

SB0786



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0786

Introduced 2/8/2011, by Sen. John J. Cullerton

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 04504 KTG 44543 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.)