



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4184

Introduced 2/27/2009, by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

Amends the Illinois Public Aid Code. Provides that the Department of Healthcare and Family Services shall utilize the same procedures for payments to all facilities licensed by the Department of Public Health under the Nursing Home Care Act. Provides that the facilities licensed by the Department of Public Health under the Nursing Home Care Act as an Intermediate Care Facility for the Developmentally Disabled or Long Term Care for Under Age 22 facilities shall be paid no later than the facilities licensed by the Department of Public Health as Skilled and Intermediate Care Facilities. Effective immediately.

LRB096 11810 DRJ 22649 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning public aid.

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

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

6 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

7 Sec. 5-5.4. Standards of Payment - Department of Healthcare
8 and Family Services. The Department of Healthcare and Family
9 Services shall develop standards of payment of skilled nursing
10 and intermediate care services in facilities providing such
11 services under this Article which:

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

1 for newly constructed facilities shall be based upon projected
2 budgets. The annually established payment rate shall take
3 effect on July 1 in 1984 and subsequent years. No rate increase
4 and no update for inflation shall be provided on or after July
5 1, 1994 and before July 1, 2009, unless specifically provided
6 for in this Section. The changes made by Public Act 93-841
7 extending the duration of the prohibition against a rate
8 increase or update for inflation are effective retroactive to
9 July 1, 2004.

10 Prompt payment provision. The Department of Healthcare and
11 Family Services shall utilize the same procedures for payments
12 to all facilities licensed by the Department of Public Health
13 under the Nursing Home Care Act. The facilities licensed by the
14 Department of Public Health under the Nursing Home Care Act as
15 an Intermediate Care Facility for the Developmentally Disabled
16 or Long Term Care for Under Age 22 facilities shall be paid no
17 later than the facilities licensed by the Department of Public
18 Health as Skilled and Intermediate Care Facilities.

19 For facilities licensed by the Department of Public Health
20 under the Nursing Home Care Act as Intermediate Care for the
21 Developmentally Disabled facilities or Long Term Care for Under
22 Age 22 facilities, the rates taking effect on July 1, 1998
23 shall include an increase of 3%. For facilities licensed by the
24 Department of Public Health under the Nursing Home Care Act as
25 Skilled Nursing facilities or Intermediate Care facilities,
26 the rates taking effect on July 1, 1998 shall include an

1 increase of 3% plus \$1.10 per resident-day, as defined by the
2 Department. For facilities licensed by the Department of Public
3 Health under the Nursing Home Care Act as Intermediate Care
4 Facilities for the Developmentally Disabled or Long Term Care
5 for Under Age 22 facilities, the rates taking effect on January
6 1, 2006 shall include an increase of 3%. For facilities
7 licensed by the Department of Public Health under the Nursing
8 Home Care Act as Intermediate Care Facilities for the
9 Developmentally Disabled or Long Term Care for Under Age 22
10 facilities, the rates taking effect on January 1, 2009 shall
11 include an increase sufficient to provide a \$0.50 per hour wage
12 increase for non-executive staff.

13 For facilities licensed by the Department of Public Health
14 under the Nursing Home Care Act as Intermediate Care for the
15 Developmentally Disabled facilities or Long Term Care for Under
16 Age 22 facilities, the rates taking effect on July 1, 1999
17 shall include an increase of 1.6% plus \$3.00 per resident-day,
18 as defined by the Department. For facilities licensed by the
19 Department of Public Health under the Nursing Home Care Act as
20 Skilled Nursing facilities or Intermediate Care facilities,
21 the rates taking effect on July 1, 1999 shall include an
22 increase of 1.6% and, for services provided on or after October
23 1, 1999, shall be increased by \$4.00 per resident-day, as
24 defined by the Department.

25 For facilities licensed by the Department of Public Health
26 under the Nursing Home Care Act as Intermediate Care for the

1 Developmentally Disabled facilities or Long Term Care for Under
2 Age 22 facilities, the rates taking effect on July 1, 2000
3 shall include an increase of 2.5% per resident-day, as defined
4 by the Department. For facilities licensed by the Department of
5 Public Health under the Nursing Home Care Act as Skilled
6 Nursing facilities or Intermediate Care facilities, the rates
7 taking effect on July 1, 2000 shall include an increase of 2.5%
8 per resident-day, as defined by the Department.

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

25 (A) For a facility that would receive a lower nursing
26 component rate per patient day under the new system than

1 the facility received effective on the date immediately
2 preceding the date that the Department implements the new
3 payment methodology, the nursing component rate per
4 patient day for the facility shall be held at the level in
5 effect on the date immediately preceding the date that the
6 Department implements the new payment methodology until a
7 higher nursing component rate of reimbursement is achieved
8 by that facility.

9 (B) For a facility that would receive a higher nursing
10 component rate per patient day under the payment
11 methodology in effect on July 1, 2003 than the facility
12 received effective on the date immediately preceding the
13 date that the Department implements the new payment
14 methodology, the nursing component rate per patient day for
15 the facility shall be adjusted.

16 (C) Notwithstanding paragraphs (A) and (B), the
17 nursing component rate per patient day for the facility
18 shall be adjusted subject to appropriations provided by the
19 General Assembly.

20 For facilities licensed by the Department of Public Health
21 under the Nursing Home Care Act as Intermediate Care for the
22 Developmentally Disabled facilities or Long Term Care for Under
23 Age 22 facilities, the rates taking effect on March 1, 2001
24 shall include a statewide increase of 7.85%, as defined by the
25 Department.

26 Notwithstanding any other provision of this Section, for

1 facilities licensed by the Department of Public Health under
2 the Nursing Home Care Act as skilled nursing facilities or
3 intermediate care facilities, the numerator of the ratio used
4 by the Department of Healthcare and Family Services to compute
5 the rate payable under this Section using the Minimum Data Set
6 (MDS) methodology shall incorporate the following annual
7 amounts as the additional funds appropriated to the Department
8 specifically to pay for rates based on the MDS nursing
9 component methodology in excess of the funding in effect on
10 December 31, 2006:

11 (i) For rates taking effect January 1, 2007,
12 \$60,000,000.

13 (ii) For rates taking effect January 1, 2008,
14 \$110,000,000.

15 (iii) For rates taking effect January 1, 2009,
16 \$194,000,000.

17 Notwithstanding any other provision of this Section, for
18 facilities licensed by the Department of Public Health under
19 the Nursing Home Care Act as skilled nursing facilities or
20 intermediate care facilities, the support component of the
21 rates taking effect on January 1, 2008 shall be computed using
22 the most recent cost reports on file with the Department of
23 Healthcare and Family Services no later than April 1, 2005,
24 updated for inflation to January 1, 2006.

25 For facilities licensed by the Department of Public Health
26 under the Nursing Home Care Act as Intermediate Care for the

1 Developmentally Disabled facilities or Long Term Care for Under
2 Age 22 facilities, the rates taking effect on April 1, 2002
3 shall include a statewide increase of 2.0%, as defined by the
4 Department. This increase terminates on July 1, 2002; beginning
5 July 1, 2002 these rates are reduced to the level of the rates
6 in effect on March 31, 2002, as defined by the Department.

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

16 Notwithstanding any other provision of this Section, for
17 facilities licensed by the Department of Public Health under
18 the Nursing Home Care Act as skilled nursing facilities or
19 intermediate care facilities, the Illinois Department shall
20 determine by rule the rates taking effect on July 1, 2002,
21 which shall be 5.9% less than the rates in effect on June 30,
22 2002.

23 Notwithstanding any other provision of this Section, for
24 facilities licensed by the Department of Public Health under
25 the Nursing Home Care Act as skilled nursing facilities or
26 intermediate care facilities, if the payment methodologies

1 required under Section 5A-12 and the waiver granted under 42
2 CFR 433.68 are approved by the United States Centers for
3 Medicare and Medicaid Services, the rates taking effect on July
4 1, 2004 shall be 3.0% greater than the rates in effect on June
5 30, 2004. These rates shall take effect only upon approval and
6 implementation of the payment methodologies required under
7 Section 5A-12.

8 Notwithstanding any other provisions of this Section, for
9 facilities licensed by the Department of Public Health under
10 the Nursing Home Care Act as skilled nursing facilities or
11 intermediate care facilities, the rates taking effect on
12 January 1, 2005 shall be 3% more than the rates in effect on
13 December 31, 2004.

14 Notwithstanding any other provision 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, effective January 1, 2009, the
18 per diem support component of the rates effective on January 1,
19 2008, computed using the most recent cost reports on file with
20 the Department of Healthcare and Family Services no later than
21 April 1, 2005, updated for inflation to January 1, 2006, shall
22 be increased to the amount that would have been derived using
23 standard Department of Healthcare and Family Services methods,
24 procedures, and inflators.

25 Notwithstanding any other provisions of this Section, for
26 facilities licensed by the Department of Public Health under

1 the Nursing Home Care Act as intermediate care facilities that
2 are federally defined as Institutions for Mental Disease, a
3 socio-development component rate equal to 6.6% of the
4 facility's nursing component rate as of January 1, 2006 shall
5 be established and paid effective July 1, 2006. The
6 socio-development component of the rate shall be increased by a
7 factor of 2.53 on the first day of the month that begins at
8 least 45 days after January 11, 2008 (the effective date of
9 Public Act 95-707). As of August 1, 2008, the socio-development
10 component rate shall be equal to 6.6% of the facility's nursing
11 component rate as of January 1, 2006, multiplied by a factor of
12 3.53. The Illinois Department may by rule adjust these
13 socio-development component rates, but in no case may such
14 rates be diminished.

15 For facilities licensed by the Department of Public Health
16 under the Nursing Home Care Act as Intermediate Care for the
17 Developmentally Disabled facilities or as long-term care
18 facilities for residents under 22 years of age, the rates
19 taking effect on July 1, 2003 shall include a statewide
20 increase of 4%, as defined by the Department.

21 For facilities licensed by the Department of Public Health
22 under the Nursing Home Care Act as Intermediate Care for the
23 Developmentally Disabled facilities or Long Term Care for Under
24 Age 22 facilities, the rates taking effect on the first day of
25 the month that begins at least 45 days after the effective date
26 of this amendatory Act of the 95th General Assembly shall

1 include a statewide increase of 2.5%, as defined by the
2 Department.

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, effective January 1, 2005,
7 facility rates shall be increased by the difference between (i)
8 a facility's per diem property, liability, and malpractice
9 insurance costs as reported in the cost report filed with the
10 Department of Public Aid and used to establish rates effective
11 July 1, 2001 and (ii) those same costs as reported in the
12 facility's 2002 cost report. These costs shall be passed
13 through to the facility without caps or limitations, except for
14 adjustments required under normal auditing procedures.

15 Rates established effective each July 1 shall govern
16 payment for services rendered throughout that fiscal year,
17 except that rates established on July 1, 1996 shall be
18 increased by 6.8% for services provided on or after January 1,
19 1997. Such rates will be based upon the rates calculated for
20 the year beginning July 1, 1990, and for subsequent years
21 thereafter until June 30, 2001 shall be based on the facility
22 cost reports for the facility fiscal year ending at any point
23 in time during the previous calendar year, updated to the
24 midpoint of the rate year. The cost report shall be on file
25 with the Department no later than April 1 of the current rate
26 year. Should the cost report not be on file by April 1, the

1 Department shall base the rate on the latest cost report filed
2 by each skilled care facility and intermediate care facility,
3 updated to the midpoint of the current rate year. In
4 determining rates for services rendered on and after July 1,
5 1985, fixed time shall not be computed at less than zero. The
6 Department shall not make any alterations of regulations which
7 would reduce any component of the Medicaid rate to a level
8 below what that component would have been utilizing in the rate
9 effective on July 1, 1984.

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

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

16 (4) Shall take into account the actual costs incurred by
17 facilities in meeting licensing and certification standards
18 imposed and prescribed by the State of Illinois, any of its
19 political subdivisions or municipalities and by the U.S.
20 Department of Health and Human Services pursuant to Title XIX
21 of the Social Security Act.

22 The Department of Healthcare and Family Services shall
23 develop precise standards for payments to reimburse nursing
24 facilities for any utilization of appropriate rehabilitative
25 personnel for the provision of rehabilitative services which is
26 authorized by federal regulations, including reimbursement for

1 services provided by qualified therapists or qualified
2 assistants, and which is in accordance with accepted
3 professional practices. Reimbursement also may be made for
4 utilization of other supportive personnel under appropriate
5 supervision.

6 (Source: P.A. 94-48, eff. 7-1-05; 94-85, eff. 6-28-05; 94-697,
7 eff. 11-21-05; 94-838, eff. 6-6-06; 94-964, eff. 6-28-06;
8 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
9 95-744, eff. 7-18-08.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.