

# HB4801



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4801

Introduced 2/6/2024, by Rep. Robyn Gabel

### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.01a

Amends the Medical Assistance Article of the Illinois Public Aid Code. Requires the Department of Healthcare and Family Services to maintain the rate add-on implemented on January 1, 2023 for the provision of 2 meals per day at no less than \$6.15 per day as stated in the supportive living program home and community-based service waiver approved by the federal Centers for Medicare and Medicaid Services.

LRB103 38207 KTG 68341 b

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 5-5.01a as follows:

6 (305 ILCS 5/5-5.01a)

7 Sec. 5-5.01a. Supportive living facilities program.

8 (a) The Department shall establish and provide oversight  
9 for a program of supportive living facilities that seek to  
10 promote resident independence, dignity, respect, and  
11 well-being in the most cost-effective manner.

12 A supportive living facility is (i) a free-standing  
13 facility or (ii) a distinct physical and operational entity  
14 within a mixed-use building that meets the criteria  
15 established in subsection (d). A supportive living facility  
16 integrates housing with health, personal care, and supportive  
17 services and is a designated setting that offers residents  
18 their own separate, private, and distinct living units.

19 Sites for the operation of the program shall be selected  
20 by the Department based upon criteria that may include the  
21 need for services in a geographic area, the availability of  
22 funding, and the site's ability to meet the standards.

23 (b) Beginning July 1, 2014, subject to federal approval,

1 the Medicaid rates for supportive living facilities shall be  
2 equal to the supportive living facility Medicaid rate  
3 effective on June 30, 2014 increased by 8.85%. Once the  
4 assessment imposed at Article V-G of this Code is determined  
5 to be a permissible tax under Title XIX of the Social Security  
6 Act, the Department shall increase the Medicaid rates for  
7 supportive living facilities effective on July 1, 2014 by  
8 9.09%. The Department shall apply this increase retroactively  
9 to coincide with the imposition of the assessment in Article  
10 V-G of this Code in accordance with the approval for federal  
11 financial participation by the Centers for Medicare and  
12 Medicaid Services.

13 The Medicaid rates for supportive living facilities  
14 effective on July 1, 2017 must be equal to the rates in effect  
15 for supportive living facilities on June 30, 2017 increased by  
16 2.8%.

17 The Medicaid rates for supportive living facilities  
18 effective on July 1, 2018 must be equal to the rates in effect  
19 for supportive living facilities on June 30, 2018.

20 Subject to federal approval, the Medicaid rates for  
21 supportive living services on and after July 1, 2019 must be at  
22 least 54.3% of the average total nursing facility services per  
23 diem for the geographic areas defined by the Department while  
24 maintaining the rate differential for dementia care and must  
25 be updated whenever the total nursing facility service per  
26 diems are updated. Beginning July 1, 2022, upon the

1 implementation of the Patient Driven Payment Model, Medicaid  
2 rates for supportive living services must be at least 54.3% of  
3 the average total nursing services per diem rate for the  
4 geographic areas. For purposes of this provision, the average  
5 total nursing services per diem rate shall include all add-ons  
6 for nursing facilities for the geographic area provided for in  
7 Section 5-5.2. The rate differential for dementia care must be  
8 maintained in these rates and the rates shall be updated  
9 whenever nursing facility per diem rates are updated.

10 Subject to federal approval, beginning January 1, 2024,  
11 the dementia care rate for supportive living services must be  
12 no less than the non-dementia care supportive living services  
13 rate multiplied by 1.5.

14 (c) The Department may adopt rules to implement this  
15 Section. Rules that establish or modify the services,  
16 standards, and conditions for participation in the program  
17 shall be adopted by the Department in consultation with the  
18 Department on Aging, the Department of Rehabilitation  
19 Services, and the Department of Mental Health and  
20 Developmental Disabilities (or their successor agencies).

21 (d) Subject to federal approval by the Centers for  
22 Medicare and Medicaid Services, the Department shall accept  
23 for consideration of certification under the program any  
24 application for a site or building where distinct parts of the  
25 site or building are designated for purposes other than the  
26 provision of supportive living services, but only if:

1           (1) those distinct parts of the site or building are  
2           not designated for the purpose of providing assisted  
3           living services as required under the Assisted Living and  
4           Shared Housing Act;

5           (2) those distinct parts of the site or building are  
6           completely separate from the part of the building used for  
7           the provision of supportive living program services,  
8           including separate entrances;

9           (3) those distinct parts of the site or building do  
10          not share any common spaces with the part of the building  
11          used for the provision of supportive living program  
12          services; and

13          (4) those distinct parts of the site or building do  
14          not share staffing with the part of the building used for  
15          the provision of supportive living program services.

16          (e) Facilities or distinct parts of facilities which are  
17          selected as supportive living facilities and are in good  
18          standing with the Department's rules are exempt from the  
19          provisions of the Nursing Home Care Act and the Illinois  
20          Health Facilities Planning Act.

21          (f) Section 9817 of the American Rescue Plan Act of 2021  
22          (Public Law 117-2) authorizes a 10% enhanced federal medical  
23          assistance percentage for supportive living services for a  
24          12-month period from April 1, 2021 through March 31, 2022.  
25          Subject to federal approval, including the approval of any  
26          necessary waiver amendments or other federally required

1 documents or assurances, for a 12-month period the Department  
2 must pay a supplemental \$26 per diem rate to all supportive  
3 living facilities with the additional federal financial  
4 participation funds that result from the enhanced federal  
5 medical assistance percentage from April 1, 2021 through March  
6 31, 2022. The Department may issue parameters around how the  
7 supplemental payment should be spent, including quality  
8 improvement activities. The Department may alter the form,  
9 methods, or timeframes concerning the supplemental per diem  
10 rate to comply with any subsequent changes to federal law,  
11 changes made by guidance issued by the federal Centers for  
12 Medicare and Medicaid Services, or other changes necessary to  
13 receive the enhanced federal medical assistance percentage.

14 (g) All applications for the expansion of supportive  
15 living dementia care settings involving sites not approved by  
16 the Department on January 1, 2024 (the effective date of  
17 Public Act 103-102) ~~this amendatory Act of the 103rd General~~  
18 ~~Assembly~~ may allow new elderly non-dementia units in addition  
19 to new dementia care units. The Department may approve such  
20 applications only if the application has: (1) no more than one  
21 non-dementia care unit for each dementia care unit and (2) the  
22 site is not located within 4 miles of an existing supportive  
23 living program site in Cook County (including the City of  
24 Chicago), not located within 12 miles of an existing  
25 supportive living program site in DuPage County, Kane County,  
26 Lake County, McHenry County, or Will County, or not located

1 within 25 miles of an existing supportive living program site  
2 in any other county.

3 (h) As stated in the supportive living program home and  
4 community-based service waiver approved by the federal Centers  
5 for Medicare and Medicaid Services, the Department must  
6 maintain the rate add-on implemented on January 1, 2023 for  
7 the provision of 2 meals per day at no less than \$6.15 per day.

8 (Source: P.A. 102-43, eff. 7-6-21; 102-699, eff. 4-19-22;  
9 103-102, Article 20, Section 20-5, eff. 1-1-24; 103-102,  
10 Article 100, Section 100-5, eff. 1-1-24; revised 12-15-23.)