



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4616

Introduced 1/21/2022, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.21 new

20 ILCS 1705/55.5 new

20 ILCS 1705/74

305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

305 ILCS 5/5-5.4i

Amends the Mental Health and Developmental Disabilities Administrative Act. Requires the Department of Human Services to establish reimbursement rates that build toward livable wages for front-line personnel in residential and day programs and service coordination agencies serving persons with intellectual and developmental disabilities. Provides that for community-based providers serving persons with intellectual or developmental disabilities, subject to federal approval, the rates taking effect for services delivered on or after July 1, 2022 shall be increased sufficiently to: (i) provide a minimum \$3.50 per hour wage increase over the wages in effect on June 30, 2022 for front-line personnel; and (ii) provide wages for all other residential non-executive direct care staff, excluding direct support personnel, at the U.S. Department of Labor's average wage as defined, by rule, by the Department. Amends the Illinois Public Aid Code. Provides that for ID/DD facilities and MC/DD facilities, the rates taking effect for services delivered on or after July 1, 2022, shall be increased sufficiently to: (i) provide a minimum \$3.50 per hour wage increase over the wages in effect on June 30, 2022 for front-line personnel; and (ii) provide wages for all other residential non-executive direct care staff, excluding direct support personnel, at the U.S. Department of Labor's average wage as defined, by rule, by the Department. Requires the same increase for front-line personnel employed at community-based providers serving persons with intellectual or developmental disabilities. Amends the Illinois Administrative Procedure Act. Grants the Departments of Human Services and Healthcare and Family Services emergency rulemaking authority. Effective immediately.

LRB102 23781 KTG 32972 b

1 AN ACT concerning care for persons with developmental
2 disabilities.

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

5 Section 1. This Act may be referred to as the Community
6 Disability Living Wage Act.

7 Section 2. Findings.

8 (1) An estimated 27,000 children and adults with
9 intellectual and developmental disabilities are supported
10 in community-based settings in Illinois; direct support
11 persons (DSPs), are trained paraprofessional staff who are
12 engaged in activities of daily living and community
13 support; too many of these employees earn wages that place
14 them and their families below the poverty level.

15 (2) According to the most recent Illinois industry
16 surveys, the median DSP wage in Illinois is just \$12.04
17 per hour, below the U.S. Department of Health and Human
18 Services poverty threshold of \$12.60 for a family of 4 and
19 one out of every 4 DSP jobs in provider agencies are going
20 unfilled; low wages often compel DSPs to work many
21 overtime hours or hold down a second job to support their
22 families; research by the American Network of Community
23 Options and Resources (ANCOR), inclusive of Illinois,

1 reveals 56% of DSPs rely on public assistance to make ends
2 meet, creating additional expenditures for State
3 government; low wages are a consequence of the
4 historically low reimbursement rates paid by the State of
5 Illinois to community-based service providers.

6 (3) Starting wages at many provider agencies are below
7 \$12 per hour, the scheduled State minimum wage rate as of
8 January 1, 2022.

9 (4) The lack of adequate wages for employees who
10 perform the challenging work of supporting persons with
11 intellectual and developmental disabilities results in
12 high employee turnover, which in turn negatively impacts
13 the quality of services provided, higher wages are proven
14 to reduce staff turnover, improving stability and quality
15 of services while reducing employer training costs.

16 (5) Rising wages in other sectors now mean, despite
17 the modest wage increase and strenuous efforts to recruit
18 new workers, agencies are experiencing staff vacancy rates
19 of up to 40%; excessive vacancies force employers to rely
20 more on overtime, leading to staff burnout and driving up
21 costs; for the fourth year in a row the federal court
22 monitor documented how this growing hiring crisis impedes
23 the ability of community disability agencies to expand to
24 accommodate persons newly approved for services as part of
25 the Ligas Consent Decree.

26 (6) A December 2020 report issued by an independent

1 consulting group commissioned by the State to propose
2 changes to the State's reimbursement for community
3 disability agencies recommended that addressing DSP wages
4 was the number one priority for ensuring compliance with
5 the mandates of the Ligas Consent Decree, and further
6 recommended that wages for DSPs should be fixed at 150% of
7 the prevailing minimum wage plus additional funding for
8 benefits.

9 (7) The difference between 150% of the State minimum
10 wage on January 1, 2022 and the hourly DSP wage rate set by
11 the State amounts to \$3.50 per hour.

12 (8) The General Assembly finds that in order to reduce
13 turnover, increase retention, fill vacancies, and ensure
14 DSPs are adequately compensated for the critically
15 important work they do, an increase in rates and
16 reimbursements to community-based service providers to
17 effectuate an increase in the hourly wage paid to DSPs is
18 needed.

19 Section 3. Purpose and intent. It is the purpose of this
20 Act to increase the wages of DSPs and other frontline staff in
21 community disability agencies beyond the poverty level and to
22 a level competitive with rival employers and above the State
23 minimum wage, in an effort to improve the lives of DSPs and the
24 lives of the vulnerable persons they support.

25 It is the intent of the General Assembly to ensure that all

1 funds resulting from rate increases provided to community
2 disability agencies are allocated to front-line employee wages
3 in order to address the current workforce crisis which is the
4 primary obstacle to the availability of community-based
5 services for people with disabilities.

6 Section 5. The Illinois Administrative Procedure Act is
7 amended by adding Section 5-45.21 as follows:

8 (5 ILCS 100/5-45.21 new)

9 Sec. 5-45.21. Emergency rulemaking; Departments of Human
10 Services and Healthcare and Family Services. To provide for
11 the expeditious and timely implementation of changes made by
12 this amendatory Act of the 102nd General Assembly to Section
13 74 of the Mental Health and Developmental Disabilities
14 Administrative Act and to Sections 5-5.4 and 5-5.4i of the
15 Illinois Public Aid Code, emergency rules implementing the
16 changes made by this amendatory Act of the 102nd General
17 Assembly to Section 74 of the Mental Health and Developmental
18 Disabilities Administrative Act and to Sections 5-5.4 and
19 5-5.4i of the Illinois Public Aid Code may be adopted in
20 accordance with Section 5-45 by the respective Department. The
21 adoption of emergency rules authorized by Section 5-45 and
22 this Section is deemed to be necessary for the public
23 interest, safety, and welfare.

24 This Section is repealed one year after the effective date

1 of this amendatory Act of the 102nd General Assembly.

2 Section 10. The Mental Health and Developmental
3 Disabilities Administrative Act is amended by changing Section
4 74 and by adding Section 55.5 as follows:

5 (20 ILCS 1705/55.5 new)

6 Sec. 55.5. Increased wages for front-line personnel. As
7 used in this Section, "front-line personnel" means direct
8 support persons, aides, front-line supervisors, and
9 non-administrative support staff working in service settings
10 outlined in this Section.

11 The Department shall establish reimbursement rates that
12 build toward livable wages for front-line personnel in
13 residential and day programs and service coordination agencies
14 servng persons with intellectual and developmental
15 disabilities under Section 54 of this Act, including, but not
16 limited to, intermediate care for the developmentally disabled
17 facilities, medically complex for the developmentally disabled
18 facilities, community-integrated living arrangements,
19 community day services, employment, and other residential and
20 day programs for persons with intellectual and developmental
21 disabilities supported by State funds or funding under Title
22 XIX of the federal Social Security Act.

23 The Department shall increase rates and reimbursements so
24 that by July 1, 2022 direct support persons wages shall be

1 increased by \$3.50 per hour, and so that other front-line
2 personnel earn a commensurate wage.

3 (20 ILCS 1705/74)

4 Sec. 74. Rates and reimbursements.

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

17 (b) Rates and reimbursements. Within 30 days after the
18 effective date of this amendatory Act of the 100th General
19 Assembly, the Department shall increase rates and
20 reimbursements to fund a minimum of a \$0.50 per hour wage
21 increase for front-line personnel, including, but not limited
22 to, direct support persons, aides, front-line supervisors,
23 qualified intellectual disabilities professionals, nurses, and
24 non-administrative support staff working in community-based
25 provider organizations serving individuals with developmental

1 disabilities. The Department shall adopt rules, including
2 emergency rules under subsection (bb) of Section 5-45 of the
3 Illinois Administrative Procedure Act, to implement the
4 provisions of this Section.

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

15 (d) For community-based providers serving persons with
16 intellectual/developmental disabilities, subject to federal
17 approval of any relevant Waiver Amendment, the rates taking
18 effect for services delivered on or after January 1, 2022,
19 shall include an increase in the rate methodology sufficient
20 to provide a \$1.50 per hour wage increase for direct support
21 personnel in residential settings and sufficient to provide
22 wages for all residential non-executive direct care staff,
23 excluding direct support personnel, at the federal Department
24 of Labor, Bureau of Labor Statistics' average wage as defined
25 in rule by the Department.

26 The establishment of and any changes to the rate

1 methodologies for community-based services provided to persons
2 with intellectual/developmental disabilities are subject to
3 federal approval of any relevant Waiver Amendment and shall be
4 defined in rule by the Department. The Department shall adopt
5 rules, including emergency rules as authorized by Section 5-45
6 of the Illinois Administrative Procedure Act, to implement the
7 provisions of this subsection (d).

8 (e) For community-based providers serving persons with
9 intellectual or developmental disabilities, subject to federal
10 approval, the rates taking effect for services delivered on or
11 after July 1, 2022 shall be increased sufficiently to provide
12 a minimum \$3.50 per hour wage increase over the wages in effect
13 on June 30, 2022 for front-line personnel, including, but not
14 limited to, direct support persons, aides, front-line
15 supervisors, and non-administrative support staff working in
16 community-based provider organizations serving individuals
17 with developmental disabilities, and sufficiently to provide
18 wages for all other residential non-executive direct care
19 staff, excluding direct support personnel, at the U.S.
20 Department of Labor, Bureau of Labor Statistics' average wage
21 as defined, by rule, by the Department. The Department shall
22 adopt rules, including emergency rules in accordance with the
23 Illinois Administrative Procedure Act, to implement the
24 provisions of this subsection.

25 (Source: P.A. 101-10, eff. 6-5-19; 102-16, eff. 6-17-21.)

1 Section 15. The Illinois Public Aid Code is amended by
2 changing Sections 5-5.4 and 5-5.4i as follows:

3 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

4 Sec. 5-5.4. Standards of Payment - Department of
5 Healthcare and Family Services. The Department of Healthcare
6 and Family Services shall develop standards of payment of
7 nursing facility and ICF/DD services in facilities providing
8 such services under this Article which:

9 (1) Provide for the determination of a facility's payment
10 for nursing facility or ICF/DD services on a prospective
11 basis. The amount of the payment rate for all nursing
12 facilities certified by the Department of Public Health under
13 the ID/DD Community Care Act or the Nursing Home Care Act as
14 Intermediate Care for the Developmentally Disabled facilities,
15 Long Term Care for Under Age 22 facilities, Skilled Nursing
16 facilities, or Intermediate Care facilities under the medical
17 assistance program shall be prospectively established annually
18 on the basis of historical, financial, and statistical data
19 reflecting actual costs from prior years, which shall be
20 applied to the current rate year and updated for inflation,
21 except that the capital cost element for newly constructed
22 facilities shall be based upon projected budgets. The annually
23 established payment rate shall take effect on July 1 in 1984
24 and subsequent years. No rate increase and no update for
25 inflation shall be provided on or after July 1, 1994, unless

1 specifically provided for in this Section. The changes made by
2 Public Act 93-841 extending the duration of the prohibition
3 against a rate increase or update for inflation are effective
4 retroactive to July 1, 2004.

5 For facilities licensed by the Department of Public Health
6 under the Nursing Home Care Act as Intermediate Care for the
7 Developmentally Disabled facilities or Long Term Care for
8 Under Age 22 facilities, the rates taking effect on July 1,
9 1998 shall include an increase of 3%. For facilities licensed
10 by the Department of Public Health under the Nursing Home Care
11 Act as Skilled Nursing facilities or Intermediate Care
12 facilities, the rates taking effect on July 1, 1998 shall
13 include an increase of 3% plus \$1.10 per resident-day, as
14 defined by the Department. For facilities licensed by the
15 Department of Public Health under the Nursing Home Care Act as
16 Intermediate Care Facilities for the Developmentally Disabled
17 or Long Term Care for Under Age 22 facilities, the rates taking
18 effect on January 1, 2006 shall include an increase of 3%. For
19 facilities licensed by the Department of Public Health under
20 the Nursing Home Care Act as Intermediate Care Facilities for
21 the Developmentally Disabled or Long Term Care for Under Age
22 22 facilities, the rates taking effect on January 1, 2009
23 shall include an increase sufficient to provide a \$0.50 per
24 hour wage increase for non-executive staff. For facilities
25 licensed by the Department of Public Health under the ID/DD
26 Community Care Act as ID/DD Facilities the rates taking effect

1 within 30 days after July 6, 2017 (the effective date of Public
2 Act 100-23) shall include an increase sufficient to provide a
3 \$0.75 per hour wage increase for non-executive staff. The
4 Department shall adopt rules, including emergency rules under
5 subsection (y) of Section 5-45 of the Illinois Administrative
6 Procedure Act, to implement the provisions of this paragraph.
7 For facilities licensed by the Department of Public Health
8 under the ID/DD Community Care Act as ID/DD Facilities and
9 under the MC/DD Act as MC/DD Facilities, the rates taking
10 effect within 30 days after the effective date of this
11 amendatory Act of the 100th General Assembly shall include an
12 increase sufficient to provide a \$0.50 per hour wage increase
13 for non-executive front-line personnel, including, but not
14 limited to, direct support persons, aides, front-line
15 supervisors, qualified intellectual disabilities
16 professionals, nurses, and non-administrative support staff.
17 The Department shall adopt rules, including emergency rules
18 under subsection (bb) of Section 5-45 of the Illinois
19 Administrative Procedure Act, to implement the provisions of
20 this paragraph.

21 For facilities licensed by the Department of Public Health
22 under the ID/DD Community Care Act as ID/DD facilities and
23 under the MC/DD Act as MC/DD facilities, the rates taking
24 effect for services delivered on or after July 1, 2022, shall
25 be increased sufficiently to provide a minimum \$3.50 per hour
26 wage increase over the wages in effect on June 30, 2022 for

1 front-line personnel, including, but not limited to, direct
2 support persons, aides, front-line supervisors, and
3 non-administrative support staff working in community-based
4 provider organizations serving individuals with developmental
5 disabilities, and sufficiently to provide wages for all other
6 residential non-executive direct care staff, excluding direct
7 support personnel, at the U.S. Department of Labor, Bureau of
8 Labor Statistics' average wage as defined, by rule, by the
9 Department. The Department shall adopt rules, including
10 emergency rules in accordance with the Illinois Administrative
11 Procedure Act, to implement the provisions of this paragraph.

12 For facilities licensed by the Department of Public Health
13 under the Nursing Home Care Act as Intermediate Care for the
14 Developmentally Disabled facilities or Long Term Care for
15 Under Age 22 facilities, the rates taking effect on July 1,
16 1999 shall include an increase of 1.6% plus \$3.00 per
17 resident-day, as defined by the Department. For facilities
18 licensed by the Department of Public Health under the Nursing
19 Home Care Act as Skilled Nursing facilities or Intermediate
20 Care facilities, the rates taking effect on July 1, 1999 shall
21 include an increase of 1.6% and, for services provided on or
22 after October 1, 1999, shall be increased by \$4.00 per
23 resident-day, as defined by the Department.

24 For facilities licensed by the Department of Public Health
25 under the Nursing Home Care Act as Intermediate Care for the
26 Developmentally Disabled facilities or Long Term Care for

1 Under Age 22 facilities, the rates taking effect on July 1,
2 2000 shall include an increase of 2.5% per resident-day, as
3 defined by the Department. For facilities licensed by the
4 Department of Public Health under the Nursing Home Care Act as
5 Skilled Nursing facilities or Intermediate Care facilities,
6 the rates taking effect on July 1, 2000 shall include an
7 increase of 2.5% per resident-day, as defined by the
8 Department.

9 For facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act as skilled nursing facilities
11 or intermediate care facilities, a new payment methodology
12 must be implemented for the nursing component of the rate
13 effective July 1, 2003. The Department of Public Aid (now
14 Healthcare and Family Services) shall develop the new payment
15 methodology using the Minimum Data Set (MDS) as the instrument
16 to collect information concerning nursing home resident
17 condition necessary to compute the rate. The Department shall
18 develop the new payment methodology to meet the unique needs
19 of Illinois nursing home residents while remaining subject to
20 the appropriations provided by the General Assembly. A
21 transition period from the payment methodology in effect on
22 June 30, 2003 to the payment methodology in effect on July 1,
23 2003 shall be provided for a period not exceeding 3 years and
24 184 days after implementation of the new payment methodology
25 as follows:

26 (A) For a facility that would receive a lower nursing

1 component rate per patient day under the new system than
2 the facility received effective on the date immediately
3 preceding the date that the Department implements the new
4 payment methodology, the nursing component rate per
5 patient day for the facility shall be held at the level in
6 effect on the date immediately preceding the date that the
7 Department implements the new payment methodology until a
8 higher nursing component rate of reimbursement is achieved
9 by that facility.

10 (B) For a facility that would receive a higher nursing
11 component rate per patient day under the payment
12 methodology in effect on July 1, 2003 than the facility
13 received effective on the date immediately preceding the
14 date that the Department implements the new payment
15 methodology, the nursing component rate per patient day
16 for the facility shall be adjusted.

17 (C) Notwithstanding paragraphs (A) and (B), the
18 nursing component rate per patient day for the facility
19 shall be adjusted subject to appropriations provided by
20 the General Assembly.

21 For facilities licensed by the Department of Public Health
22 under the Nursing Home Care Act as Intermediate Care for the
23 Developmentally Disabled facilities or Long Term Care for
24 Under Age 22 facilities, the rates taking effect on March 1,
25 2001 shall include a statewide increase of 7.85%, as defined
26 by the Department.

1 Notwithstanding any other provision of this Section, for
2 facilities licensed by the Department of Public Health under
3 the Nursing Home Care Act as skilled nursing facilities or
4 intermediate care facilities, except facilities participating
5 in the Department's demonstration program pursuant to the
6 provisions of Title 77, Part 300, Subpart T of the Illinois
7 Administrative Code, the numerator of the ratio used by the
8 Department of Healthcare and Family Services to compute the
9 rate payable under this Section using the Minimum Data Set
10 (MDS) methodology shall incorporate the following annual
11 amounts as the additional funds appropriated to the Department
12 specifically to pay for rates based on the MDS nursing
13 component methodology in excess of the funding in effect on
14 December 31, 2006:

15 (i) For rates taking effect January 1, 2007,
16 \$60,000,000.

17 (ii) For rates taking effect January 1, 2008,
18 \$110,000,000.

19 (iii) For rates taking effect January 1, 2009,
20 \$194,000,000.

21 (iv) For rates taking effect April 1, 2011, or the
22 first day of the month that begins at least 45 days after
23 the effective date of this amendatory Act of the 96th
24 General Assembly, \$416,500,000 or an amount as may be
25 necessary to complete the transition to the MDS
26 methodology for the nursing component of the rate.

1 Increased payments under this item (iv) are not due and
2 payable, however, until (i) the methodologies described in
3 this paragraph are approved by the federal government in
4 an appropriate State Plan amendment and (ii) the
5 assessment imposed by Section 5B-2 of this Code is
6 determined to be a permissible tax under Title XIX of the
7 Social Security Act.

8 Notwithstanding any other provision of this Section, for
9 facilities licensed by the Department of Public Health under
10 the Nursing Home Care Act as skilled nursing facilities or
11 intermediate care facilities, the support component of the
12 rates taking effect on January 1, 2008 shall be computed using
13 the most recent cost reports on file with the Department of
14 Healthcare and Family Services no later than April 1, 2005,
15 updated for inflation to January 1, 2006.

16 For facilities licensed by the Department of Public Health
17 under the Nursing Home Care Act as Intermediate Care for the
18 Developmentally Disabled facilities or Long Term Care for
19 Under Age 22 facilities, the rates taking effect on April 1,
20 2002 shall include a statewide increase of 2.0%, as defined by
21 the Department. This increase terminates on July 1, 2002;
22 beginning July 1, 2002 these rates are reduced to the level of
23 the rates in effect on March 31, 2002, as defined by the
24 Department.

25 For facilities licensed by the Department of Public Health
26 under the Nursing Home Care Act as skilled nursing facilities

1 or intermediate care facilities, the rates taking effect on
2 July 1, 2001 shall be computed using the most recent cost
3 reports on file with the Department of Public Aid no later than
4 April 1, 2000, updated for inflation to January 1, 2001. For
5 rates effective July 1, 2001 only, rates shall be the greater
6 of the rate computed for July 1, 2001 or the rate effective on
7 June 30, 2001.

8 Notwithstanding any other provision of this Section, for
9 facilities licensed by the Department of Public Health under
10 the Nursing Home Care Act as skilled nursing facilities or
11 intermediate care facilities, the Illinois Department shall
12 determine by rule the rates taking effect on July 1, 2002,
13 which shall be 5.9% less than the rates in effect on June 30,
14 2002.

15 Notwithstanding any other provision of this Section, for
16 facilities licensed by the Department of Public Health under
17 the Nursing Home Care Act as skilled nursing facilities or
18 intermediate care facilities, if the payment methodologies
19 required under Section 5A-12 and the waiver granted under 42
20 CFR 433.68 are approved by the United States Centers for
21 Medicare and Medicaid Services, the rates taking effect on
22 July 1, 2004 shall be 3.0% greater than the rates in effect on
23 June 30, 2004. These rates shall take effect only upon
24 approval and implementation of the payment methodologies
25 required under Section 5A-12.

26 Notwithstanding any other provisions of this Section, for

1 facilities licensed by the Department of Public Health under
2 the Nursing Home Care Act as skilled nursing facilities or
3 intermediate care facilities, the rates taking effect on
4 January 1, 2005 shall be 3% more than the rates in effect on
5 December 31, 2004.

6 Notwithstanding any other provision of this Section, for
7 facilities licensed by the Department of Public Health under
8 the Nursing Home Care Act as skilled nursing facilities or
9 intermediate care facilities, effective January 1, 2009, the
10 per diem support component of the rates effective on January
11 1, 2008, computed using the most recent cost reports on file
12 with the Department of Healthcare and Family Services no later
13 than April 1, 2005, updated for inflation to January 1, 2006,
14 shall be increased to the amount that would have been derived
15 using standard Department of Healthcare and Family Services
16 methods, procedures, and inflators.

17 Notwithstanding any other provisions of this Section, for
18 facilities licensed by the Department of Public Health under
19 the Nursing Home Care Act as intermediate care facilities that
20 are federally defined as Institutions for Mental Disease, or
21 facilities licensed by the Department of Public Health under
22 the Specialized Mental Health Rehabilitation Act of 2013, a
23 socio-development component rate equal to 6.6% of the
24 facility's nursing component rate as of January 1, 2006 shall
25 be established and paid effective July 1, 2006. The
26 socio-development component of the rate shall be increased by

1 a factor of 2.53 on the first day of the month that begins at
2 least 45 days after January 11, 2008 (the effective date of
3 Public Act 95-707). As of August 1, 2008, the
4 socio-development component rate shall be equal to 6.6% of the
5 facility's nursing component rate as of January 1, 2006,
6 multiplied by a factor of 3.53. For services provided on or
7 after April 1, 2011, or the first day of the month that begins
8 at least 45 days after the effective date of this amendatory
9 Act of the 96th General Assembly, whichever is later, the
10 Illinois Department may by rule adjust these socio-development
11 component rates, and may use different adjustment
12 methodologies for those facilities participating, and those
13 not participating, in the Illinois Department's demonstration
14 program pursuant to the provisions of Title 77, Part 300,
15 Subpart T of the Illinois Administrative Code, but in no case
16 may such rates be diminished below those in effect on August 1,
17 2008.

18 For facilities licensed by the Department of Public Health
19 under the Nursing Home Care Act as Intermediate Care for the
20 Developmentally Disabled facilities or as long-term care
21 facilities for residents under 22 years of age, the rates
22 taking effect on July 1, 2003 shall include a statewide
23 increase of 4%, as defined by the Department.

24 For facilities licensed by the Department of Public Health
25 under the Nursing Home Care Act as Intermediate Care for the
26 Developmentally Disabled facilities or Long Term Care for

1 Under Age 22 facilities, the rates taking effect on the first
2 day of the month that begins at least 45 days after the
3 effective date of this amendatory Act of the 95th General
4 Assembly shall include a statewide increase of 2.5%, as
5 defined by the Department.

6 Notwithstanding any other provision of this Section, for
7 facilities licensed by the Department of Public Health under
8 the Nursing Home Care Act as skilled nursing facilities or
9 intermediate care facilities, effective January 1, 2005,
10 facility rates shall be increased by the difference between
11 (i) a facility's per diem property, liability, and malpractice
12 insurance costs as reported in the cost report filed with the
13 Department of Public Aid and used to establish rates effective
14 July 1, 2001 and (ii) those same costs as reported in the
15 facility's 2002 cost report. These costs shall be passed
16 through to the facility without caps or limitations, except
17 for adjustments required under normal auditing procedures.

18 Rates established effective each July 1 shall govern
19 payment for services rendered throughout that fiscal year,
20 except that rates established on July 1, 1996 shall be
21 increased by 6.8% for services provided on or after January 1,
22 1997. Such rates will be based upon the rates calculated for
23 the year beginning July 1, 1990, and for subsequent years
24 thereafter until June 30, 2001 shall be based on the facility
25 cost reports for the facility fiscal year ending at any point
26 in time during the previous calendar year, updated to the

1 midpoint of the rate year. The cost report shall be on file
2 with the Department no later than April 1 of the current rate
3 year. Should the cost report not be on file by April 1, the
4 Department shall base the rate on the latest cost report filed
5 by each skilled care facility and intermediate care facility,
6 updated to the midpoint of the current rate year. In
7 determining rates for services rendered on and after July 1,
8 1985, fixed time shall not be computed at less than zero. The
9 Department shall not make any alterations of regulations which
10 would reduce any component of the Medicaid rate to a level
11 below what that component would have been utilizing in the
12 rate effective on July 1, 1984.

13 (2) Shall take into account the actual costs incurred by
14 facilities in providing services for recipients of skilled
15 nursing and intermediate care services under the medical
16 assistance program.

17 (3) Shall take into account the medical and psycho-social
18 characteristics and needs of the patients.

19 (4) Shall take into account the actual costs incurred by
20 facilities in meeting licensing and certification standards
21 imposed and prescribed by the State of Illinois, any of its
22 political subdivisions or municipalities and by the U.S.
23 Department of Health and Human Services pursuant to Title XIX
24 of the Social Security Act.

25 The Department of Healthcare and Family Services shall
26 develop precise standards for payments to reimburse nursing

1 facilities for any utilization of appropriate rehabilitative
2 personnel for the provision of rehabilitative services which
3 is authorized by federal regulations, including reimbursement
4 for services provided by qualified therapists or qualified
5 assistants, and which is in accordance with accepted
6 professional practices. Reimbursement also may be made for
7 utilization of other supportive personnel under appropriate
8 supervision.

9 The Department shall develop enhanced payments to offset
10 the additional costs incurred by a facility serving
11 exceptional need residents and shall allocate at least
12 \$4,000,000 of the funds collected from the assessment
13 established by Section 5B-2 of this Code for such payments.
14 For the purpose of this Section, "exceptional needs" means,
15 but need not be limited to, ventilator care and traumatic
16 brain injury care. The enhanced payments for exceptional need
17 residents under this paragraph are not due and payable,
18 however, until (i) the methodologies described in this
19 paragraph are approved by the federal government in an
20 appropriate State Plan amendment and (ii) the assessment
21 imposed by Section 5B-2 of this Code is determined to be a
22 permissible tax under Title XIX of the Social Security Act.

23 Beginning January 1, 2014 the methodologies for
24 reimbursement of nursing facility services as provided under
25 this Section 5-5.4 shall no longer be applicable for services
26 provided on or after January 1, 2014.

1 No payment increase under this Section for the MDS
2 methodology, exceptional care residents, or the
3 socio-development component rate established by Public Act
4 96-1530 of the 96th General Assembly and funded by the
5 assessment imposed under Section 5B-2 of this Code shall be
6 due and payable until after the Department notifies the
7 long-term care providers, in writing, that the payment
8 methodologies to long-term care providers required under this
9 Section have been approved by the Centers for Medicare and
10 Medicaid Services of the U.S. Department of Health and Human
11 Services and the waivers under 42 CFR 433.68 for the
12 assessment imposed by this Section, if necessary, have been
13 granted by the Centers for Medicare and Medicaid Services of
14 the U.S. Department of Health and Human Services. Upon
15 notification to the Department of approval of the payment
16 methodologies required under this Section and the waivers
17 granted under 42 CFR 433.68, all increased payments otherwise
18 due under this Section prior to the date of notification shall
19 be due and payable within 90 days of the date federal approval
20 is received.

21 On and after July 1, 2012, the Department shall reduce any
22 rate of reimbursement for services or other payments or alter
23 any methodologies authorized by this Code to reduce any rate
24 of reimbursement for services or other payments in accordance
25 with Section 5-5e.

26 For facilities licensed by the Department of Public Health

1 under the ID/DD Community Care Act as ID/DD Facilities and
2 under the MC/DD Act as MC/DD Facilities, subject to federal
3 approval, the rates taking effect for services delivered on or
4 after August 1, 2019 shall be increased by 3.5% over the rates
5 in effect on June 30, 2019. The Department shall adopt rules,
6 including emergency rules under subsection (ii) of Section
7 5-45 of the Illinois Administrative Procedure Act, to
8 implement the provisions of this Section, including wage
9 increases for direct care staff.

10 For facilities licensed by the Department of Public Health
11 under the ID/DD Community Care Act as ID/DD Facilities and
12 under the MC/DD Act as MC/DD Facilities, subject to federal
13 approval, the rates taking effect on the latter of the
14 approval date of the State Plan Amendment for these facilities
15 or the Waiver Amendment for the home and community-based
16 services settings shall include an increase sufficient to
17 provide a \$0.26 per hour wage increase to the base wage for
18 non-executive staff. The Department shall adopt rules,
19 including emergency rules as authorized by Section 5-45 of the
20 Illinois Administrative Procedure Act, to implement the
21 provisions of this Section, including wage increases for
22 direct care staff.

23 For facilities licensed by the Department of Public Health
24 under the ID/DD Community Care Act as ID/DD Facilities and
25 under the MC/DD Act as MC/DD Facilities, subject to federal
26 approval of the State Plan Amendment and the Waiver Amendment

1 for the home and community-based services settings, the rates
2 taking effect for the services delivered on or after July 1,
3 2020 shall include an increase sufficient to provide a \$1.00
4 per hour wage increase for non-executive staff. For services
5 delivered on or after January 1, 2021, subject to federal
6 approval of the State Plan Amendment and the Waiver Amendment
7 for the home and community-based services settings, shall
8 include an increase sufficient to provide a \$0.50 per hour
9 increase for non-executive staff. The Department shall adopt
10 rules, including emergency rules as authorized by Section 5-45
11 of the Illinois Administrative Procedure Act, to implement the
12 provisions of this Section, including wage increases for
13 direct care staff.

14 For facilities licensed by the Department of Public Health
15 under the ID/DD Community Care Act as ID/DD Facilities and
16 under the MC/DD Act as MC/DD Facilities, subject to federal
17 approval of the State Plan Amendment, the rates taking effect
18 for the residential services delivered on or after July 1,
19 2021, shall include an increase sufficient to provide a \$0.50
20 per hour increase for aides in the rate methodology. For
21 facilities licensed by the Department of Public Health under
22 the ID/DD Community Care Act as ID/DD Facilities and under the
23 MC/DD Act as MC/DD Facilities, subject to federal approval of
24 the State Plan Amendment, the rates taking effect for the
25 residential services delivered on or after January 1, 2022
26 shall include an increase sufficient to provide a \$1.00 per

1 hour increase for aides in the rate methodology. In addition,
2 for residential services delivered on or after January 1, 2022
3 such rates shall include an increase sufficient to provide
4 wages for all residential non-executive direct care staff,
5 excluding aides, at the federal Department of Labor, Bureau of
6 Labor Statistics' average wage as defined in rule by the
7 Department. The Department shall adopt rules, including
8 emergency rules as authorized by Section 5-45 of the Illinois
9 Administrative Procedure Act, to implement the provisions of
10 this Section.

11 For facilities licensed by the Department of Public Health
12 under the ID/DD Community Care Act as ID/DD facilities and
13 under the MC/DD Act as MC/DD facilities, subject to federal
14 approval, the rates taking effect for services delivered on or
15 after July 1, 2022, shall be increased sufficiently to provide
16 a minimum \$3.50 per hour wage increase over the wages in effect
17 on June 30, 2022 for front-line personnel, including, but not
18 limited to, direct support persons, aides, front-line
19 supervisors, and non-administrative support staff working in
20 community-based provider organizations serving individuals
21 with developmental disabilities, and sufficiently to provide
22 wages for all other residential non-executive direct care
23 staff, excluding direct support personnel, at the U.S.
24 Department of Labor, Bureau of Labor Statistics' average wage
25 as defined, by rule, by the Department. The Department shall
26 adopt rules, including emergency rules in accordance with the

1 Illinois Administrative Procedure Act, to implement the
2 provisions of this paragraph.

3 (Source: P.A. 101-10, eff. 6-5-19; 101-636, eff. 6-10-20;
4 102-16, eff. 6-17-21.)

5 (305 ILCS 5/5-5.4i)

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

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

19 (b) Within 30 days after June 4, 2018 (the effective date
20 of Public Act 100-587), the Department shall increase rates
21 and reimbursements to fund a minimum of a \$0.50 per hour wage
22 increase for front-line personnel, including, but not limited
23 to, direct support persons, aides, front-line supervisors,
24 qualified intellectual disabilities professionals, nurses, and
25 non-administrative support staff working in community-based

1 provider organizations serving individuals with developmental
2 disabilities. The Department shall adopt rules, including
3 emergency rules under subsection (bb) of Section 5-45 of the
4 Illinois Administrative Procedure Act, to implement the
5 provisions of this Section.

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

15 (d) For community-based providers serving persons with
16 intellectual or developmental disabilities, subject to federal
17 approval, the rates taking effect for services delivered on or
18 after July 1, 2022, shall be increased sufficiently to provide
19 a minimum \$3.50 per hour wage increase over the wages in effect
20 on June 30, 2022 for front-line personnel, including, but not
21 limited to, direct support persons, aides, front-line
22 supervisors, and non-administrative support staff working in
23 community-based provider organizations serving individuals
24 with developmental disabilities, and sufficient to provide
25 wages for all other residential non-executive direct care
26 staff, excluding direct support personnel, at the U.S.

1 Department of Labor, Bureau of Labor Statistics' average wage
2 as defined, by rule, by the Department. The Department shall
3 adopt rules, including emergency rules in accordance with the
4 Illinois Administrative Procedure Act, to implement the
5 provisions of this subsection.

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

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