



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3485

Introduced 2/7/2012, by Sen. William Delgado

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

Amends the Medical Assistance Article of the Illinois Public Aid Code. Requires the Department of Healthcare and Family Services to make a new rate determination for all facilities licensed by the Department of Public Health under the ID/DD Community Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities. Provides that the amount of the payment rate shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years beginning with the most recent cost reports on file with the Department of Healthcare and Family Services for fiscal year 2011, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 2012 and subsequent years. Effective immediately.

LRB097 17950 KTG 65318 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 nursing facility
10 and ICF/DD services in facilities providing such services under
11 this Article which:

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

1 except that the capital cost element for newly constructed
2 facilities shall be based upon projected budgets. The annually
3 established payment rate shall take effect on July 1 in 1984
4 and subsequent years. No rate increase and no update for
5 inflation shall be provided on or after July 1, 1994 and before
6 July 1, 2012, unless specifically provided for in this Section.
7 The changes made by Public Act 93-841 extending the duration of
8 the prohibition against a rate increase or update for inflation
9 are effective retroactive to 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.

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

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

26 For facilities licensed by the Department of Public Health

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

16 (A) For a facility that would receive a lower nursing
17 component rate per patient day under the new system than
18 the facility received effective on the date immediately
19 preceding the date that the Department implements the new
20 payment methodology, the nursing component rate per
21 patient day for the facility shall be held at the level in
22 effect on the date immediately preceding the date that the
23 Department implements the new payment methodology until a
24 higher nursing component rate of reimbursement is achieved
25 by that facility.

26 (B) For a facility that would receive a higher nursing

1 component rate per patient day under the payment
2 methodology in effect on July 1, 2003 than the facility
3 received effective on the date immediately preceding the
4 date that the Department implements the new payment
5 methodology, the nursing component rate per patient day for
6 the facility shall be adjusted.

7 (C) Notwithstanding paragraphs (A) and (B), the
8 nursing component rate per patient day for the facility
9 shall be adjusted subject to appropriations provided by the
10 General Assembly.

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

17 Notwithstanding any other provision of this Section, for
18 facilities licensed by the Department of Public Health under
19 the Nursing Home Care Act as skilled nursing facilities or
20 intermediate care facilities, except facilities participating
21 in the Department's demonstration program pursuant to the
22 provisions of Title 77, Part 300, Subpart T of the Illinois
23 Administrative Code, the numerator of the ratio used by the
24 Department of Healthcare and Family Services to compute the
25 rate payable under this Section using the Minimum Data Set
26 (MDS) methodology shall incorporate the following annual

1 amounts as the additional funds appropriated to the Department
2 specifically to pay for rates based on the MDS nursing
3 component methodology in excess of the funding in effect on
4 December 31, 2006:

5 (i) For rates taking effect January 1, 2007,
6 \$60,000,000.

7 (ii) For rates taking effect January 1, 2008,
8 \$110,000,000.

9 (iii) For rates taking effect January 1, 2009,
10 \$194,000,000.

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

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 support component of the

1 rates taking effect on January 1, 2008 shall be computed using
2 the most recent cost reports on file with the Department of
3 Healthcare and Family Services no later than April 1, 2005,
4 updated for inflation to January 1, 2006.

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 Under
8 Age 22 facilities, the rates taking effect on April 1, 2002
9 shall include a statewide increase of 2.0%, as defined by the
10 Department. This increase terminates on July 1, 2002; beginning
11 July 1, 2002 these rates are reduced to the level of the rates
12 in effect on March 31, 2002, as defined by the Department.

13 For facilities licensed by the Department of Public Health
14 under the Nursing Home Care Act as skilled nursing facilities
15 or intermediate care facilities, the rates taking effect on
16 July 1, 2001 shall be computed using the most recent cost
17 reports on file with the Department of Public Aid no later than
18 April 1, 2000, updated for inflation to January 1, 2001. For
19 rates effective July 1, 2001 only, rates shall be the greater
20 of the rate computed for July 1, 2001 or the rate effective on
21 June 30, 2001.

22 Notwithstanding any other provision of this Section, for
23 facilities licensed by the Department of Public Health under
24 the Nursing Home Care Act as skilled nursing facilities or
25 intermediate care facilities, the Illinois Department shall
26 determine by rule the rates taking effect on July 1, 2002,

1 which shall be 5.9% less than the rates in effect on June 30,
2 2002.

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

14 Notwithstanding any other provisions 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 rates taking effect on
18 January 1, 2005 shall be 3% more than the rates in effect on
19 December 31, 2004.

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, effective January 1, 2009, the
24 per diem support component of the rates effective on January 1,
25 2008, computed using the most recent cost reports on file with
26 the Department of Healthcare and Family Services no later than

1 April 1, 2005, updated for inflation to January 1, 2006, shall
2 be increased to the amount that would have been derived using
3 standard Department of Healthcare and Family Services methods,
4 procedures, and inflators.

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 intermediate care facilities that
8 are federally defined as Institutions for Mental Disease, or
9 facilities licensed by the Department of Public Health under
10 the Specialized Mental Health Rehabilitation ~~Facilities~~ Act, a
11 socio-development component rate equal to 6.6% of the
12 facility's nursing component rate as of January 1, 2006 shall
13 be established and paid effective July 1, 2006. The
14 socio-development component of the rate shall be increased by a
15 factor of 2.53 on the first day of the month that begins at
16 least 45 days after January 11, 2008 (the effective date of
17 Public Act 95-707). As of August 1, 2008, the socio-development
18 component rate shall be equal to 6.6% of the facility's nursing
19 component rate as of January 1, 2006, multiplied by a factor of
20 3.53. For services provided on or after April 1, 2011, or the
21 first day of the month that begins at least 45 days after the
22 effective date of this amendatory Act of the 96th General
23 Assembly, whichever is later, the Illinois Department may by
24 rule adjust these socio-development component rates, and may
25 use different adjustment methodologies for those facilities
26 participating, and those not participating, in the Illinois

1 Department's demonstration program pursuant to the provisions
2 of Title 77, Part 300, Subpart T of the Illinois Administrative
3 Code, but in no case may such rates be diminished below those
4 in effect on August 1, 2008.

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

11 For facilities licensed by the Department of Public Health
12 under the Nursing Home Care Act as Intermediate Care for the
13 Developmentally Disabled facilities or Long Term Care for Under
14 Age 22 facilities, the rates taking effect on the first day of
15 the month that begins at least 45 days after the effective date
16 of this amendatory Act of the 95th General Assembly shall
17 include a statewide increase of 2.5%, as defined by the
18 Department.

19 Notwithstanding any other provision of this Section, for
20 facilities licensed by the Department of Public Health under
21 the Nursing Home Care Act as skilled nursing facilities or
22 intermediate care facilities, effective January 1, 2005,
23 facility rates shall be increased by the difference between (i)
24 a facility's per diem property, liability, and malpractice
25 insurance costs as reported in the cost report filed with the
26 Department of Public Aid and used to establish rates effective

1 July 1, 2001 and (ii) those same costs as reported in the
2 facility's 2002 cost report. These costs shall be passed
3 through to the facility without caps or limitations, except for
4 adjustments required under normal auditing procedures.

5 Rates established effective each July 1 shall govern
6 payment for services rendered throughout that fiscal year,
7 except that rates established on July 1, 1996 shall be
8 increased by 6.8% for services provided on or after January 1,
9 1997. Such rates will be based upon the rates calculated for
10 the year beginning July 1, 1990, and for subsequent years
11 thereafter until June 30, 2001 shall be based on the facility
12 cost reports for the facility fiscal year ending at any point
13 in time during the previous calendar year, updated to the
14 midpoint of the rate year. The cost report shall be on file
15 with the Department no later than April 1 of the current rate
16 year. Should the cost report not be on file by April 1, the
17 Department shall base the rate on the latest cost report filed
18 by each skilled care facility and intermediate care facility,
19 updated to the midpoint of the current rate year. In
20 determining rates for services rendered on and after July 1,
21 1985, fixed time shall not be computed at less than zero. The
22 Department shall not make any alterations of regulations which
23 would reduce any component of the Medicaid rate to a level
24 below what that component would have been utilizing in the rate
25 effective on July 1, 1984.

26 (2) Shall take into account the actual costs incurred by

1 facilities in providing services for recipients of skilled
2 nursing and intermediate care services under the medical
3 assistance program.

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

6 (4) Shall take into account the actual costs incurred by
7 facilities in meeting licensing and certification standards
8 imposed and prescribed by the State of Illinois, any of its
9 political subdivisions or municipalities and by the U.S.
10 Department of Health and Human Services pursuant to Title XIX
11 of the Social Security Act.

12 The Department of Healthcare and Family Services shall
13 develop precise standards for payments to reimburse nursing
14 facilities for any utilization of appropriate rehabilitative
15 personnel for the provision of rehabilitative services which is
16 authorized by federal regulations, including reimbursement for
17 services provided by qualified therapists or qualified
18 assistants, and which is in accordance with accepted
19 professional practices. Reimbursement also may be made for
20 utilization of other supportive personnel under appropriate
21 supervision.

22 The Department shall develop enhanced payments to offset
23 the additional costs incurred by a facility serving exceptional
24 need residents and shall allocate at least \$8,000,000 of the
25 funds collected from the assessment established by Section 5B-2
26 of this Code for such payments. For the purpose of this

1 Section, "exceptional needs" means, but need not be limited to,
2 ventilator care, tracheotomy care, bariatric care, complex
3 wound care, and traumatic brain injury care. The enhanced
4 payments for exceptional need residents under this paragraph
5 are not due and payable, however, until (i) the methodologies
6 described in this paragraph are approved by the federal
7 government in an appropriate State Plan amendment and (ii) the
8 assessment imposed by Section 5B-2 of this Code is determined
9 to be a permissible tax under Title XIX of the Social Security
10 Act.

11 ~~(5)~~ Beginning July 1, 2012 the methodologies for
12 reimbursement of nursing facility services as provided under
13 this Section 5-5.4 shall no longer be applicable for bills
14 payable for State fiscal years 2012 and thereafter.

15 ~~(6)~~ No payment increase under this Section for the MDS
16 methodology, exceptional care residents, or the
17 socio-development component rate established by Public Act
18 96-1530 of the 96th General Assembly and funded by the
19 assessment imposed under Section 5B-2 of this Code shall be due
20 and payable until after the Department notifies the long-term
21 care providers, in writing, that the payment methodologies to
22 long-term care providers required under this Section have been
23 approved by the Centers for Medicare and Medicaid Services of
24 the U.S. Department of Health and Human Services and the
25 waivers under 42 CFR 433.68 for the assessment imposed by this
26 Section, if necessary, have been granted by the Centers for

1 Medicare and Medicaid Services of the U.S. Department of Health
2 and Human Services. Upon notification to the Department of
3 approval of the payment methodologies required under this
4 Section and the waivers granted under 42 CFR 433.68, all
5 increased payments otherwise due under this Section prior to
6 the date of notification shall be due and payable within 90
7 days of the date federal approval is received.

8 Notwithstanding any other provision of this Section, the
9 Department of Healthcare and Family Services shall make a new
10 rate determination for all facilities licensed by the
11 Department of Public Health under the ID/DD Community Care Act
12 as Intermediate Care for the Developmentally Disabled
13 facilities or Long Term Care for Under Age 22 facilities. The
14 amount of the payment rate shall be prospectively established
15 annually on the basis of historical, financial, and statistical
16 data reflecting actual costs from prior years beginning with
17 the most recent cost reports on file with the Department of
18 Healthcare and Family Services for fiscal year 2011, which
19 shall be applied to the current rate year and updated for
20 inflation, except that the capital cost element for newly
21 constructed facilities shall be based upon projected budgets.
22 The annually established payment rate shall take effect on July
23 1 in 2012 and subsequent years.

24 (Source: P.A. 96-45, eff. 7-15-09; 96-339, eff. 7-1-10; 96-959,
25 eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1530, eff. 2-16-11;
26 97-10, eff. 6-14-11; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;

1 97-584, eff. 8-26-11; revised 10-4-11.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.