



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2026

Introduced 2/9/2023, by Sen. Laura M. Murphy

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 28363 SPS 54743 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.