

# HB2198



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB2198

by Rep. Tom Cross

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

Amends the Illinois Public Aid Code. Makes a technical change in a Section concerning standards of payment of skilled nursing and intermediate care services.

LRB097 08310 KTG 48437 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 5-5.4 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 ~~The~~ Department of Healthcare and  
9 Family Services shall develop standards of payment of skilled  
10 nursing and intermediate care services in facilities providing  
11 such 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 MR/DD Community Care Act or the Nursing Home Care Act  
17 as Intermediate Care for the Developmentally Disabled  
18 facilities, Long Term Care for Under Age 22 facilities, Skilled  
19 Nursing facilities, or Intermediate Care facilities under the  
20 medical assistance program shall be prospectively established  
21 annually on the basis of historical, financial, and statistical  
22 data reflecting actual costs from prior years, which shall be  
23 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 and before  
6 July 1, 2011, unless specifically provided for in this Section.  
7 The changes made by Public Act 93-841 extending the duration of  
8 the prohibition against a rate increase or update for inflation  
9 are effective 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 Under  
13 Age 22 facilities, the rates taking effect on July 1, 1998  
14 shall include an increase of 3%. For facilities licensed by the  
15 Department of Public Health under the Nursing Home Care Act as  
16 Skilled Nursing facilities or Intermediate Care facilities,  
17 the rates taking effect on July 1, 1998 shall include an  
18 increase of 3% plus \$1.10 per resident-day, as defined by the  
19 Department. For facilities licensed by the Department of Public  
20 Health under the Nursing Home Care Act as Intermediate Care  
21 Facilities for the Developmentally Disabled or Long Term Care  
22 for Under Age 22 facilities, the rates taking effect on January  
23 1, 2006 shall include an increase of 3%. For facilities  
24 licensed by the Department of Public Health under the Nursing  
25 Home Care Act as Intermediate Care Facilities for the  
26 Developmentally Disabled or Long Term Care for Under Age 22

1 facilities, the rates taking effect on January 1, 2009 shall  
2 include an increase sufficient to provide a \$0.50 per hour wage  
3 increase for non-executive staff.

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 Under  
7 Age 22 facilities, the rates taking effect on July 1, 1999  
8 shall include an increase of 1.6% plus \$3.00 per resident-day,  
9 as defined by the Department. For facilities licensed by the  
10 Department of Public Health under the Nursing Home Care Act as  
11 Skilled Nursing facilities or Intermediate Care facilities,  
12 the rates taking effect on July 1, 1999 shall include an  
13 increase of 1.6% and, for services provided on or after October  
14 1, 1999, shall be increased by \$4.00 per resident-day, as  
15 defined by the Department.

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

26 For facilities licensed by the Department of Public Health

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

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

26 (B) For a facility that would receive a higher nursing

1 component rate per patient day under the payment  
2 methodology in effect on July 1, 2003 than the facility  
3 received effective on the date immediately preceding the  
4 date that the Department implements the new payment  
5 methodology, the nursing component rate per patient day for  
6 the facility shall be adjusted.

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

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

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 numerator of the ratio used  
21 by the Department of Healthcare and Family Services to compute  
22 the rate payable under this Section using the Minimum Data Set  
23 (MDS) methodology shall incorporate the following annual  
24 amounts as the additional funds appropriated to the Department  
25 specifically to pay for rates based on the MDS nursing  
26 component methodology in excess of the funding in effect on

1 December 31, 2006:

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

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

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

8 Notwithstanding any other provision 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 support component of the  
12 rates taking effect on January 1, 2008 shall be computed using  
13 the most recent cost reports on file with the Department of  
14 Healthcare and Family Services no later than April 1, 2005,  
15 updated for inflation to January 1, 2006.

16 For facilities licensed by the Department of Public Health  
17 under the Nursing Home Care Act as Intermediate Care for the  
18 Developmentally Disabled facilities or Long Term Care for Under  
19 Age 22 facilities, the rates taking effect on April 1, 2002  
20 shall include a statewide increase of 2.0%, as defined by the  
21 Department. This increase terminates on July 1, 2002; beginning  
22 July 1, 2002 these rates are reduced to the level of the rates  
23 in effect on March 31, 2002, as defined by the Department.

24 For facilities licensed by the Department of Public Health  
25 under the Nursing Home Care Act as skilled nursing facilities  
26 or intermediate care facilities, the rates taking effect on

1 July 1, 2001 shall be computed using the most recent cost  
2 reports on file with the Department of Public Aid no later than  
3 April 1, 2000, updated for inflation to January 1, 2001. For  
4 rates effective July 1, 2001 only, rates shall be the greater  
5 of the rate computed for July 1, 2001 or the rate effective on  
6 June 30, 2001.

7 Notwithstanding any other provision of this Section, for  
8 facilities licensed by the Department of Public Health under  
9 the Nursing Home Care Act as skilled nursing facilities or  
10 intermediate care facilities, the Illinois Department shall  
11 determine by rule the rates taking effect on July 1, 2002,  
12 which shall be 5.9% less than the rates in effect on June 30,  
13 2002.

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, if the payment methodologies  
18 required under Section 5A-12 and the waiver granted under 42  
19 CFR 433.68 are approved by the United States Centers for  
20 Medicare and Medicaid Services, the rates taking effect on July  
21 1, 2004 shall be 3.0% greater than the rates in effect on June  
22 30, 2004. These rates shall take effect only upon approval and  
23 implementation of the payment methodologies required under  
24 Section 5A-12.

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 skilled nursing facilities or  
2 intermediate care facilities, the rates taking effect on  
3 January 1, 2005 shall be 3% more than the rates in effect on  
4 December 31, 2004.

5 Notwithstanding any other provision of this Section, for  
6 facilities licensed by the Department of Public Health under  
7 the Nursing Home Care Act as skilled nursing facilities or  
8 intermediate care facilities, effective January 1, 2009, the  
9 per diem support component of the rates effective on January 1,  
10 2008, computed using the most recent cost reports on file with  
11 the Department of Healthcare and Family Services no later than  
12 April 1, 2005, updated for inflation to January 1, 2006, shall  
13 be increased to the amount that would have been derived using  
14 standard Department of Healthcare and Family Services methods,  
15 procedures, and inflators.

16 Notwithstanding any other provisions of this Section, for  
17 facilities licensed by the Department of Public Health under  
18 the Nursing Home Care Act as intermediate care facilities that  
19 are federally defined as Institutions for Mental Disease, a  
20 socio-development component rate equal to 6.6% of the  
21 facility's nursing component rate as of January 1, 2006 shall  
22 be established and paid effective July 1, 2006. The  
23 socio-development component of the rate shall be increased by a  
24 factor of 2.53 on the first day of the month that begins at  
25 least 45 days after January 11, 2008 (the effective date of  
26 Public Act 95-707). As of August 1, 2008, the socio-development

1 component rate shall be equal to 6.6% of the facility's nursing  
2 component rate as of January 1, 2006, multiplied by a factor of  
3 3.53. The Illinois Department may by rule adjust these  
4 socio-development component rates, but in no case may such  
5 rates be diminished.

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 Under  
15 Age 22 facilities, the rates taking effect on the first day of  
16 the month that begins at least 45 days after the effective date  
17 of this amendatory Act of the 95th General Assembly shall  
18 include a statewide increase of 2.5%, as defined by the  
19 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 (i)  
25 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 for  
5 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 rate  
26 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 is  
17 authorized by federal regulations, including reimbursement for  
18 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           (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,  
24 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;  
25 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff.  
26 7-2-10.)