to reduce beds. Such changes may include, but are not limited to, incentive payments that will enable facilities to adjust to the restructuring and expansion of services required by the Older Adult Services Act, including adjustments for the voluntary closure or layaway of nursing home beds certified under Title XIX of the federal Social Security Act. Any savings shall be reallocated to fund home-based or community-based older adult services pursuant to Section 5 of this Act.

(17) Financing. The [Department] shall investigate and evaluate financing options for older adult services and shall make recommendations in the report required by Section 4 concerning the feasibility of these financing arrangements. These arrangements shall include, but are not limited to:

(A) private long-term care insurance coverage for older adult services;
(B) enhancement of federal long-term care financing initiatives;
(C) employer benefit programs such as medical savings accounts for long-term care;
(D) individual and family cost-sharing options;
(E) strategies to reduce reliance on government programs;
(F) fraudulent asset divestiture and financial planning prevention; and
(G) methods to supplement and support family and community caregiving.

(18) Older Adult Services Demonstration Grants. The [Department] shall implement a program of demonstration grants that will assist in the restructuring of the older adult services delivery system, and shall provide funding for innovative service delivery models and system change and integration initiatives pursuant to subsection (g) of Section 5.

(19) Bed Need Methodology Update. For the purposes of determining areas with excess beds, the [Departments] shall provide information and assistance to the [Health Facilities Planning Board] to update the [Bed Need Methodology for Long-Term Care] to update the assumptions used to establish the methodology to make them consistent with modern older adult services.

Section 7. [Nursing Home Conversion Program.]

(a) The [Department of Public Health], in collaboration with the [Department on Aging and the Department of Public Aid], shall establish a nursing home conversion program. Start-up grants, pursuant to subsections (l) and (m) of this Section, shall be made available to nursing homes as appropriations permit as an incentive to reduce certified beds, retrofit, and retool operations to meet new service delivery expectations and demands.

(b) Grant moneys shall be made available for capital and other costs related to:

(1) the conversion of all or a part of a nursing home to an assisted living establishment or a special program or unit for persons with Alzheimer’s disease or related disorders licensed under the [insert citation] or a supportive living facility established under [insert citation]

(2) the conversion of multi-resident bedrooms in the facility into single-occupancy rooms; and

(3) the development of any of the services identified in a priority service plan that can be provided by a nursing home within the confines of a nursing home or transportation...
services. Grantees shall be required to provide a minimum of a [20 percent] match toward the total cost of the project.

(c) Nothing in this Act shall prohibit the co-location of services or the development of multifunctional centers under subsection (f) of Section e of this Act, including a nursing home offering community-based services or a community provider establishing a residential facility.

(d) A certified nursing home with at least [50 percent] of its resident population having their care paid for by the Medicaid program is eligible to apply for a grant under this Section.

(e) Any nursing home receiving a grant under this Section shall reduce the number of certified nursing home beds by a number equal to or greater than the number of beds being converted for one or more of the permitted uses under item (1) or (2) of subsection (b). The nursing home shall retain the Certificate of Need for its nursing and sheltered care beds that were converted for [15 years]. If the beds are reinstated by the provider or its successor in interest, the provider shall pay to the fund from which the grant was awarded, on an amortized basis, the amount of the grant. The Department shall establish, by rule, the bed reduction methodology for nursing homes that receive a grant pursuant to item (3) of subsection (b).

(f) Any nursing home receiving a grant under this Section shall agree that, for a minimum of [10 years] after the date that the grant is awarded, a minimum of [50 percent] of the nursing home’s resident population shall have their care paid for by the Medicaid program. If the nursing home provider or its successor in interest ceases to comply with the requirement set forth in this subsection, the provider shall pay to the fund from which the grant was awarded, on an amortized basis, the amount of the grant.

(g) Before awarding grants, the [Department of Public Health] shall seek recommendations from the [Department on Aging and the Department of Public Aid]. The [Department of Public Health] shall attempt to balance the distribution of grants among geographic regions, and among small and large nursing homes. The [Department of Public Health] shall develop, by rule, the criteria for the award of grants based upon the following factors:

1. the unique needs of older adults (including those with moderate and low incomes), caregivers, and providers in the geographic area of the State the grantee seeks to serve;
2. whether the grantee proposes to provide services in a priority service area;
3. the extent to which the conversion or transition will result in the reduction of certified nursing home beds in an area with excess beds;
4. the compliance history of the nursing home; and
5. any other relevant factors identified by the [Department], including standards of need.

(h) A conversion funded in whole or in part by a grant under this Section must not:
1. diminish or reduce the quality of services available to nursing home residents;
2. force any nursing home resident to involuntarily accept home-based or community-based services instead of nursing home services;
3. diminish or reduce the supply and distribution of nursing home services in any community below the level of need, as defined by the [Department] by rule; or
4. cause undue hardship on any person who requires nursing home care.

(i) The [Department] shall prescribe, by rule, the grant application process. At a minimum, every application must include:
1. the type of grant sought;
2. a description of the project;
3. the objective of the project;
4. the likelihood of the project meeting identified needs;
5. the plan for financing, administration, and evaluation of the project;
(6) the timetable for implementation;
(7) the roles and capabilities of responsible individuals and organizations;
(8) documentation of collaboration with other service providers, local community
government leaders, and other stakeholders, other providers, and any other stakeholders in the
community;
(9) documentation of community support for the project, including support by
other service providers, local community government leaders, and other stakeholders;
(10) the total budget for the project;
(11) the financial condition of the applicant; and
(12) any other application requirements that may be established by the
[Department] by rule.

(j) A conversion project funded in whole or in part by a grant under this Section is exempt
from the requirements of [insert citation]. The [Department of Public Health], however, shall
send to the [Health Facilities Planning Board] a copy of each grant award made under this
Section.

(k) Applications for grants are public information, except that nursing home financial
condition and any proprietary data shall be classified as nonpublic data.

(l) The [Department of Public Health] may award grants from the [Long Term Care Civil
Money Penalties Fund] established under Section 1919(h)(2)(A)(ii) of the Social Security Act
and 42 CFR 488.422(g) if the award meets federal requirements.

Section 8. [Older Adult Services Advisory Committee.]
(a) The [Older Adult Services Advisory Committee] is created to advise the [directors of
Aging, Public Aid, and Public Health] on all matters related to this Act and the delivery of
services to older adults in general.

(b) The [Advisory Committee] shall be comprised of the following:
(1) The [Director of Aging] or his or her designee, who shall serve as chair and
shall be an ex officio and nonvoting member.
(2) The [Director of Public Aid] and the [Director of Public Health] or their
designees, who shall serve as vice-chairs and shall be ex officio and nonvoting members.
(3) One representative each of the [Governor’s Office, the Department of Public
Aid, the Department of Public Health, the Department of Veterans’ Affairs, the Department of
Human Services, the Department of Insurance, the Department of Commerce and Economic
Opportunity, the Department on Aging, the Department on Aging’s State Long Term Care
Ombudsman, the Housing Finance Authority, and the Housing Development Authority], each of
whom shall be selected by his or her respective director and shall be an ex officio and nonvoting
member.
(4) [Thirty-two] members appointed by the [Director of Aging] in collaboration
with the [directors of Public Health and Public Aid], and selected from the recommendations of
statewide associations and organizations, as follows:
(A) [One] member representing the [Area Agencies on Aging];
(B) [Four] members representing nursing homes or licensed assisted living
establishments;
(C) [One] member representing home health agencies;
(D) [One] member representing case management services;
(E) [One] member representing statewide senior center associations;
(F) [One] member representing [Community Care Program homemaker
services];
(G) [One] member representing [Community Care Program adult day services]; 

(H) [One] member representing nutrition project directors; 

(I) [One] member representing hospice programs; 

(J) [One] member representing individuals with Alzheimer’s disease and related dementias; 

(K) [Two] members representing statewide trade or labor unions; 

(L) [One] advanced practice nurse with experience in gerontological nursing; 

(M) [One] physician specializing in gerontology; 

(N) [One] member representing regional long-term care ombudsmen; 

(O) [One] member representing township officials; 

(P) [One] member representing municipalities; 

(Q) [One] member representing county officials; 

(R) [One] member representing the parish nurse movement; 

(S) [One] member representing pharmacists; 

(T) [Two] members representing statewide organizations engaging in advocacy or legal representation on behalf of the senior population; 

(U) [Two] family caregivers; 

(V) [Two] citizen members over the age of [60]; 

(W) [One] citizen with knowledge in the area of gerontology research or health care law; 

(X) [One] representative of health care facilities licensed under the [Hospital Licensing Act]; and 

(Y) [One] representative of primary care service providers.

(c) Voting members of the [Advisory Committee] shall serve for a term of [3 years] or until a replacement is named. All members shall be appointed no later than [January 1, 2005]. Of the initial appointees, as determined by lot, [10 members shall serve a term of one year]; [10 shall serve for a term of 2 years]; and [12 shall serve for a term of 3 years]. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of that term. [The Advisory Committee] shall meet at least quarterly and may meet more frequently at the call of the Chair. A simple majority of those appointed shall constitute a quorum. The affirmative vote of a majority of those present and voting shall be necessary for [Advisory Committee] action. Members of the [Advisory Committee] shall receive no compensation for their services.

(d) The [Advisory Committee] shall have an [Executive Committee] comprised of the [Chair, the Vice Chairs, and up to 15 members of the Advisory Committee appointed by the Chair] who have demonstrated expertise in developing, implementing, or coordinating the system restructuring initiatives defined in Section 6 of this Act. The [Executive Committee] shall have responsibility to oversee and structure the operations of the [Advisory Committee] and to create and appoint necessary subcommittees and subcommittee members.

(e) The [Advisory Committee] shall study and make recommendations related to the implementation of this Act, including but not limited to system restructuring initiatives as defined in Section 6 of this Act or otherwise related to this Act.