



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5316

by Rep. Natalie A. Manley

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-35
305 ILCS 5/5-5.4i
305 ILCS 5/5-35
305 ILCS 5/5-36.1 new

Amends the Illinois Public Aid Code. Requires the Department of Healthcare and Family Services to increase rates and reimbursements in effect on June 30, 2020 payable to Illinois not-for-profit community-based agencies in order to increase access utilization of individual and group supported employment, increase acuity-based rate differentials in on-site and off-site community day services, and other matters. Provides that beginning January 1, 2020, for a medical assistance recipient who is a resident in a facility licensed under the Community-Integrated Living Arrangements (CILA) Licensure and Certification Act, the State shall pay an amount in addition to the minimum monthly personal needs allowance authorized under the Social Security Act so that the person's total monthly personal needs allowance from both State and federal sources equals \$90. Provides that beginning no later than October 1, 2020, residents of CILA facilities who are eligible for medical assistance and are enrolled in the State's home and community-based services waiver program for adults with developmental disabilities shall retain all earned income from employment or community day services activities. Amends the Illinois Procurement Code. In a provision requiring the State Use Committee to review the pricing of supplies and services procured by the State from a qualified not-for-profit agency for persons with significant disabilities, provides that the Committee may consider during its review certain factors including, but not limited to, amounts private businesses would pay for similar products or services. Effective immediately.

LRB101 18720 KTG 68175 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Section 45-35 as follows:

6 (30 ILCS 500/45-35)

7 Sec. 45-35. Not-for-profit agencies for persons with
8 significant disabilities. The purpose of this Section is to
9 further the State's Employment First policy via the Illinois
10 Employment First Act by maximizing its investment in job
11 opportunities that afford individuals with disabilities
12 competitive wages and allow those individuals to achieve
13 maximum independence through employment.

14 (a) Qualification. Supplies and services shall ~~may~~ be
15 procured without advertising or calling for bids from any
16 qualified not-for-profit agency for persons with significant
17 disabilities that:

18 (1) complies with Illinois laws governing private
19 not-for-profit organizations;

20 (2) is certified as a work center by the Wage and Hour
21 Division of the United States Department of Labor or is an
22 accredited vocational program that provides transition
23 services to youth between the ages of 14 1/2 and 22 in

1 accordance with individualized education plans under
2 Section 14-8.03 of the School Code and that provides
3 residential services at a child care institution, as
4 defined under Section 2.06 of the Child Care Act of 1969,
5 or at a group home, as defined under Section 2.16 of the
6 Child Care Act of 1969; ~~and~~

7 (3) is accredited by a nationally-recognized
8 accrediting organization or certified as a developmental
9 training provider by the Department of Human Services; and

10 -

11 (4) pays at least minimum wage or better.

12 (b) Participation. To participate, the not-for-profit
13 agency must have indicated an interest in providing the
14 supplies and services, must meet the specifications and needs
15 of the using agency, and must set a fair and reasonable price.

16 (c) Committee. There is created within the Department of
17 Central Management Services a committee to facilitate the
18 purchase of products and services from not-for-profit agencies
19 that provide employment opportunities to persons with physical
20 disabilities, intellectual or developmental disabilities,
21 mental illnesses, or any combination thereof ~~of persons with a~~
22 ~~significant physical, developmental, or mental disability or a~~
23 ~~combination of any of those disabilities who cannot engage in~~
24 ~~normal competitive employment due to the significant~~
25 ~~disability or combination of those disabilities.~~ This
26 committee is called the State Use Committee. The State Use

1 Committee shall consist of the Director of the Department of
2 Central Management Services or his or her designee, the
3 Secretary ~~Director~~ of the Department of Human Services or his
4 or her designee, the Director of Commerce and Economic
5 Opportunity or his or her designee, one public member
6 representing private business who is knowledgeable of the
7 employment needs and concerns of persons with developmental
8 disabilities, one public member representing private business
9 who is knowledgeable of the needs and concerns of
10 rehabilitation facilities, one public member who is
11 knowledgeable of the employment needs and concerns of persons
12 with developmental disabilities, one public member who is
13 knowledgeable of the needs and concerns of rehabilitation
14 facilities, 2 members who have a disability, and 2 public
15 members from a statewide association that represents
16 community-based rehabilitation facilities servicing or
17 supporting individuals with intellectual or developmental
18 disabilities, all appointed by the Governor. The public members
19 shall serve 2 year terms, commencing upon appointment and every
20 2 years thereafter. A public member may be reappointed, and
21 vacancies shall be filled by appointment for the completion of
22 the term. In the event there is a vacancy on the State Use
23 Committee, the Governor must make an appointment to fill that
24 vacancy within 30 calendar days after the notice of vacancy.
25 The members shall serve without compensation but shall be
26 reimbursed for expenses at a rate equal to that of State

1 employees on a per diem basis by the Department of Central
2 Management Services. All members shall be entitled to vote on
3 issues before the State Use Committee.

4 The State Use Committee shall have the following powers and
5 duties:

6 (1) To request from any State agency information as to
7 product specification and service requirements in order to
8 carry out its purpose.

9 (2) To meet quarterly or more often as necessary to
10 carry out its purposes.

11 (3) To request a quarterly report from each
12 participating qualified not-for-profit agency for persons
13 with significant disabilities describing the volume of
14 sales for each product or service sold under this Section.

15 (4) To prepare a report for the Governor and General
16 Assembly no later than December 31 of each year. The
17 requirement for reporting to the General Assembly shall be
18 satisfied by following the procedures set forth in Section
19 3.1 of the General Assembly Organization Act.

20 (5) To prepare a publication that lists all supplies
21 and services currently available from any qualified
22 not-for-profit agency for persons with significant
23 disabilities. This list and any revisions shall be
24 distributed to all purchasing agencies.

25 (6) To encourage diversity in supplies and services
26 provided by qualified not-for-profit agencies for persons

1 with significant disabilities and discourage unnecessary
2 duplication or competition among not-for-profit agencies.

3 (7) To develop guidelines to be followed by qualifying
4 agencies for participation under the provisions of this
5 Section. Guidelines shall include a list of national
6 accrediting organizations which satisfy the requirements
7 of item (3) of subsection (a) of this Section. The
8 guidelines shall be developed within 6 months after the
9 effective date of this Code and made available on a
10 nondiscriminatory basis to all qualifying agencies. The
11 new guidelines required under this item (7) by Public Act
12 100-203 ~~this amendatory Act of the 100th General Assembly~~
13 shall be developed within 6 months after August 18, 2017
14 (the effective date of Public Act 100-203) ~~this amendatory~~
15 ~~Act of the 100th General Assembly~~ and made available on a
16 non-discriminatory basis to all qualifying not-for-profit
17 agencies.

18 (8) To review all pricing submitted under the
19 provisions of this Section and may approve a proposed
20 agreement for supplies or services where the price
21 submitted is fair and reasonable. Review of pricing under
22 this paragraph may include, but is not limited to:

23 (A) Amounts private businesses would pay for
24 similar products or services.

25 (B) Amounts the federal government would pay
26 contractors for similar products or services.

1 (C) The amount paid by the State for similar
2 products or services.

3 (D) The actual cost of manufacturing the product or
4 performing a service at a community rehabilitation
5 program offering employment services on or off
6 premises to persons with disabilities or mental
7 illnesses, with adequate consideration given to legal
8 and moral imperatives to pay workers with disabilities
9 equitable wages.

10 (E) The usual, customary, and reasonable costs of
11 manufacturing, marketing, and distribution.

12 (9) To, not less than every 3 years, adopt a strategic
13 plan for increasing the number of products and services
14 purchased from qualified not-for-profit agencies for
15 persons with ~~significant~~ disabilities or mental illnesses,
16 including the feasibility of developing mandatory
17 set-aside contracts.

18 (c-5) Conditions for Use. Each chief procurement officer
19 shall, in consultation with the State Use Committee, determine
20 which articles, materials, services, food stuffs, and supplies
21 that are produced, manufactured, or provided by persons with
22 significant disabilities in qualified not-for-profit agencies
23 shall be given preference by purchasing agencies procuring
24 those items.

25 (d) (Blank).

26 (e) Subcontracts. Subcontracts shall be permitted for

1 agreements authorized under this Section. For the purposes of
2 this subsection (e), "subcontract" means any acquisition from
3 another source of supplies, not including raw materials, or
4 services required by a qualified not-for-profit agency to
5 provide the supplies or services that are the subject of the
6 contract between the State and the qualified not-for-profit
7 agency.

8 The State Use Committee shall develop guidelines to be
9 followed by qualified not-for-profit agencies when seeking and
10 establishing subcontracts with other persons or not-for-profit
11 agencies in order to fulfill State contract requirements. These
12 guidelines shall include the following:

13 (i) The State Use Committee must approve all
14 subcontracts and substantive amendments to subcontracts
15 prior to execution or amendment of the subcontract.

16 (ii) A qualified not-for-profit agency shall not enter
17 into a subcontract, or any combination of subcontracts, to
18 fulfill an entire requirement, contract, or order without
19 written State Use Committee approval.

20 (iii) A qualified not-for-profit agency shall make
21 reasonable efforts to utilize subcontracts with other
22 not-for-profit agencies for persons with significant
23 disabilities.

24 (iv) For any subcontract not currently performed by a
25 qualified not-for-profit agency, the primary qualified
26 not-for-profit agency must provide to the State Use

1 Committee the following: (A) a written explanation as to
2 why the subcontract is not performed by a qualified
3 not-for-profit agency, and (B) a written plan to transfer
4 the subcontract to a qualified not-for-profit agency, as
5 reasonable.

6 (Source: P.A. 100-203, eff. 8-18-17; revised 7-18-19.)

7 Section 10. The Illinois Public Aid Code is amended by
8 changing Sections 5-5.4i and 5-35 and by adding Section 5-36.1
9 as follows:

10 (305 ILCS 5/5-5.4i)

11 Sec. 5-5.4i. Rates and reimbursements.

12 (a) Within 30 days after July 6, 2017 (the effective date
13 of Public Act 100-23), the Department shall increase rates and
14 reimbursements to fund a minimum of a \$0.75 per hour wage
15 increase for front-line personnel, including, but not limited
16 to, direct support persons, aides, front-line supervisors,
17 qualified intellectual disabilities professionals, nurses, and
18 non-administrative support staff working in community-based
19 provider organizations serving individuals with developmental
20 disabilities. The Department shall adopt rules, including
21 emergency rules under subsection (y) of Section 5-45 of the
22 Illinois Administrative Procedure Act, to implement the
23 provisions of this Section.

24 (b) Within 30 days after June 4, 2018 (the effective date

1 of Public Act 100-587), the Department shall increase rates and
2 reimbursements to fund a minimum of a \$0.50 per hour wage
3 increase for front-line personnel, including, but not limited
4 to, direct support persons, aides, front-line supervisors,
5 qualified intellectual disabilities professionals, nurses, and
6 non-administrative support staff working in community-based
7 provider organizations serving individuals with developmental
8 disabilities. The Department shall adopt rules, including
9 emergency rules under subsection (bb) of Section 5-45 of the
10 Illinois Administrative Procedure Act, to implement the
11 provisions of this Section.

12 (c) Within 30 days after the effective date of this
13 amendatory Act of the 101st General Assembly, subject to
14 federal approval, the Department shall increase rates and
15 reimbursements in effect on June 30, 2019 for community-based
16 providers for persons with Developmental Disabilities by 3.5%.
17 The Department shall adopt rules, including emergency rules
18 under subsection (ii) of Section 5-45 of the Illinois
19 Administrative Procedure Act, to implement the provisions of
20 this Section, including wage increases for direct care staff.

21 (d) Subject to federal approval, within 30 days after the
22 effective date of this amendatory Act of the 101st General
23 Assembly the Department of Healthcare and Family Services, in
24 consultation with the Department of Human Services, shall
25 increase rates and reimbursements in effect on June 30, 2020
26 payable to Illinois not-for-profit community-based agencies,

1 in a form and manner determined by the Department of Healthcare
2 and Family Services, in order to effectuate the following:

3 (1) increase access utilization of individual and
4 group supported employment;

5 (2) increase acuity-based rate differentials in
6 on-site and off-site community day services;

7 (3) increase access and utilization of customized
8 employment services and supports; and

9 (4) increase utilization of competitive integrated
10 employment services and supports.

11 (Source: P.A. 100-23, eff. 7-6-17; 100-587, eff. 6-4-18;
12 101-10, eff. 6-5-19.)

13 (305 ILCS 5/5-35)

14 Sec. 5-35. Personal needs allowance.

15 (a) For a person who is a resident in a facility licensed
16 under the ID/DD Community Care Act, the Community-Integrated
17 Living Arrangements Licensure and Certification Act, the
18 Specialized Mental Health Rehabilitation Act of 2013, or the
19 MC/DD Act for whom payments are made under this Article
20 throughout a month and who is determined to be eligible for
21 medical assistance under this Article, the State shall pay an
22 amount in addition to the minimum monthly personal needs
23 allowance authorized under Section 1902(q) of Title XIX of the
24 Social Security Act (42 U.S.C. 1396(q)) so that the person's
25 total monthly personal needs allowance from both State and

1 federal sources equals \$60.

2 (b) Beginning January 1, 2020, for a person who is a
3 resident in a facility licensed under the Community-Integrated
4 Living Arrangements Licensure and Certification Act for whom
5 payments are made under this Article throughout a month and who
6 is determined to be eligible for medical assistance under this
7 Article, the State shall pay an amount in addition to the
8 minimum monthly personal needs allowance authorized under
9 Section 1902(q) of Title XIX of the Social Security Act so that
10 the person's total monthly personal needs allowance from both
11 State and federal sources equals \$90.

12 (c) Beginning January 1, 2021, the personal needs allowance
13 described in subsection (b) shall increase annually at the same
14 rate as the Social Security cost-of-living adjustment to take
15 effect on January 1 of each year.

16 (Source: P.A. 100-23, eff. 7-6-17.)

17 (305 ILCS 5/5-36.1 new)

18 Sec. 5-36.1. Earned income for residents of
19 community-integrated living arrangements.

20 (a) Beginning no later than October 1, 2020, residents of
21 facilities licensed under the Community-Integrated Living
22 Arrangements Licensure and Certification Act who are
23 determined to be eligible for medical assistance under this
24 Code and who are enrolled in the State's home and
25 community-based services waiver program for adults with

1 developmental disabilities shall retain all earned income from
2 employment or community day services activities.

3 (b) No portion of earned income shall be applied toward the
4 facilities rate reimbursement methodology. The Department of
5 Human Services shall ensure the rates of payments paid to
6 facilities under the Code are held harmless.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.