



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### HB3569

Introduced 2/17/2023, by Rep. Michelle Mussman

#### SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.35 new

5 ILCS 100/5-45.36 new

20 ILCS 1705/74

305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

Amends the Mental Health and Developmental Disabilities Administrative Act. Provides that for community-based providers serving persons with intellectual or developmental disabilities, the rates taking effect for services delivered on or after January 1, 2024 shall be increased sufficiently to: (i) provide a minimum \$4.00 per hour wage increase over the wages in 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 in by the Department of Human Services. 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 January 1, 2024 shall be increased sufficiently to: (i) provide a minimum \$4.00 per hour wage increase over the wages in 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 in rule by the Department of Healthcare and Family Services. Amends the Illinois Administrative Procedure Act. Grants the Departments of Human Services and Healthcare and Family Services emergency rulemaking authority. Effective immediately.

LRB103 28364 SPS 54744 b

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Administrative Procedure Act is  
5 amended by adding Sections 5-45.35 and 5-45.36 as follows:

6 (5 ILCS 100/5-45.35 new)

7 Sec. 5-45.35. Emergency rulemaking; Mental Health and  
8 Developmental Disabilities Administrative Act. To provide for  
9 the expeditious and timely implementation of the changes made  
10 to Section 74 of the Mental Health and Developmental  
11 Disabilities Administrative Act by this amendatory Act of the  
12 103rd General Assembly, emergency rules implementing the  
13 changes made to Section 74 of the Mental Health and  
14 Developmental Disabilities Administrative Act by this  
15 amendatory Act of the 103rd General Assembly may be adopted in  
16 accordance with Section 5-45 by the Department of Human  
17 Services. The adoption of emergency rules authorized by  
18 Section 5-45 and this Section is deemed to be necessary for the  
19 public interest, safety, and welfare.

20 This Section is repealed one year after the effective date  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

22 (5 ILCS 100/5-45.36 new)

1       Sec. 5-45.36. Emergency rulemaking; Illinois Public Aid  
2       Code. To provide for the expeditious and timely implementation  
3       of the changes made to Section 5-5.4 of the Illinois Public Aid  
4       Code by this amendatory Act of the 103rd General Assembly,  
5       emergency rules implementing the changes made to Section 5-5.4  
6       of the Illinois Public Aid Code by this amendatory Act of the  
7       103rd General Assembly may be adopted in accordance with  
8       Section 5-45 by the Department of Healthcare and Family  
9       Services. The adoption of emergency rules authorized by  
10       Section 5-45 and this Section is deemed to be necessary for the  
11       public interest, safety, and welfare.

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

14       Section 10. The Mental Health and Developmental  
15       Disabilities Administrative Act is amended by changing Section  
16       74 as follows:

17             (20 ILCS 1705/74)

18       Sec. 74. Rates and reimbursements.

19       (a) Within 30 days after July 6, 2017 (the effective date  
20       of Public Act 100-23), the Department shall increase rates and  
21       reimbursements to fund a minimum of a \$0.75 per hour wage  
22       increase for front-line personnel, including, but not limited  
23       to, direct support professionals, aides, front-line  
24       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 of any relevant Waiver Amendment, the rates taking  
2 effect for services delivered on or after January 1, 2024,  
3 shall include an increase in the rate methodology sufficient  
4 to provide a \$4.00 per hour wage rate increase for all direct  
5 support professionals and all other frontline personnel who  
6 are not subject to the Bureau of Labor Statistics' average  
7 wage increases, who work in residential and community day  
8 services settings, with at least \$2.00 of those funds to be  
9 provided as a direct increase to base wages, with the  
10 remaining \$2.00 to be used flexibly for base wage increases.  
11 In addition, the rates taking effect for services delivered on  
12 or after January 1, 2024, shall include an increase sufficient  
13 to provide wages for all residential non-executive direct care  
14 staff, excluding direct support professionals, at the federal  
15 Department of Labor, Bureau of Labor Statistics' average wage  
16 as defined in rule by the Department. For services delivered  
17 on or after January 1, 2024, the rates shall include  
18 adjustments to employment-related expenses as defined in rule  
19 by the Department.

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

1 provisions of this subsection.

2 (Source: P.A. 101-10, eff. 6-5-19; 102-16, eff. 6-17-21;  
3 102-699, eff. 4-19-22; 102-830, eff. 1-1-23; revised  
4 12-13-22.)

5 Section 15. The Illinois Public Aid Code is amended by  
6 changing Section 5-5.4 as follows:

7 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

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

13 (1) Provide for the determination of a facility's payment  
14 for nursing facility or ICF/DD services on a prospective  
15 basis. The amount of the payment rate for all nursing  
16 facilities certified by the Department of Public Health under  
17 the ID/DD Community Care Act or the Nursing Home Care Act as  
18 Intermediate Care for the Developmentally Disabled facilities,  
19 Long Term Care for Under Age 22 facilities, Skilled Nursing  
20 facilities, or Intermediate Care facilities under the medical  
21 assistance program shall be prospectively established annually  
22 on the basis of historical, financial, and statistical data  
23 reflecting actual costs from prior years, which shall be  
24 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, unless  
6 specifically provided for in this Section. The changes made by  
7 Public Act 93-841 extending the duration of the prohibition  
8 against a rate increase or update for inflation are effective  
9 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  
13 Under Age 22 facilities, the rates taking effect on July 1,  
14 1998 shall include an increase of 3%. For facilities licensed  
15 by the Department of Public Health under the Nursing Home Care  
16 Act as Skilled Nursing facilities or Intermediate Care  
17 facilities, the rates taking effect on July 1, 1998 shall  
18 include an increase of 3% plus \$1.10 per resident-day, as  
19 defined by the Department. For facilities licensed by the  
20 Department of Public Health under the Nursing Home Care Act as  
21 Intermediate Care Facilities for the Developmentally Disabled  
22 or Long Term Care for Under Age 22 facilities, the rates taking  
23 effect on January 1, 2006 shall include an increase of 3%. For  
24 facilities licensed by the Department of Public Health under  
25 the Nursing Home Care Act as Intermediate Care Facilities for  
26 the Developmentally Disabled or Long Term Care for Under Age

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

26 For facilities licensed by the Department of Public Health

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

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

23 For facilities licensed by the Department of Public Health  
24 under the Nursing Home Care Act as skilled nursing facilities  
25 or intermediate care facilities, a new payment methodology  
26 must be implemented for the nursing component of the rate

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

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

24 (B) For a facility that would receive a higher nursing  
25 component rate per patient day under the payment  
26 methodology in effect on July 1, 2003 than the facility

1 received effective on the date immediately preceding the  
2 date that the Department implements the new payment  
3 methodology, the nursing component rate per patient day  
4 for the facility shall be adjusted.

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

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

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, except facilities participating  
19 in the Department's demonstration program pursuant to the  
20 provisions of Title 77, Part 300, Subpart T of the Illinois  
21 Administrative Code, the numerator of the ratio used by the  
22 Department of Healthcare and Family Services to compute the  
23 rate payable under this Section using the Minimum Data Set  
24 (MDS) methodology shall incorporate the following annual  
25 amounts as the additional funds appropriated to the Department  
26 specifically to pay for rates based on the MDS nursing

1 component methodology in excess of the funding in effect on  
2 December 31, 2006:

3 (i) For rates taking effect January 1, 2007,  
4 \$60,000,000.

5 (ii) For rates taking effect January 1, 2008,  
6 \$110,000,000.

7 (iii) For rates taking effect January 1, 2009,  
8 \$194,000,000.

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

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 support component of the  
26 rates taking effect on January 1, 2008 shall be computed using

1 the most recent cost reports on file with the Department of  
2 Healthcare and Family Services no later than April 1, 2005,  
3 updated for inflation to January 1, 2006.

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  
7 Under Age 22 facilities, the rates taking effect on April 1,  
8 2002 shall include a statewide increase of 2.0%, as defined by  
9 the Department. This increase terminates on July 1, 2002;  
10 beginning July 1, 2002 these rates are reduced to the level of  
11 the rates in effect on March 31, 2002, as defined by the  
12 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  
10 July 1, 2004 shall be 3.0% greater than the rates in effect on  
11 June 30, 2004. These rates shall take effect only upon  
12 approval and implementation of the payment methodologies  
13 required under 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  
25 1, 2008, computed using the most recent cost reports on file  
26 with the Department of Healthcare and Family Services no later



1 than April 1, 2005, updated for inflation to January 1, 2006,  
2 shall be increased to the amount that would have been derived  
3 using standard Department of Healthcare and Family Services  
4 methods, 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 Act of 2013, 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  
15 a 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  
18 socio-development component rate shall be equal to 6.6% of the  
19 facility's nursing component rate as of January 1, 2006,  
20 multiplied by a factor of 3.53. For services provided on or  
21 after April 1, 2011, or the first day of the month that begins  
22 at least 45 days after the effective date of this amendatory  
23 Act of the 96th General Assembly, whichever is later, the  
24 Illinois Department may by rule adjust these socio-development  
25 component rates, and may use different adjustment  
26 methodologies for those facilities participating, and those

1 not participating, in the Illinois Department's demonstration  
2 program pursuant to the provisions of Title 77, Part 300,  
3 Subpart T of the Illinois Administrative Code, but in no case  
4 may such rates be diminished below those in effect on August 1,  
5 2008.

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

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 the first  
16 day of the month that begins at least 45 days after the  
17 effective date of this amendatory Act of the 95th General  
18 Assembly shall include a statewide increase of 2.5%, as  
19 defined by the Department.

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, 2005,  
24 facility rates shall be increased by the difference between  
25 (i) a facility's per diem property, liability, and malpractice  
26 insurance costs as reported in the cost report filed with the

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

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

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

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

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

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

23           The Department shall develop enhanced payments to offset  
24 the additional costs incurred by a facility serving  
25 exceptional need residents and shall allocate at least  
26 \$4,000,000 of the funds collected from the assessment

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

11 Beginning January 1, 2014 the methodologies for  
12 reimbursement of nursing facility services as provided under  
13 this Section 5-5.4 shall no longer be applicable for services  
14 provided on or after January 1, 2014.

15 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  
20 due and payable until after the Department notifies the  
21 long-term care providers, in writing, that the payment  
22 methodologies to long-term care providers required under this  
23 Section have been approved by the Centers for Medicare and  
24 Medicaid Services of the U.S. Department of Health and Human  
25 Services and the waivers under 42 CFR 433.68 for the  
26 assessment imposed by this Section, if necessary, have been

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

9 On and after July 1, 2012, the Department shall reduce any  
10 rate of reimbursement for services or other payments or alter  
11 any methodologies authorized by this Code to reduce any rate  
12 of reimbursement for services or other payments in accordance  
13 with Section 5-5e.

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 August 1, 2019 shall be increased by 3.5% over the rates  
19 in effect on June 30, 2019. The Department shall adopt rules,  
20 including emergency rules under subsection (ii) of Section  
21 5-45 of the Illinois Administrative Procedure Act, to  
22 implement the provisions of this Section, including wage  
23 increases for direct care staff.

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

1 approval, the rates taking effect on the latter of the  
2 approval date of the State Plan Amendment for these facilities  
3 or the Waiver Amendment for the home and community-based  
4 services settings shall include an increase sufficient to  
5 provide a \$0.26 per hour wage increase to the base wage for  
6 non-executive staff. The Department shall adopt rules,  
7 including emergency rules as authorized by Section 5-45 of the  
8 Illinois Administrative Procedure Act, to implement the  
9 provisions of this Section, including wage increases for  
10 direct care staff.

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 of the State Plan Amendment and the Waiver Amendment  
15 for the home and community-based services settings, the rates  
16 taking effect for the services delivered on or after July 1,  
17 2020 shall include an increase sufficient to provide a \$1.00  
18 per hour wage increase for non-executive staff. For services  
19 delivered on or after January 1, 2021, subject to federal  
20 approval of the State Plan Amendment and the Waiver Amendment  
21 for the home and community-based services settings, shall  
22 include an increase sufficient to provide a \$0.50 per hour  
23 increase for non-executive staff. The Department shall adopt  
24 rules, including emergency rules as authorized by Section 5-45  
25 of the Illinois Administrative Procedure Act, to implement the  
26 provisions of this Section, including wage increases for

1 direct care staff.

2 For facilities licensed by the Department of Public Health  
3 under the ID/DD Community Care Act as ID/DD Facilities and  
4 under the MC/DD Act as MC/DD Facilities, subject to federal  
5 approval of the State Plan Amendment, the rates taking effect  
6 for the residential services delivered on or after July 1,  
7 2021, shall include an increase sufficient to provide a \$0.50  
8 per hour increase for aides in the rate methodology. For  
9 facilities licensed by the Department of Public Health under  
10 the ID/DD Community Care Act as ID/DD Facilities and under the  
11 MC/DD Act as MC/DD Facilities, subject to federal approval of  
12 the State Plan Amendment, the rates taking effect for the  
13 residential services delivered on or after January 1, 2022  
14 shall include an increase sufficient to provide a \$1.00 per  
15 hour increase for aides in the rate methodology. In addition,  
16 for residential services delivered on or after January 1, 2022  
17 such rates shall include an increase sufficient to provide  
18 wages for all residential non-executive direct care staff,  
19 excluding aides, at the federal Department of Labor, Bureau of  
20 Labor Statistics' average wage as defined in rule by the  
21 Department. The Department shall adopt rules, including  
22 emergency rules as authorized by Section 5-45 of the Illinois  
23 Administrative Procedure Act, to implement the provisions of  
24 this Section.

25 For facilities licensed by the Department of Public Health  
26 under the ID/DD Community Care Act as ID/DD facilities and



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

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, the rates taking effect

1 for services delivered on or after January 1, 2024, shall  
2 include a \$4.00 per hour wage rate increase for all direct  
3 support personnel and all other frontline personnel who are  
4 not subject to the Bureau of Labor Statistics' average wage  
5 increases, who work in residential and community day services  
6 settings, with at least \$2.00 of those funds to be provided as  
7 a direct increase to all aide base wages, with the remaining  
8 \$2.00 to be used flexibly for base wage increases to the rate  
9 methodology for aides. In addition, for residential services  
10 delivered on or after January 1, 2024, the rates shall include  
11 an increase sufficient to provide wages for all residential  
12 non-executive direct care staff, excluding aides, at the  
13 federal Department of Labor, Bureau of Labor Statistics'  
14 average wage as determined by the Department. Also, for  
15 services delivered on or after January 1, 2024, the rates will  
16 include adjustments to employment-related expenses as defined  
17 in rule by the Department. The Department shall adopt rules,  
18 including emergency rules as authorized by Section 5-45 of the  
19 Illinois Administrative Procedure Act, to implement the  
20 provisions of this Section.

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

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.