

HB5847



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5847

Introduced 5/15/2024, by Rep. Anna Moeller - Yolonda Morris

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.2

Amends the Medical Assistance Article of the Illinois Public Aid Code. In a provision concerning payments to nursing facilities, sets forth how to calculate each facility's variable per diem staffing add-on amount beginning October 1, 2024. Increases the per diem maximum amounts paid to facilities based on the STRIVE study. Effective October 1, 2024.

LRB103 40684 KTG 73450 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 5-5.2 as follows:

6 (305 ILCS 5/5-5.2)

7 Sec. 5-5.2. Payment.

8 (a) All nursing facilities that are grouped pursuant to
9 Section 5-5.1 of this Act shall receive the same rate of
10 payment for similar services.

11 (b) It shall be a matter of State policy that the Illinois
12 Department shall utilize a uniform billing cycle throughout
13 the State for the long-term care providers.

14 (c) (Blank).

15 (c-1) Notwithstanding any other provisions of this Code,
16 the methodologies for reimbursement of nursing services as
17 provided under this Article shall no longer be applicable for
18 bills payable for nursing services rendered on or after a new
19 reimbursement system based on the Patient Driven Payment Model
20 (PDPM) has been fully operationalized, which shall take effect
21 for services provided on or after the implementation of the
22 PDPM reimbursement system begins. For the purposes of Public
23 Act 102-1035 ~~this amendatory Act of the 102nd General~~

1 ~~Assembly~~, the implementation date of the PDPM reimbursement
2 system and all related provisions shall be July 1, 2022 if the
3 following conditions are met: (i) the Centers for Medicare and
4 Medicaid Services has approved corresponding changes in the
5 reimbursement system and bed assessment; and (ii) the
6 Department has filed rules to implement these changes no later
7 than June 1, 2022. Failure of the Department to file rules to
8 implement the changes provided in Public Act 102-1035 ~~this~~
9 ~~amendatory Act of the 102nd General Assembly~~ no later than
10 June 1, 2022 shall result in the implementation date being
11 delayed to October 1, 2022.

12 (d) The new nursing services reimbursement methodology
13 utilizing the Patient Driven Payment Model, which shall be
14 referred to as the PDPM reimbursement system, taking effect
15 July 1, 2022, upon federal approval by the Centers for
16 Medicare and Medicaid Services, shall be based on the
17 following:

18 (1) The methodology shall be resident-centered,
19 facility-specific, cost-based, and based on guidance from
20 the Centers for Medicare and Medicaid Services.

21 (2) Costs shall be annually rebased and case mix index
22 quarterly updated. The nursing services methodology will
23 be assigned to the Medicaid enrolled residents on record
24 as of 30 days prior to the beginning of the rate period in
25 the Department's Medicaid Management Information System
26 (MMIS) as present on the last day of the second quarter

1 preceding the rate period based upon the Assessment
2 Reference Date of the Minimum Data Set (MDS).

3 (3) Regional wage adjustors based on the Health
4 Service Areas (HSA) groupings and adjusters in effect on
5 April 30, 2012 shall be included, except no adjuster shall
6 be lower than 1.06.

7 (4) PDPM nursing case mix indices in effect on March
8 1, 2022 shall be assigned to each resident class at no less
9 than 0.7858 of the Centers for Medicare and Medicaid
10 Services PDPM unadjusted case mix values, in effect on
11 March 1, 2022.

12 (5) The pool of funds available for distribution by
13 case mix and the base facility rate shall be determined
14 using the formula contained in subsection (d-1).

15 (6) The Department shall establish a variable per diem
16 staffing add-on in accordance with the most recent
17 available federal staffing report, currently the Payroll
18 Based Journal, for the same period of time, and if
19 applicable adjusted for acuity using the same quarter's
20 MDS. The Department shall rely on Payroll Based Journals
21 provided to the Department of Public Health to make a
22 determination of non-submission. If the Department is
23 notified by a facility of missing or inaccurate Payroll
24 Based Journal data or an incorrect calculation of
25 staffing, the Department must make a correction as soon as
26 the error is verified for the applicable quarter.

1 Beginning October 1, 2024, the staffing percentage
2 used in the calculation of the per diem staffing add-on
3 shall be its PDPM STRIVE Staffing Ratio which equals: its
4 Reported Total Nurse Staffing Hours Per Resident Per Day
5 as published in the most recent federal staffing report
6 (the Provider Information File), divided by the facility's
7 PDPM STRIVE Staffing Target. Each facility's PDPM STRIVE
8 Staffing Target is equal to .82 times the facility's
9 Illinois Adjusted Facility Case-Mix Hours Per Resident Per
10 Day. A facility's Illinois Adjusted Facility Case Mix
11 Hours Per Resident Per Day is equal to its Case-Mix Total
12 Nurse Staffing Hours Per Resident Per Day (as published in
13 the most recent federal staffing report) times 3.662
14 (which reflects the national resident days-weighted mean
15 Reported Total Nurse Staffing Hours Per Resident Per Day
16 as calculated using the January 2024 federal Provider
17 Information Files), divided by the national resident
18 days-weighted mean Reported Total Nurse Staffing Hours Per
19 Resident Per Day calculated using the most recent federal
20 Provider Information File. Facilities with at least 70% of
21 the staffing indicated by the STRIVE study shall be paid a
22 per diem add-on of \$9, increasing by equivalent steps for
23 each whole percentage point until the facilities reach a
24 per diem of \$16.52 ~~\$14.88~~. Facilities with at least 80% of
25 the staffing indicated by the STRIVE study shall be paid a
26 per diem add-on of \$16.52 ~~\$14.88~~, increasing by equivalent

1 steps for each whole percentage point until the facilities
2 reach a per diem add-on of \$25.77 ~~\$23.80~~. Facilities with
3 at least 92% of the staffing indicated by the STRIVE study
4 shall be paid a per diem add-on of \$25.77 ~~\$23.80~~,
5 increasing by equivalent steps for each whole percentage
6 point until the facilities reach a per diem add-on of
7 \$30.98 ~~\$29.75~~. Facilities with at least 100% of the
8 staffing indicated by the STRIVE study shall be paid a per
9 diem add-on of \$30.98 ~~\$29.75~~, increasing by equivalent
10 steps for each whole percentage point until the facilities
11 reach a per diem add-on of \$36.44 ~~\$35.70~~. Facilities with
12 at least 110% of the staffing indicated by the STRIVE
13 study shall be paid a per diem add-on of \$36.44 ~~\$35.70~~,
14 increasing by equivalent steps for each whole percentage
15 point until the facilities reach a per diem add-on of
16 \$38.68. Facilities with at least 125% or higher of the
17 staffing indicated by the STRIVE study shall be paid a per
18 diem add-on of \$38.68. ~~No Beginning April 1, 2023, no~~
19 nursing facility's variable staffing per diem add-on shall
20 be reduced by more than 5% in 2 consecutive quarters. For
21 the quarters beginning July 1, 2022 and October 1, 2022,
22 no facility's variable per diem staffing add-on shall be
23 calculated at a rate lower than 85% of the staffing
24 indicated by the STRIVE study. No facility below 70% of
25 the staffing indicated by the STRIVE study shall receive a
26 variable per diem staffing add-on after December 31, 2022.

1 (7) For dates of services beginning July 1, 2022, the
2 PDPM nursing component per diem for each nursing facility
3 shall be the product of the facility's (i) statewide PDPM
4 nursing base per diem rate, \$92.25, adjusted for the
5 facility average PDPM case mix index calculated quarterly
6 and (ii) the regional wage adjuster, and then add the
7 Medicaid access adjustment as defined in (e-3) of this
8 Section. Transition rates for services provided between
9 July 1, 2022 and October 1, 2023 shall be the greater of
10 the PDPM nursing component per diem or:

11 (A) for the quarter beginning July 1, 2022, the
12 RUG-IV nursing component per diem;

13 (B) for the quarter beginning October 1, 2022, the
14 sum of the RUG-IV nursing component per diem
15 multiplied by 0.80 and the PDPM nursing component per
16 diem multiplied by 0.20;

17 (C) for the quarter beginning January 1, 2023, the
18 sum of the RUG-IV nursing component per diem
19 multiplied by 0.60 and the PDPM nursing component per
20 diem multiplied by 0.40;

21 (D) for the quarter beginning April 1, 2023, the
22 sum of the RUG-IV nursing component per diem
23 multiplied by 0.40 and the PDPM nursing component per
24 diem multiplied by 0.60;

25 (E) for the quarter beginning July 1, 2023, the
26 sum of the RUG-IV nursing component per diem

1 multiplied by 0.20 and the PDPM nursing component per
2 diem multiplied by 0.80; or

3 (F) for the quarter beginning October 1, 2023 and
4 each subsequent quarter, the transition rate shall end
5 and a nursing facility shall be paid 100% of the PDPM
6 nursing component per diem.

7 (d-1) Calculation of base year Statewide RUG-IV nursing
8 base per diem rate.

9 (1) Base rate spending pool shall be:

10 (A) The base year resident days which are
11 calculated by multiplying the number of Medicaid
12 residents in each nursing home as indicated in the MDS
13 data defined in paragraph (4) by 365.

14 (B) Each facility's nursing component per diem in
15 effect on July 1, 2012 shall be multiplied by
16 subsection (A).

17 (C) Thirteen million is added to the product of
18 subparagraph (A) and subparagraph (B) to adjust for
19 the exclusion of nursing homes defined in paragraph
20 (5).

21 (2) For each nursing home with Medicaid residents as
22 indicated by the MDS data defined in paragraph (4),
23 weighted days adjusted for case mix and regional wage
24 adjustment shall be calculated. For each home this
25 calculation is the product of:

26 (A) Base year resident days as calculated in

1 subparagraph (A) of paragraph (1).

2 (B) The nursing home's regional wage adjustor
3 based on the Health Service Areas (HSA) groupings and
4 adjustors in effect on April 30, 2012.

5 (C) Facility weighted case mix which is the number
6 of Medicaid residents as indicated by the MDS data
7 defined in paragraph (4) multiplied by the associated
8 case weight for the RUG-IV 48 grouper model using
9 standard RUG-IV procedures for index maximization.

10 (D) The sum of the products calculated for each
11 nursing home in subparagraphs (A) through (C) above
12 shall be the base year case mix, rate adjusted
13 weighted days.

14 (3) The Statewide RUG-IV nursing base per diem rate:

15 (A) on January 1, 2014 shall be the quotient of the
16 paragraph (1) divided by the sum calculated under
17 subparagraph (D) of paragraph (2);

18 (B) on and after July 1, 2014 and until July 1,
19 2022, shall be the amount calculated under
20 subparagraph (A) of this paragraph (3) plus \$1.76; and

21 (C) beginning July 1, 2022 and thereafter, \$7
22 shall be added to the amount calculated under
23 subparagraph (B) of this paragraph (3) of this
24 Section.

25 (4) Minimum Data Set (MDS) comprehensive assessments
26 for Medicaid residents on the last day of the quarter used

1 to establish the base rate.

2 (5) Nursing facilities designated as of July 1, 2012
3 by the Department as "Institutions for Mental Disease"
4 shall be excluded from all calculations under this
5 subsection. The data from these facilities shall not be
6 used in the computations described in paragraphs (1)
7 through (4) above to establish the base rate.

8 (e) Beginning July 1, 2014, the Department shall allocate
9 funding in the amount up to \$10,000,000 for per diem add-ons to
10 the RUGS methodology for dates of service on and after July 1,
11 2014:

12 (1) \$0.63 for each resident who scores in I4200
13 Alzheimer's Disease or I4800 non-Alzheimer's Dementia.

14 (2) \$2.67 for each resident who scores either a "1" or
15 "2" in any items S1200A through S1200I and also scores in
16 RUG groups PA1, PA2, BA1, or BA2.

17 (e-1) (Blank).

18 (e-2) For dates of services beginning January 1, 2014 and
19 ending September 30, 2023, the RUG-IV nursing component per
20 diem for a nursing home shall be the product of the statewide
21 RUG-IV nursing base per diem rate, the facility average case
22 mix index, and the regional wage adjustor. For dates of
23 service beginning July 1, 2022 and ending September 30, 2023,
24 the Medicaid access adjustment described in subsection (e-3)
25 shall be added to the product.

26 (e-3) A Medicaid Access Adjustment of \$4 adjusted for the

1 facility average PDPM case mix index calculated quarterly
2 shall be added to the statewide PDPM nursing per diem for all
3 facilities with annual Medicaid bed days of at least 70% of all
4 occupied bed days adjusted quarterly. For each new calendar
5 year and for the 6-month period beginning July 1, 2022, the
6 percentage of a facility's occupied bed days comprised of
7 Medicaid bed days shall be determined by the Department
8 quarterly. For dates of service beginning January 1, 2023, the
9 Medicaid Access Adjustment shall be increased to \$4.75. This
10 subsection shall be inoperative on and after January 1, 2028.

11 (e-4) Subject to federal approval, on and after January 1,
12 2024, the Department shall increase the rate add-on at
13 paragraph (7) subsection (a) under 89 Ill. Adm. Code 147.335
14 for ventilator services from \$208 per day to \$481 per day.
15 Payment is subject to the criteria and requirements under 89
16 Ill. Adm. Code 147.335.

17 (f) (Blank).

18 (g) Notwithstanding any other provision of this Code, on
19 and after July 1, 2012, for facilities not designated by the
20 Department of Healthcare and Family Services as "Institutions
21 for Mental Disease", rates effective May 1, 2011 shall be
22 adjusted as follows:

23 (1) (Blank);

24 (2) (Blank);

25 (3) Facility rates for the capital and support
26 components shall be reduced by 1.7%.

1 (h) Notwithstanding any other provision of this Code, on
2 and after July 1, 2012, nursing facilities designated by the
3 Department of Healthcare and Family Services as "Institutions
4 for Mental Disease" and "Institutions for Mental Disease" that
5 are facilities licensed under the Specialized Mental Health
6 Rehabilitation Act of 2013 shall have the nursing,
7 socio-developmental, capital, and support components of their
8 reimbursement rate effective May 1, 2011 reduced in total by
9 2.7%.

10 (i) On and after July 1, 2014, the reimbursement rates for
11 the support component of the nursing facility rate for
12 facilities licensed under the Nursing Home Care Act as skilled
13 or intermediate care facilities shall be the rate in effect on
14 June 30, 2014 increased by 8.17%.

15 (i-1) Subject to federal approval, on and after January 1,
16 2024, the reimbursement rates for the support component of the
17 nursing facility rate for facilities licensed under the
18 Nursing Home Care Act as skilled or intermediate care
19 facilities shall be the rate in effect on June 30, 2023
20 increased by 12%.

21 (j) Notwithstanding any other provision of law, subject to
22 federal approval, effective July 1, 2019, sufficient funds
23 shall be allocated for changes to rates for facilities
24 licensed under the Nursing Home Care Act as skilled nursing
25 facilities or intermediate care facilities for dates of
26 services on and after July 1, 2019: (i) to establish, through

1 June 30, 2022 a per diem add-on to the direct care per diem
2 rate not to exceed \$70,000,000 annually in the aggregate
3 taking into account federal matching funds for the purpose of
4 addressing the facility's unique staffing needs, adjusted
5 quarterly and distributed by a weighted formula based on
6 Medicaid bed days on the last day of the second quarter
7 preceding the quarter for which the rate is being adjusted.
8 Beginning July 1, 2022, the annual \$70,000,000 described in
9 the preceding sentence shall be dedicated to the variable per
10 diem add-on for staffing under paragraph (6) of subsection
11 (d); and (ii) in an amount not to exceed \$170,000,000 annually
12 in the aggregate taking into account federal matching funds to
13 permit the support component of the nursing facility rate to
14 be updated as follows:

15 (1) 80%, or \$136,000,000, of the funds shall be used
16 to update each facility's rate in effect on June 30, 2019
17 using the most recent cost reports on file, which have had
18 a limited review conducted by the Department of Healthcare
19 and Family Services and will not hold up enacting the rate
20 increase, with the Department of Healthcare and Family
21 Services.

22 (2) After completing the calculation in paragraph (1),
23 any facility whose rate is less than the rate in effect on
24 June 30, 2019 shall have its rate restored to the rate in
25 effect on June 30, 2019 from the 20% of the funds set
26 aside.

1 (3) The remainder of the 20%, or \$34,000,000, shall be
2 used to increase each facility's rate by an equal
3 percentage.

4 (k) During the first quarter of State Fiscal Year 2020,
5 the Department of Healthcare of Family Services must convene a
6 technical advisory group consisting of members of all trade
7 associations representing Illinois skilled nursing providers
8 to discuss changes necessary with federal implementation of
9 Medicare's Patient-Driven Payment Model. Implementation of
10 Medicare's Patient-Driven Payment Model shall, by September 1,
11 2020, end the collection of the MDS data that is necessary to
12 maintain the current RUG-IV Medicaid payment methodology. The
13 technical advisory group must consider a revised reimbursement
14 methodology that takes into account transparency,
15 accountability, actual staffing as reported under the
16 federally required Payroll Based Journal system, changes to
17 the minimum wage, adequacy in coverage of the cost of care, and
18 a quality component that rewards quality improvements.

19 (1) The Department shall establish per diem add-on
20 payments to improve the quality of care delivered by
21 facilities, including:

22 (1) Incentive payments determined by facility
23 performance on specified quality measures in an initial
24 amount of \$70,000,000. Nothing in this subsection shall be
25 construed to limit the quality of care payments in the
26 aggregate statewide to \$70,000,000, and, if quality of

1 care has improved across nursing facilities, the
2 Department shall adjust those add-on payments accordingly.
3 The quality payment methodology described in this
4 subsection must be used for at least State Fiscal Year
5 2023. Beginning with the quarter starting July 1, 2023,
6 the Department may add, remove, or change quality metrics
7 and make associated changes to the quality payment
8 methodology as outlined in subparagraph (E). Facilities
9 designated by the Centers for Medicare and Medicaid
10 Services as a special focus facility or a hospital-based
11 nursing home do not qualify for quality payments.

12 (A) Each quality pool must be distributed by
13 assigning a quality weighted score for each nursing
14 home which is calculated by multiplying the nursing
15 home's quality base period Medicaid days by the
16 nursing home's star rating weight in that period.

17 (B) Star rating weights are assigned based on the
18 nursing home's star rating for the LTS quality star
19 rating. As used in this subparagraph, "LTS quality
20 star rating" means the long-term stay quality rating
21 for each nursing facility, as assigned by the Centers
22 for Medicare and Medicaid Services under the Five-Star
23 Quality Rating System. The rating is a number ranging
24 from 0 (lowest) to 5 (highest).

25 (i) Zero-star or one-star rating has a weight
26 of 0.

1 (ii) Two-star rating has a weight of 0.75.

2 (iii) Three-star rating has a weight of 1.5.

3 (iv) Four-star rating has a weight of 2.5.

4 (v) Five-star rating has a weight of 3.5.

5 (C) Each nursing home's quality weight score is
6 divided by the sum of all quality weight scores for
7 qualifying nursing homes to determine the proportion
8 of the quality pool to be paid to the nursing home.

9 (D) The quality pool is no less than \$70,000,000
10 annually or \$17,500,000 per quarter. The Department
11 shall publish on its website the estimated payments
12 and the associated weights for each facility 45 days
13 prior to when the initial payments for the quarter are
14 to be paid. The Department shall assign each facility
15 the most recent and applicable quarter's STAR value
16 unless the facility notifies the Department within 15
17 days of an issue and the facility provides reasonable
18 evidence demonstrating its timely compliance with
19 federal data submission requirements for the quarter
20 of record. If such evidence cannot be provided to the
21 Department, the STAR rating assigned to the facility
22 shall be reduced by one from the prior quarter.

23 (E) The Department shall review quality metrics
24 used for payment of the quality pool and make
25 recommendations for any associated changes to the
26 methodology for distributing quality pool payments in

1 consultation with associations representing long-term
2 care providers, consumer advocates, organizations
3 representing workers of long-term care facilities, and
4 payors. The Department may establish, by rule, changes
5 to the methodology for distributing quality pool
6 payments.

7 (F) The Department shall disburse quality pool
8 payments from the Long-Term Care Provider Fund on a
9 monthly basis in amounts proportional to the total
10 quality pool payment determined for the quarter.

11 (G) The Department shall publish any changes in
12 the methodology for distributing quality pool payments
13 prior to the beginning of the measurement period or
14 quality base period for any metric added to the
15 distribution's methodology.

16 (2) Payments based on CNA tenure, promotion, and CNA
17 training for the purpose of increasing CNA compensation.
18 It is the intent of this subsection that payments made in
19 accordance with this paragraph be directly incorporated
20 into increased compensation for CNAs. As used in this
21 paragraph, "CNA" means a certified nursing assistant as
22 that term is described in Section 3-206 of the Nursing
23 Home Care Act, Section 3-206 of the ID/DD Community Care
24 Act, and Section 3-206 of the MC/DD Act. The Department
25 shall establish, by rule, payments to nursing facilities
26 equal to Medicaid's share of the tenure wage increments

1 specified in this paragraph for all reported CNA employee
2 hours compensated according to a posted schedule
3 consisting of increments at least as large as those
4 specified in this paragraph. The increments are as
5 follows: an additional \$1.50 per hour for CNAs with at
6 least one and less than 2 years' experience plus another
7 \$1 per hour for each additional year of experience up to a
8 maximum of \$6.50 for CNAs with at least 6 years of
9 experience. For purposes of this paragraph, Medicaid's
10 share shall be the ratio determined by paid Medicaid bed
11 days divided by total bed days for the applicable time
12 period used in the calculation. In addition, and additive
13 to any tenure increments paid as specified in this
14 paragraph, the Department shall establish, by rule,
15 payments supporting Medicaid's share of the
16 promotion-based wage increments for CNA employee hours
17 compensated for that promotion with at least a \$1.50
18 hourly increase. Medicaid's share shall be established as
19 it is for the tenure increments described in this
20 paragraph. Qualifying promotions shall be defined by the
21 Department in rules for an expected 10-15% subset of CNAs
22 assigned intermediate, specialized, or added roles such as
23 CNA trainers, CNA scheduling "captains", and CNA
24 specialists for resident conditions like dementia or
25 memory care or behavioral health.

26 (m) The Department shall work with nursing facility

1 industry representatives to design policies and procedures to
2 permit facilities to address the integrity of data from
3 federal reporting sites used by the Department in setting
4 facility rates.

5 (Source: P.A. 102-77, eff. 7-9-21; 102-558, eff. 8-20-21;
6 102-1035, eff. 5-31-22; 102-1118, eff. 1-18-23; 103-102,
7 Article 40, Section 40-5, eff. 1-1-24; 103-102, Article 50,
8 Section 50-5, eff. 1-1-24; revised 12-15-23.)

9 Section 99. Effective date. This Act takes effect October
10 1, 2024.