



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3398

Introduced 2/17/2023, by Rep. Lakesia Collins

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.35 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, 2023 shall be increased sufficiently to: (i) provide a minimum \$4.00 per hour wage increase over the wages in effect on June 30, 2023 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, 2023, shall be increased sufficiently to: (i) provide a minimum \$4.00 per hour wage increase over the wages in effect on June 30, 2023 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.

LRB103 28846 KTG 55231 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 22,000 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) In Illinois, nearly half of direct care workers
16 rely on public assistance to make ends meet, creating
17 additional expenditures for State government; low wages
18 are a consequence of the historically low reimbursement
19 rates paid by the State of Illinois to community-based
20 service providers.

21 (3) The lack of adequate wages for employees who
22 perform the challenging work of supporting persons with
23 intellectual and developmental disabilities results in

1 high employee turnover, which in turn negatively impacts
2 the quality of services provided, higher wages are proven
3 to reduce staff turnover, improving stability and quality
4 of services while reducing employer training costs.

5 (4) Rising wages in other sectors now mean, despite
6 the modest wage increase and strenuous efforts to recruit
7 new workers, agencies are experiencing DSP vacancy rates
8 of 27%; excessive vacancies force employers to rely more
9 on overtime, leading to staff burnout and driving up
10 costs; for the eighth year in a row the federal court
11 monitor documented how this growing hiring crisis impedes
12 the ability of community disability agencies to expand to
13 accommodate persons newly approved for services as part of
14 the Ligas Consent Decree.

15 (5) A December 2020 report issued by an independent
16 consulting group commissioned by the State to propose
17 changes to the State's reimbursement for community
18 disability agencies recommended that addressing DSP wages
19 was the number one priority for ensuring compliance with
20 the mandates of the Ligas Consent Decree, and further
21 recommended that wages for DSPs should be fixed at 150% of
22 the prevailing minimum wage plus additional funding for
23 benefits.

24 (6) The difference between 150% of the State minimum
25 wage on January 1, 2023 and the hourly DSP wage rate set by
26 the State amounts to \$4.00 per hour.

1 (7) The General Assembly finds that in order to reduce
2 turnover, increase retention, fill vacancies, and ensure
3 DSPs are adequately compensated for the critically
4 important work they do, an increase in rates and
5 reimbursements to community-based service providers to
6 effectuate an increase in the hourly wage paid to DSPs is
7 needed.

8 Section 3. Purpose and intent. It is the purpose of this
9 Act to increase the wages of DSPs and other frontline staff in
10 community disability agencies beyond the poverty level and to
11 a level competitive with rival employers and above the State
12 minimum wage, in an effort to improve the lives of DSPs and the
13 lives of the vulnerable persons they support.

14 It is the intent of the General Assembly to ensure that all
15 funds resulting from rate increases provided to community
16 disability agencies are allocated to front-line employee wages
17 in order to address the current workforce crisis which is the
18 primary obstacle to the availability of community-based
19 services for people with disabilities.

20 Section 5. The Illinois Administrative Procedure Act is
21 amended by adding Section 5-45.35 as follows:

22 (5 ILCS 100/5-45.35 new)

23 Sec. 5-45.35. Emergency rulemaking; Departments of Human

1 Services and Healthcare and Family Services. To provide for
2 the expeditious and timely implementation of changes made by
3 this amendatory Act of the 103rd General Assembly to Section
4 74 of the Mental Health and Developmental Disabilities
5 Administrative Act and to Sections 5-5.4 and 5-5.4i of the
6 Illinois Public Aid Code, emergency rules implementing the
7 changes made by this amendatory Act of the 103rd General
8 Assembly to Section 74 of the Mental Health and Developmental
9 Disabilities Administrative Act and to Sections 5-5.4 and
10 5-5.4i of the Illinois Public Aid Code may be adopted in
11 accordance with Section 5-45 by the respective Department. The
12 adoption of emergency rules authorized by Section 5-45 and
13 this Section is deemed to be necessary for the public
14 interest, safety, and welfare.

15 This Section is repealed one year after the effective date
16 of this amendatory Act of the 103rd General Assembly.

17 Section 10. The Mental Health and Developmental
18 Disabilities Administrative Act is amended by changing Section
19 74 and by adding Section 55.5 as follows:

20 (20 ILCS 1705/55.5 new)

21 Sec. 55.5. Increased wages for front-line personnel. As
22 used in this Section, "front-line personnel" means direct
23 support persons, aides, front-line supervisors, and
24 non-administrative support staff working in service settings

1 outlined in this Section.

2 The Department shall establish reimbursement rates that
3 build toward livable wages for front-line personnel in
4 residential and day programs and service coordination agencies
5 serving persons with intellectual and developmental
6 disabilities under Section 54 of this Act, including, but not
7 limited to, intermediate care for the developmentally disabled
8 facilities, medically complex for the developmentally disabled
9 facilities, community-integrated living arrangements,
10 community day services, employment, and other residential and
11 day programs for persons with intellectual and developmental
12 disabilities supported by State funds or funding under Title
13 XIX of the federal Social Security Act.

14 The Department shall increase rates and reimbursements so
15 that by July 1, 2023 direct support persons wages shall be
16 increased by \$4.00 per hour, and so that other front-line
17 personnel earn a commensurate wage.

18 (20 ILCS 1705/74)

19 Sec. 74. Rates and reimbursements.

20 (a) Within 30 days after July 6, 2017 (the effective date
21 of Public Act 100-23), the Department shall increase rates and
22 reimbursements to fund a minimum of a \$0.75 per hour wage
23 increase for front-line personnel, including, but not limited
24 to, direct support professionals, aides, front-line
25 supervisors, qualified intellectual disabilities

1 professionals, nurses, and non-administrative support staff
2 working in community-based provider organizations serving
3 individuals with developmental disabilities. The Department
4 shall adopt rules, including emergency rules under subsection
5 (y) of Section 5-45 of the Illinois Administrative Procedure
6 Act, to implement the provisions of this Section.

7 (b) Rates and reimbursements. Within 30 days after June 4,
8 2018 (the effective date of Public Act 100-587) ~~this~~
9 ~~amendatory Act of the 100th General Assembly~~, the Department
10 shall increase rates and reimbursements to fund a minimum of a
11 \$0.50 per hour wage increase for front-line personnel,
12 including, but not limited to, direct support professionals,
13 aides, front-line supervisors, qualified intellectual
14 disabilities professionals, nurses, and non-administrative
15 support staff working in community-based provider
16 organizations serving individuals with developmental
17 disabilities. The Department shall adopt rules, including
18 emergency rules under subsection (bb) of Section 5-45 of the
19 Illinois Administrative Procedure Act, to implement the
20 provisions of this Section.

21 (c) Rates and reimbursements. Within 30 days after June 5,
22 2019 (the effective date of Public Act 101-10) ~~this amendatory~~
23 ~~Act of the 101st General Assembly~~, subject to federal
24 approval, the Department shall increase rates and
25 reimbursements in effect on June 30, 2019 for community-based
26 providers for persons with Developmental Disabilities by 3.5%

1 The Department shall adopt rules, including emergency rules
2 under subsection (jj) of Section 5-45 of the Illinois
3 Administrative Procedure Act, to implement the provisions of
4 this Section, including wage increases for direct care staff.

5 (d) For community-based providers serving persons with
6 intellectual/developmental disabilities, subject to federal
7 approval of any relevant Waiver Amendment, the rates taking
8 effect for services delivered on or after January 1, 2022,
9 shall include an increase in the rate methodology sufficient
10 to provide a \$1.50 per hour wage increase for direct support
11 professionals in residential settings and sufficient to
12 provide wages for all residential non-executive direct care
13 staff, excluding direct support professionals, at the federal
14 Department of Labor, Bureau of Labor Statistics' average wage
15 as defined in rule by the Department.

16 The establishment of and any changes to the rate
17 methodologies for community-based services provided to persons
18 with intellectual/developmental disabilities are subject to
19 federal approval of any relevant Waiver Amendment and shall be
20 defined in rule by the Department. The Department shall adopt
21 rules, including emergency rules as authorized by Section 5-45
22 of the Illinois Administrative Procedure Act, to implement the
23 provisions of this subsection (d).

24 (e) For community-based providers serving persons with
25 intellectual/developmental disabilities, subject to federal
26 approval of any relevant Waiver Amendment, the rates taking

1 effect for services delivered on or after January 1, 2023,
2 shall include an increase in the rate methodology sufficient
3 to provide a \$1.00 per hour wage increase for all direct
4 support professionals ~~personnel~~ and all other frontline
5 personnel who are not subject to the Bureau of Labor
6 Statistics' average wage increases, who work in residential
7 and community day services settings, with at least \$0.50 of
8 those funds to be provided as a direct increase to base wages,
9 with the remaining \$0.50 to be used flexibly for base wage
10 increases. In addition, the rates taking effect for services
11 delivered on or after January 1, 2023 shall include an
12 increase sufficient to provide wages for all residential
13 non-executive direct care staff, excluding direct support
14 professionals ~~personnel~~, at the federal Department of Labor,
15 Bureau of Labor Statistics' average wage as defined in rule by
16 the Department.

17 The establishment of and any changes to the rate
18 methodologies for community-based services provided to persons
19 with intellectual/developmental disabilities are subject to
20 federal approval of any relevant Waiver Amendment and shall be
21 defined in rule by the Department. The Department shall adopt
22 rules, including emergency rules as authorized by Section 5-45
23 of the Illinois Administrative Procedure Act, to implement the
24 provisions of this subsection.

25 (f) For community-based providers serving persons with
26 intellectual or developmental disabilities, subject to federal

1 approval, the rates taking effect for services delivered on or
2 after July 1, 2023 shall be increased sufficiently to provide
3 a minimum \$4.00 per hour wage increase over the wages in effect
4 on June 30, 2023 for front-line personnel, including, but not
5 limited to, direct support persons, aides, front-line
6 supervisors, and non-administrative support staff working in
7 community-based provider organizations serving individuals
8 with developmental disabilities, and sufficient to provide
9 wages for all other residential non-executive direct care
10 staff, excluding direct support personnel, at the U.S.
11 Department of Labor, Bureau of Labor Statistics' average wage
12 as defined, by rule, by the Department. The Department shall
13 adopt rules, including emergency rules in accordance with the
14 Illinois Administrative Procedure Act, to implement the
15 provisions of this subsection.

16 (Source: P.A. 101-10, eff. 6-5-19; 102-16, eff. 6-17-21;
17 102-699, eff. 4-19-22; 102-830, eff. 1-1-23; revised
18 12-13-22.)

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

21 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

22 Sec. 5-5.4. Standards of Payment - Department of
23 Healthcare and Family Services. The Department of Healthcare
24 and Family Services shall develop standards of payment of

1 nursing facility and ICF/DD services in facilities providing
2 such services under this Article which:

3 (1) Provide for the determination of a facility's payment
4 for nursing facility or ICF/DD services on a prospective
5 basis. The amount of the payment rate for all nursing
6 facilities certified by the Department of Public Health under
7 the ID/DD Community Care Act or the Nursing Home Care Act as
8 Intermediate Care for the Developmentally Disabled facilities,
9 Long Term Care for Under Age 22 facilities, Skilled Nursing
10 facilities, or Intermediate Care facilities under the medical
11 assistance program shall be prospectively established annually
12 on the basis of historical, financial, and statistical data
13 reflecting actual costs from prior years, which shall be
14 applied to the current rate year and updated for inflation,
15 except that the capital cost element for newly constructed
16 facilities shall be based upon projected budgets. The annually
17 established payment rate shall take effect on July 1 in 1984
18 and subsequent years. No rate increase and no update for
19 inflation shall be provided on or after July 1, 1994, unless
20 specifically provided for in this Section. The changes made by
21 Public Act 93-841 extending the duration of the prohibition
22 against a rate increase or update for inflation are effective
23 retroactive to July 1, 2004.

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 1998 shall include an increase of 3%. For facilities licensed
3 by the Department of Public Health under the Nursing Home Care
4 Act as Skilled Nursing facilities or Intermediate Care
5 facilities, the rates taking effect on July 1, 1998 shall
6 include an increase of 3% plus \$1.10 per resident-day, as
7 defined by the Department. For facilities licensed by the
8 Department of Public Health under the Nursing Home Care Act as
9 Intermediate Care Facilities for the Developmentally Disabled
10 or Long Term Care for Under Age 22 facilities, the rates taking
11 effect on January 1, 2006 shall include an increase of 3%. For
12 facilities licensed by the Department of Public Health under
13 the Nursing Home Care Act as Intermediate Care Facilities for
14 the Developmentally Disabled or Long Term Care for Under Age
15 22 facilities, the rates taking effect on January 1, 2009
16 shall include an increase sufficient to provide a \$0.50 per
17 hour wage increase for non-executive staff. For facilities
18 licensed by the Department of Public Health under the ID/DD
19 Community Care Act as ID/DD Facilities the rates taking effect
20 within 30 days after July 6, 2017 (the effective date of Public
21 Act 100-23) shall include an increase sufficient to provide a
22 \$0.75 per hour wage increase for non-executive staff. The
23 Department shall adopt rules, including emergency rules under
24 subsection (y) of Section 5-45 of the Illinois Administrative
25 Procedure Act, to implement the provisions of this paragraph.
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, the rates taking
3 effect within 30 days after the effective date of this
4 amendatory Act of the 100th General Assembly shall include an
5 increase sufficient to provide a \$0.50 per hour wage increase
6 for non-executive front-line personnel, including, but not
7 limited to, direct support persons, aides, front-line
8 supervisors, qualified intellectual disabilities
9 professionals, nurses, and non-administrative support staff.
10 The Department shall adopt rules, including emergency rules
11 under subsection (bb) of Section 5-45 of the Illinois
12 Administrative Procedure Act, to implement the provisions of
13 this paragraph.

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, the rates taking effect for services delivered on or
18 after July 1, 2023, shall be increased sufficiently to provide
19 a minimum \$4.00 per hour wage increase over the wages in effect
20 on June 30, 2023 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 paragraph.

6 For facilities licensed by the Department of Public Health
7 under the Nursing Home Care Act as Intermediate Care for the
8 Developmentally Disabled facilities or Long Term Care for
9 Under Age 22 facilities, the rates taking effect on July 1,
10 1999 shall include an increase of 1.6% plus \$3.00 per
11 resident-day, as defined by the Department. For facilities
12 licensed by the Department of Public Health under the Nursing
13 Home Care Act as Skilled Nursing facilities or Intermediate
14 Care facilities, the rates taking effect on July 1, 1999 shall
15 include an increase of 1.6% and, for services provided on or
16 after October 1, 1999, shall be increased by \$4.00 per
17 resident-day, as defined by the Department.

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 Long Term Care for
21 Under Age 22 facilities, the rates taking effect on July 1,
22 2000 shall include an increase of 2.5% per resident-day, as
23 defined by the Department. For facilities licensed by the
24 Department of Public Health under the Nursing Home Care Act as
25 Skilled Nursing facilities or Intermediate Care facilities,
26 the rates taking effect on July 1, 2000 shall include an

1 increase of 2.5% per resident-day, as defined by the
2 Department.

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

20 (A) For a facility that would receive a lower nursing
21 component rate per patient day under the new system than
22 the facility received effective on the date immediately
23 preceding the date that the Department implements the new
24 payment methodology, the nursing component rate per
25 patient day for the facility shall be held at the level in
26 effect on the date immediately preceding the date that the

1 Department implements the new payment methodology until a
2 higher nursing component rate of reimbursement is achieved
3 by that facility.

4 (B) For a facility that would receive a higher nursing
5 component rate per patient day under the payment
6 methodology in effect on July 1, 2003 than the facility
7 received effective on the date immediately preceding the
8 date that the Department implements the new payment
9 methodology, the nursing component rate per patient day
10 for the facility shall be adjusted.

11 (C) Notwithstanding paragraphs (A) and (B), the
12 nursing component rate per patient day for the facility
13 shall be adjusted subject to appropriations provided by
14 the General Assembly.

15 For facilities licensed by the Department of Public Health
16 under the Nursing Home Care Act as Intermediate Care for the
17 Developmentally Disabled facilities or Long Term Care for
18 Under Age 22 facilities, the rates taking effect on March 1,
19 2001 shall include a statewide increase of 7.85%, as defined
20 by the Department.

21 Notwithstanding any other provision of this Section, for
22 facilities licensed by the Department of Public Health under
23 the Nursing Home Care Act as skilled nursing facilities or
24 intermediate care facilities, except facilities participating
25 in the Department's demonstration program pursuant to the
26 provisions of Title 77, Part 300, Subpart T of the Illinois

1 Administrative Code, the numerator of the ratio used by the
2 Department of Healthcare and Family Services to compute the
3 rate payable under this Section using the Minimum Data Set
4 (MDS) methodology shall incorporate the following annual
5 amounts as the additional funds appropriated to the Department
6 specifically to pay for rates based on the MDS nursing
7 component methodology in excess of the funding in effect on
8 December 31, 2006:

9 (i) For rates taking effect January 1, 2007,
10 \$60,000,000.

11 (ii) For rates taking effect January 1, 2008,
12 \$110,000,000.

13 (iii) For rates taking effect January 1, 2009,
14 \$194,000,000.

15 (iv) For rates taking effect April 1, 2011, or the
16 first day of the month that begins at least 45 days after
17 the effective date of this amendatory Act of the 96th
18 General Assembly, \$416,500,000 or an amount as may be
19 necessary to complete the transition to the MDS
20 methodology for the nursing component of the rate.
21 Increased payments under this item (iv) are not due and
22 payable, however, until (i) the methodologies described in
23 this paragraph are approved by the federal government in
24 an appropriate State Plan amendment and (ii) the
25 assessment imposed by Section 5B-2 of this Code is
26 determined to be a permissible tax under Title XIX of the

1 Social Security Act.

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

10 For facilities licensed by the Department of Public Health
11 under the Nursing Home Care Act as Intermediate Care for the
12 Developmentally Disabled facilities or Long Term Care for
13 Under Age 22 facilities, the rates taking effect on April 1,
14 2002 shall include a statewide increase of 2.0%, as defined by
15 the Department. This increase terminates on July 1, 2002;
16 beginning July 1, 2002 these rates are reduced to the level of
17 the rates in effect on March 31, 2002, as defined by the
18 Department.

19 For facilities licensed by the Department of Public Health
20 under the Nursing Home Care Act as skilled nursing facilities
21 or intermediate care facilities, the rates taking effect on
22 July 1, 2001 shall be computed using the most recent cost
23 reports on file with the Department of Public Aid no later than
24 April 1, 2000, updated for inflation to January 1, 2001. For
25 rates effective July 1, 2001 only, rates shall be the greater
26 of the rate computed for July 1, 2001 or the rate effective on

1 June 30, 2001.

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

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

20 Notwithstanding any other provisions of this Section, for
21 facilities licensed by the Department of Public Health under
22 the Nursing Home Care Act as skilled nursing facilities or
23 intermediate care facilities, the rates taking effect on
24 January 1, 2005 shall be 3% more than the rates in effect on
25 December 31, 2004.

26 Notwithstanding any other provision 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, effective January 1, 2009, the
4 per diem support component of the rates effective on January
5 1, 2008, computed using the most recent cost reports on file
6 with the Department of Healthcare and Family Services no later
7 than April 1, 2005, updated for inflation to January 1, 2006,
8 shall be increased to the amount that would have been derived
9 using standard Department of Healthcare and Family Services
10 methods, procedures, and inflators.

11 Notwithstanding any other provisions of this Section, for
12 facilities licensed by the Department of Public Health under
13 the Nursing Home Care Act as intermediate care facilities that
14 are federally defined as Institutions for Mental Disease, or
15 facilities licensed by the Department of Public Health under
16 the Specialized Mental Health Rehabilitation Act of 2013, a
17 socio-development component rate equal to 6.6% of the
18 facility's nursing component rate as of January 1, 2006 shall
19 be established and paid effective July 1, 2006. The
20 socio-development component of the rate shall be increased by
21 a factor of 2.53 on the first day of the month that begins at
22 least 45 days after January 11, 2008 (the effective date of
23 Public Act 95-707). As of August 1, 2008, the
24 socio-development component rate shall be equal to 6.6% of the
25 facility's nursing component rate as of January 1, 2006,
26 multiplied by a factor of 3.53. For services provided on or

1 after April 1, 2011, or the first day of the month that begins
2 at least 45 days after the effective date of this amendatory
3 Act of the 96th General Assembly, whichever is later, the
4 Illinois Department may by rule adjust these socio-development
5 component rates, and may use different adjustment
6 methodologies for those facilities participating, and those
7 not participating, in the Illinois Department's demonstration
8 program pursuant to the provisions of Title 77, Part 300,
9 Subpart T of the Illinois Administrative Code, but in no case
10 may such rates be diminished below those in effect on August 1,
11 2008.

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 as long-term care
15 facilities for residents under 22 years of age, the rates
16 taking effect on July 1, 2003 shall include a statewide
17 increase of 4%, as defined by the Department.

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 Long Term Care for
21 Under Age 22 facilities, the rates taking effect on the first
22 day of the month that begins at least 45 days after the
23 effective date of this amendatory Act of the 95th General
24 Assembly shall include a statewide increase of 2.5%, as
25 defined by the Department.

26 Notwithstanding any other provision 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, effective January 1, 2005,
4 facility rates shall be increased by the difference between
5 (i) a facility's per diem property, liability, and malpractice
6 insurance costs as reported in the cost report filed with the
7 Department of Public Aid and used to establish rates effective
8 July 1, 2001 and (ii) those same costs as reported in the
9 facility's 2002 cost report. These costs shall be passed
10 through to the facility without caps or limitations, except
11 for adjustments required under normal auditing procedures.

12 Rates established effective each July 1 shall govern
13 payment for services rendered throughout that fiscal year,
14 except that rates established on July 1, 1996 shall be
15 increased by 6.8% for services provided on or after January 1,
16 1997. Such rates will be based upon the rates calculated for
17 the year beginning July 1, 1990, and for subsequent years
18 thereafter until June 30, 2001 shall be based on the facility
19 cost reports for the facility fiscal year ending at any point
20 in time during the previous calendar year, updated to the
21 midpoint of the rate year. The cost report shall be on file
22 with the Department no later than April 1 of the current rate
23 year. Should the cost report not be on file by April 1, the
24 Department shall base the rate on the latest cost report filed
25 by each skilled care facility and intermediate care facility,
26 updated to the midpoint of the current rate year. In

1 determining rates for services rendered on and after July 1,
2 1985, fixed time shall not be computed at less than zero. The
3 Department shall not make any alterations of regulations which
4 would reduce any component of the Medicaid rate to a level
5 below what that component would have been utilizing in the
6 rate effective on July 1, 1984.

7 (2) Shall take into account the actual costs incurred by
8 facilities in providing services for recipients of skilled
9 nursing and intermediate care services under the medical
10 assistance program.

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

13 (4) Shall take into account the actual costs incurred by
14 facilities in meeting licensing and certification standards
15 imposed and prescribed by the State of Illinois, any of its
16 political subdivisions or municipalities and by the U.S.
17 Department of Health and Human Services pursuant to Title XIX
18 of the Social Security Act.

19 The Department of Healthcare and Family Services shall
20 develop precise standards for payments to reimburse nursing
21 facilities for any utilization of appropriate rehabilitative
22 personnel for the provision of rehabilitative services which
23 is authorized by federal regulations, including reimbursement
24 for services provided by qualified therapists or qualified
25 assistants, and which is in accordance with accepted
26 professional practices. Reimbursement also may be made for

1 utilization of other supportive personnel under appropriate
2 supervision.

3 The Department shall develop enhanced payments to offset
4 the additional costs incurred by a facility serving
5 exceptional need residents and shall allocate at least
6 \$4,000,000 of the funds collected from the assessment
7 established by Section 5B-2 of this Code for such payments.
8 For the purpose of this Section, "exceptional needs" means,
9 but need not be limited to, ventilator care and traumatic
10 brain injury care. The enhanced payments for exceptional need
11 residents under this paragraph are not due and payable,
12 however, until (i) the methodologies described in this
13 paragraph are approved by the federal government in an
14 appropriate State Plan amendment and (ii) the assessment
15 imposed by Section 5B-2 of this Code is determined to be a
16 permissible tax under Title XIX of the Social Security Act.

17 Beginning January 1, 2014 the methodologies for
18 reimbursement of nursing facility services as provided under
19 this Section 5-5.4 shall no longer be applicable for services
20 provided on or after January 1, 2014.

21 No payment increase under this Section for the MDS
22 methodology, exceptional care residents, or the
23 socio-development component rate established by Public Act
24 96-1530 of the 96th General Assembly and funded by the
25 assessment imposed under Section 5B-2 of this Code shall be
26 due and payable until after the Department notifies the

1 long-term care providers, in writing, that the payment
2 methodologies to long-term care providers required under this
3 Section have been approved by the Centers for Medicare and
4 Medicaid Services of the U.S. Department of Health and Human
5 Services and the waivers under 42 CFR 433.68 for the
6 assessment imposed by this Section, if necessary, have been
7 granted by the Centers for Medicare and Medicaid Services of
8 the U.S. Department of Health and Human Services. Upon
9 notification to the Department of approval of the payment
10 methodologies required under this Section and the waivers
11 granted under 42 CFR 433.68, all increased payments otherwise
12 due under this Section prior to the date of notification shall
13 be due and payable within 90 days of the date federal approval
14 is received.

15 On and after July 1, 2012, the Department shall reduce any
16 rate of reimbursement for services or other payments or alter
17 any methodologies authorized by this Code to reduce any rate
18 of reimbursement for services or other payments in accordance
19 with Section 5-5e.

20 For facilities licensed by the Department of Public Health
21 under the ID/DD Community Care Act as ID/DD Facilities and
22 under the MC/DD Act as MC/DD Facilities, subject to federal
23 approval, the rates taking effect for services delivered on or
24 after August 1, 2019 shall be increased by 3.5% over the rates
25 in effect on June 30, 2019. The Department shall adopt rules,
26 including emergency rules under subsection (ii) of Section

1 5-45 of the Illinois Administrative Procedure Act, to
2 implement the provisions of this Section, including wage
3 increases for direct care staff.

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

17 For facilities licensed by the Department of Public Health
18 under the ID/DD Community Care Act as ID/DD Facilities and
19 under the MC/DD Act as MC/DD Facilities, subject to federal
20 approval of the State Plan Amendment and the Waiver Amendment
21 for the home and community-based services settings, the rates
22 taking effect for the services delivered on or after July 1,
23 2020 shall include an increase sufficient to provide a \$1.00
24 per hour wage increase for non-executive staff. For services
25 delivered on or after January 1, 2021, subject to federal
26 approval of the State Plan Amendment and the Waiver Amendment

1 for the home and community-based services settings, shall
2 include an increase sufficient to provide a \$0.50 per hour
3 increase for non-executive staff. The Department shall adopt
4 rules, including emergency rules as authorized by Section 5-45
5 of the Illinois Administrative Procedure Act, to implement the
6 provisions of this Section, including wage increases for
7 direct care staff.

8 For facilities licensed by the Department of Public Health
9 under the ID/DD Community Care Act as ID/DD Facilities and
10 under the MC/DD Act as MC/DD Facilities, subject to federal
11 approval of the State Plan Amendment, the rates taking effect
12 for the residential services delivered on or after July 1,
13 2021, shall include an increase sufficient to provide a \$0.50
14 per hour increase for aides in the rate methodology. For
15 facilities licensed by the Department of Public Health under
16 the ID/DD Community Care Act as ID/DD Facilities and under the
17 MC/DD Act as MC/DD Facilities, subject to federal approval of
18 the State Plan Amendment, the rates taking effect for the
19 residential services delivered on or after January 1, 2022
20 shall include an increase sufficient to provide a \$1.00 per
21 hour increase for aides in the rate methodology. In addition,
22 for residential services delivered on or after January 1, 2022
23 such rates shall include an increase sufficient to provide
24 wages for all residential non-executive direct care staff,
25 excluding aides, at the federal Department of Labor, Bureau of
26 Labor Statistics' average wage as defined in rule by the

1 Department. The Department shall adopt rules, including
2 emergency rules as authorized by Section 5-45 of the Illinois
3 Administrative Procedure Act, to implement the provisions of
4 this Section.

5 For facilities licensed by the Department of Public Health
6 under the ID/DD Community Care Act as ID/DD facilities and
7 under the MC/DD Act as MC/DD facilities, subject to federal
8 approval of the State Plan Amendment, the rates taking effect
9 for services delivered on or after January 1, 2023, shall
10 include a \$1.00 per hour wage increase for all direct support
11 personnel and all other frontline personnel who are not
12 subject to the Bureau of Labor Statistics' average wage
13 increases, who work in residential and community day services
14 settings, with at least \$0.50 of those funds to be provided as
15 a direct increase to all aide base wages, with the remaining
16 \$0.50 to be used flexibly for base wage increases to the rate
17 methodology for aides. In addition, for residential services
18 delivered on or after January 1, 2023 the rates shall include
19 an increase sufficient to provide wages for all residential
20 non-executive direct care staff, excluding aides, at the
21 federal Department of Labor, Bureau of Labor Statistics'
22 average wage as determined by the Department. Also, for
23 services delivered on or after January 1, 2023, the rates will
24 include adjustments to employment-related expenses as defined
25 in rule by the Department. The Department shall adopt rules,
26 including emergency rules as authorized by Section 5-45 of the

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

3 (Source: P.A. 101-10, eff. 6-5-19; 101-636, eff. 6-10-20;
4 102-16, eff. 6-17-21; 102-699, eff. 4-19-22.)

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, 2023, shall be increased sufficiently to provide
19 a minimum \$4.00 per hour wage increase over the wages in effect
20 on June 30, 2023 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.