

SB3605



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3605

Introduced 2/9/2024, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.01a

Amends the Medical Assistance Article of the Illinois Public Aid Code. In provisions concerning the supportive living facilities program, provides that, upon application to the Department of Healthcare and Family Services, existing supportive living program settings may convert non-dementia care setting units to dementia care setting units if the total dementia care units do not exceed the total number of non-dementia care units within the building. Provides that all conversions must be operational within 180 days of approval and meet criteria specific to certification for dementia care setting units outlined in the Illinois Administrative Code.

LRB103 38508 KTG 68644 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 5-5.01a as follows:

6 (305 ILCS 5/5-5.01a)

7 Sec. 5-5.01a. Supportive living facilities program.

8 (a) The Department shall establish and provide oversight
9 for a program of supportive living facilities that seek to
10 promote resident independence, dignity, respect, and
11 well-being in the most cost-effective manner.

12 A supportive living facility is (i) a free-standing
13 facility or (ii) a distinct physical and operational entity
14 within a mixed-use building that meets the criteria
15 established in subsection (d). A supportive living facility
16 integrates housing with health, personal care, and supportive
17 services and is a designated setting that offers residents
18 their own separate, private, and distinct living units.

19 Sites for the operation of the program shall be selected
20 by the Department based upon criteria that may include the
21 need for services in a geographic area, the availability of
22 funding, and the site's ability to meet the standards.

23 (b) Beginning July 1, 2014, subject to federal approval,

1 the Medicaid rates for supportive living facilities shall be
2 equal to the supportive living facility Medicaid rate
3 effective on June 30, 2014 increased by 8.85%. Once the
4 assessment imposed at Article V-G of this Code is determined
5 to be a permissible tax under Title XIX of the Social Security
6 Act, the Department shall increase the Medicaid rates for
7 supportive living facilities effective on July 1, 2014 by
8 9.09%. The Department shall apply this increase retroactively
9 to coincide with the imposition of the assessment in Article
10 V-G of this Code in accordance with the approval for federal
11 financial participation by the Centers for Medicare and
12 Medicaid Services.

13 The Medicaid rates for supportive living facilities
14 effective on July 1, 2017 must be equal to the rates in effect
15 for supportive living facilities on June 30, 2017 increased by
16 2.8%.

17 The Medicaid rates for supportive living facilities
18 effective on July 1, 2018 must be equal to the rates in effect
19 for supportive living facilities on June 30, 2018.

20 Subject to federal approval, the Medicaid rates for
21 supportive living services on and after July 1, 2019 must be at
22 least 54.3% of the average total nursing facility services per
23 diem for the geographic areas defined by the Department while
24 maintaining the rate differential for dementia care and must
25 be updated whenever the total nursing facility service per
26 diems are updated. Beginning July 1, 2022, upon the

1 implementation of the Patient Driven Payment Model, Medicaid
2 rates for supportive living services must be at least 54.3% of
3 the average total nursing services per diem rate for the
4 geographic areas. For purposes of this provision, the average
5 total nursing services per diem rate shall include all add-ons
6 for nursing facilities for the geographic area provided for in
7 Section 5-5.2. The rate differential for dementia care must be
8 maintained in these rates and the rates shall be updated
9 whenever nursing facility per diem rates are updated.

10 Subject to federal approval, beginning January 1, 2024,
11 the dementia care rate for supportive living services must be
12 no less than the non-dementia care supportive living services
13 rate multiplied by 1.5.

14 (c) The Department may adopt rules to implement this
15 Section. Rules that establish or modify the services,
16 standards, and conditions for participation in the program
17 shall be adopted by the Department in consultation with the
18 Department on Aging, the Department of Rehabilitation
19 Services, and the Department of Mental Health and
20 Developmental Disabilities (or their successor agencies).

21 (d) Subject to federal approval by the Centers for
22 Medicare and Medicaid Services, the Department shall accept
23 for consideration of certification under the program any
24 application for a site or building where distinct parts of the
25 site or building are designated for purposes other than the
26 provision of supportive living services, but only if:

1 (1) those distinct parts of the site or building are
2 not designated for the purpose of providing assisted
3 living services as required under the Assisted Living and
4 Shared Housing Act;

5 (2) those distinct parts of the site or building are
6 completely separate from the part of the building used for
7 the provision of supportive living program services,
8 including separate entrances;

9 (3) those distinct parts of the site or building do
10 not share any common spaces with the part of the building
11 used for the provision of supportive living program
12 services; and

13 (4) those distinct parts of the site or building do
14 not share staffing with the part of the building used for
15 the provision of supportive living program services.

16 (e) Facilities or distinct parts of facilities which are
17 selected as supportive living facilities and are in good
18 standing with the Department's rules are exempt from the
19 provisions of the Nursing Home Care Act and the Illinois
20 Health Facilities Planning Act.

21 (f) Section 9817 of the American Rescue Plan Act of 2021
22 (Public Law 117-2) authorizes a 10% enhanced federal medical
23 assistance percentage for supportive living services for a
24 12-month period from April 1, 2021 through March 31, 2022.
25 Subject to federal approval, including the approval of any
26 necessary waiver amendments or other federally required

1 documents or assurances, for a 12-month period the Department
2 must pay a supplemental \$26 per diem rate to all supportive
3 living facilities with the additional federal financial
4 participation funds that result from the enhanced federal
5 medical assistance percentage from April 1, 2021 through March
6 31, 2022. The Department may issue parameters around how the
7 supplemental payment should be spent, including quality
8 improvement activities. The Department may alter the form,
9 methods, or timeframes concerning the supplemental per diem
10 rate to comply with any subsequent changes to federal law,
11 changes made by guidance issued by the federal Centers for
12 Medicare and Medicaid Services, or other changes necessary to
13 receive the enhanced federal medical assistance percentage.

14 (g) (1) All applications for the expansion of supportive
15 living dementia care settings involving sites not approved by
16 the Department on January 1, 2024 (the effective date of
17 Public Act 103-102) ~~this amendatory Act of the 103rd General~~
18 ~~Assembly~~ may allow new elderly non-dementia units in addition
19 to new dementia care units. The Department may approve such
20 applications only if the application has: (i) ~~(1)~~ no more than
21 one non-dementia care unit for each dementia care unit and
22 (ii) ~~(2)~~ the site is not located within 4 miles of an existing
23 supportive living program site in Cook County (including the
24 City of Chicago), not located within 12 miles of an existing
25 supportive living program site in DuPage County, Kane County,
26 Lake County, McHenry County, or Will County, or not located

1 within 25 miles of an existing supportive living program site
2 in any other county.

3 (2) Upon application to the Department, existing
4 supportive living program settings may convert non-dementia
5 care setting units to dementia care setting units if the total
6 dementia care units do not exceed the total number of
7 non-dementia care units within the building. All conversions
8 must be operational within 180 days of approval and meet
9 criteria specific to certification for dementia care setting
10 units outlined in 89 Ill. Adm. Code 146 Subparts B and E.

11 (Source: P.A. 102-43, eff. 7-6-21; 102-699, eff. 4-19-22;
12 103-102, Article 20, Section 20-5, eff. 1-1-24; 103-102,
13 Article 100, Section 100-5, eff. 1-1-24; revised 12-15-23.)