

HB0664



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0664

Introduced 02/06/09, by Rep. Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

Amends the Illinois Public Aid Code. In connection with standards of payment for nursing homes under the medical assistance program, provides that for facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2009 shall include an increase sufficient to provide a \$0.50 per-hour wage increase for non-executive staff. Effective July 1, 2009.

LRB096 04265 DRJ 14311 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 Public Aid Code is amended by
5 changing Section 5-5.4 as follows:

6 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

7 Sec. 5-5.4. Standards of Payment - Department of Healthcare
8 and Family Services. The Department of Healthcare and Family
9 Services shall develop standards of payment of skilled nursing
10 and intermediate care services in facilities providing such
11 services under this Article which:

12 (1) Provide for the determination of a facility's payment
13 for skilled nursing and intermediate care services on a
14 prospective basis. The amount of the payment rate for all
15 nursing facilities certified by the Department of Public Health
16 under the Nursing Home Care Act as Intermediate Care for the
17 Developmentally Disabled facilities, Long Term Care for Under
18 Age 22 facilities, Skilled Nursing facilities, or Intermediate
19 Care facilities under the medical assistance program shall be
20 prospectively established annually on the basis of historical,
21 financial, and statistical data reflecting actual costs from
22 prior years, which shall be applied to the current rate year
23 and updated for inflation, except that the capital cost element

1 for newly constructed facilities shall be based upon projected
2 budgets. The annually established payment rate shall take
3 effect on July 1 in 1984 and subsequent years. No rate increase
4 and no update for inflation shall be provided on or after July
5 1, 1994 and before July 1, 2009, unless specifically provided
6 for in this Section. The changes made by Public Act 93-841
7 extending the duration of the prohibition against a rate
8 increase or update for inflation are effective retroactive to
9 July 1, 2004.

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 Under
13 Age 22 facilities, the rates taking effect on July 1, 1998
14 shall include an increase of 3%. For facilities licensed by the
15 Department of Public Health under the Nursing Home Care Act as
16 Skilled Nursing facilities or Intermediate Care facilities,
17 the rates taking effect on July 1, 1998 shall include an
18 increase of 3% plus \$1.10 per resident-day, as defined by the
19 Department. For facilities licensed by the Department of Public
20 Health under the Nursing Home Care Act as Intermediate Care
21 Facilities for the Developmentally Disabled or Long Term Care
22 for Under Age 22 facilities, the rates taking effect on January
23 1, 2006 shall include an increase of 3%. For facilities
24 licensed by the Department of Public Health under the Nursing
25 Home Care Act as Intermediate Care Facilities for the
26 Developmentally Disabled or Long Term Care for Under Age 22

1 facilities, the rates taking effect on January 1, 2009 shall
2 include an increase sufficient to provide a \$0.50 per hour wage
3 increase for non-executive staff. For facilities licensed by
4 the Department of Public Health under the Nursing Home Care Act
5 as Intermediate Care Facilities for the Developmentally
6 Disabled or Long Term Care for Under Age 22 facilities, the
7 rates taking effect on July 1, 2009 shall include an increase
8 sufficient to provide a \$0.50 per-hour wage increase for
9 non-executive staff.

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

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

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

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

22 (A) For a facility that would receive a lower nursing
23 component rate per patient day under the new system than
24 the facility received effective on the date immediately
25 preceding the date that the Department implements the new
26 payment methodology, the nursing component rate per

1 patient day for the facility shall be held at the level in
2 effect on the date immediately preceding the date that the
3 Department implements the new payment methodology until a
4 higher nursing component rate of reimbursement is achieved
5 by that facility.

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

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

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

23 Notwithstanding any other provision of this Section, for
24 facilities licensed by the Department of Public Health under
25 the Nursing Home Care Act as skilled nursing facilities or
26 intermediate care facilities, the numerator of the ratio used

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

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

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

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

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

22 For facilities licensed by the Department of Public Health
23 under the Nursing Home Care Act as Intermediate Care for the
24 Developmentally Disabled facilities or Long Term Care for Under
25 Age 22 facilities, the rates taking effect on April 1, 2002
26 shall include a statewide increase of 2.0%, as defined by the

1 Department. This increase terminates on July 1, 2002; beginning
2 July 1, 2002 these rates are reduced to the level of the rates
3 in effect on March 31, 2002, as defined by the Department.

4 For facilities licensed by the Department of Public Health
5 under the Nursing Home Care Act as skilled nursing facilities
6 or intermediate care facilities, the rates taking effect on
7 July 1, 2001 shall be computed using the most recent cost
8 reports on file with the Department of Public Aid no later than
9 April 1, 2000, updated for inflation to January 1, 2001. For
10 rates effective July 1, 2001 only, rates shall be the greater
11 of the rate computed for July 1, 2001 or the rate effective on
12 June 30, 2001.

13 Notwithstanding any other provision of this Section, for
14 facilities licensed by the Department of Public Health under
15 the Nursing Home Care Act as skilled nursing facilities or
16 intermediate care facilities, the Illinois Department shall
17 determine by rule the rates taking effect on July 1, 2002,
18 which shall be 5.9% less than the rates in effect on June 30,
19 2002.

20 Notwithstanding any other provision 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, if the payment methodologies
24 required under Section 5A-12 and the waiver granted under 42
25 CFR 433.68 are approved by the United States Centers for
26 Medicare and Medicaid Services, the rates taking effect on July

1 1, 2004 shall be 3.0% greater than the rates in effect on June
2 30, 2004. These rates shall take effect only upon approval and
3 implementation of the payment methodologies required under
4 Section 5A-12.

5 Notwithstanding any other provisions of this Section, for
6 facilities licensed by the Department of Public Health under
7 the Nursing Home Care Act as skilled nursing facilities or
8 intermediate care facilities, the rates taking effect on
9 January 1, 2005 shall be 3% more than the rates in effect on
10 December 31, 2004.

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

22 Notwithstanding any other provisions of this Section, for
23 facilities licensed by the Department of Public Health under
24 the Nursing Home Care Act as intermediate care facilities that
25 are federally defined as Institutions for Mental Disease, a
26 socio-development component rate equal to 6.6% of the

1 facility's nursing component rate as of January 1, 2006 shall
2 be established and paid effective July 1, 2006. The
3 socio-development component of the rate shall be increased by a
4 factor of 2.53 on the first day of the month that begins at
5 least 45 days after January 11, 2008 (the effective date of
6 Public Act 95-707). As of August 1, 2008, the socio-development
7 component rate shall be equal to 6.6% of the facility's nursing
8 component rate as of January 1, 2006, multiplied by a factor of
9 3.53. The Illinois Department may by rule adjust these
10 socio-development component rates, but in no case may such
11 rates be diminished.

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 Under
21 Age 22 facilities, the rates taking effect on the first day of
22 the month that begins at least 45 days after the effective date
23 of this amendatory Act of the 95th General Assembly shall
24 include a statewide increase of 2.5%, as defined by the
25 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 (i)
5 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 for
11 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 rate
6 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 is
23 authorized by federal regulations, including reimbursement for
24 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 (Source: P.A. 94-48, eff. 7-1-05; 94-85, eff. 6-28-05; 94-697,
4 eff. 11-21-05; 94-838, eff. 6-6-06; 94-964, eff. 6-28-06;
5 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
6 95-744, eff. 7-18-08.)

7 Section 99. Effective date. This Act takes effect July 1,
8 2009.