



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2156

Introduced 2/14/2008, by Sen. A. J. Wilhelmi

SYNOPSIS AS INTRODUCED:

20 ILCS 1705/54.5 new
305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

Amends the Mental Health and Developmental Disabilities Administrative Act and the Illinois Public Aid Code. Provides that the Department of Human Services shall provide an annual increase in funding to all programs serving individuals with developmental disabilities for which the Department has established payment rates, including but not limited to intermediate care facilities for the developmentally disabled, services provided under the Illinois Home and Community Based Services Medicaid Waiver for adults with developmental disabilities, and other programs for individuals with developmental disabilities supported by State funds or by funding under the Social Security Act; provides that the annual increase in rates shall be effective the first day of every State fiscal year. Provides that Medicaid payment rates for all nursing facilities certified by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities shall be increased annually on July 1 by the over-the-year increase in the previous calendar year of the non-seasonally-adjusted Employment Cost Index for total compensation for all civilian workers compiled by the U.S. Bureau of Labor Statistics. Effective July 1, 2008.

LRB095 17155 DRJ 43212 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Mental Health and Developmental
5 Disabilities Administrative Act is amended by adding Section
6 54.5 as follows:

7 (20 ILCS 1705/54.5 new)

8 Sec. 54.5. Annual indexed increases for community service
9 providers serving persons with a developmental disability. The
10 Department shall provide an annual increase in funding to all
11 programs serving individuals with developmental disabilities
12 for which the Department has established payment rates pursuant
13 to Section 54 of this Act, including but not limited to
14 intermediate care facilities for the developmentally disabled,
15 services provided under the Illinois Home and Community Based
16 Services Medicaid Waiver for adults with developmental
17 disabilities, and other programs for individuals with
18 developmental disabilities supported by State funds or by
19 funding under Title XIX of the federal Social Security Act. The
20 annual increase in rates shall be effective the first day of
21 every State fiscal year and shall be equal to the over-the-year
22 increase in the previous calendar year of the
23 non-seasonally-adjusted Employment Cost Index for total

1 compensation for civilian workers compiled by the U.S. Bureau
2 of Labor Statistics. For rates that include wage levels, the
3 Department shall adjust those wage levels proportionately to
4 reflect the increase.

5 Section 10. 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 Healthcare
9 and Family Services. The Department of Healthcare and Family
10 Services shall develop standards of payment of skilled nursing
11 and intermediate care services in facilities providing such
12 services under this Article which:

13 (1) Provide for the determination of a facility's payment
14 for skilled nursing and intermediate care services on a
15 prospective basis. The amount of the payment rate for all
16 nursing facilities certified by the Department of Public Health
17 under the Nursing Home Care Act as Intermediate Care for the
18 Developmentally Disabled facilities, Long Term Care for Under
19 Age 22 facilities, Skilled Nursing facilities, or Intermediate
20 Care facilities under the medical assistance program shall be
21 prospectively established annually on the basis of historical,
22 financial, and statistical data reflecting actual costs from
23 prior years, which shall be applied to the current rate year
24 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, 2008, 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. Pursuant to Section 54.5 of the Mental Health and
10 Developmental Disabilities Administrative Act, payment rates
11 for all nursing facilities certified by the Department of
12 Public Health under the Nursing Home Care Act as Intermediate
13 Care for the Developmentally Disabled facilities shall be
14 increased annually on July 1 by the over-the-year increase in
15 the previous calendar year of the non-seasonally-adjusted
16 Employment Cost Index for total compensation for all civilian
17 workers compiled by the U.S. Bureau of Labor Statistics.

18 For facilities licensed by the Department of Public Health
19 under the Nursing Home Care Act as Intermediate Care for the
20 Developmentally Disabled facilities or Long Term Care for Under
21 Age 22 facilities, the rates taking effect on July 1, 1998
22 shall include an increase of 3%. For facilities licensed by the
23 Department of Public Health under the Nursing Home Care Act as
24 Skilled Nursing facilities or Intermediate Care facilities,
25 the rates taking effect on July 1, 1998 shall include an
26 increase of 3% plus \$1.10 per resident-day, as defined by the

1 Department. For facilities licensed by the Department of Public
2 Health under the Nursing Home Care Act as Intermediate Care
3 Facilities for the Developmentally Disabled or Long Term Care
4 for Under Age 22 facilities, the rates taking effect on January
5 1, 2006 shall include an increase of 3%.

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

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

1 per resident-day, as defined by the Department.

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

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

1 by that facility.

2 (B) For a facility that would receive a higher nursing
3 component rate per patient day under the payment
4 methodology in effect on July 1, 2003 than the facility
5 received effective on the date immediately preceding the
6 date that the Department implements the new payment
7 methodology, the nursing component rate per patient day for
8 the facility shall be adjusted.

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

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 March 1, 2001
17 shall include a statewide increase of 7.85%, as defined by the
18 Department.

19 Notwithstanding any other provision of this Section, for
20 facilities licensed by the Department of Public Health under
21 the Nursing Home Care Act as skilled nursing facilities or
22 intermediate care facilities, the numerator of the ratio used
23 by the Department of Healthcare and Family Services to compute
24 the rate payable under this Section using the Minimum Data Set
25 (MDS) methodology shall incorporate the following annual
26 amounts as the additional funds appropriated to the Department

1 specifically to pay for rates based on the MDS nursing
2 component methodology in excess of the funding in effect on
3 December 31, 2006:

4 (i) For rates taking effect January 1, 2007,
5 \$60,000,000.

6 (ii) For rates taking effect January 1, 2008,
7 \$110,000,000.

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 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, a
9 socio-development component rate equal to 6.6% of the
10 facility's nursing component rate as of January 1, 2006 shall
11 be established and paid effective July 1, 2006. The
12 socio-development component of the rate shall be increased by a
13 factor of 2.53 on the first day of the month that begins at
14 least 45 days after the effective date of this amendatory Act
15 of the 95th General Assembly. The Illinois Department may by
16 rule adjust these socio-development component rates, but in no
17 case may such rates be diminished.

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

24 For facilities licensed by the Department of Public Health
25 under the Nursing Home Care Act as Intermediate Care for the
26 Developmentally Disabled facilities or Long Term Care for Under

1 Age 22 facilities, the rates taking effect on the first day of
2 the month that begins at least 45 days after the effective date
3 of this amendatory Act of the 95th General Assembly shall
4 include a statewide increase of 2.5%, as defined by the
5 Department.

6 Notwithstanding any other provision of this Section, for
7 facilities licensed by the Department of Public Health under
8 the Nursing Home Care Act as skilled nursing facilities or
9 intermediate care facilities, effective January 1, 2005,
10 facility rates shall be increased by the difference between (i)
11 a facility's per diem property, liability, and malpractice
12 insurance costs as reported in the cost report filed with the
13 Department of Public Aid and used to establish rates effective
14 July 1, 2001 and (ii) those same costs as reported in the
15 facility's 2002 cost report. These costs shall be passed
16 through to the facility without caps or limitations, except for
17 adjustments required under normal auditing procedures.

18 Rates established effective each July 1 shall govern
19 payment for services rendered throughout that fiscal year,
20 except that rates established on July 1, 1996 shall be
21 increased by 6.8% for services provided on or after January 1,
22 1997. Such rates will be based upon the rates calculated for
23 the year beginning July 1, 1990, and for subsequent years
24 thereafter until June 30, 2001 shall be based on the facility
25 cost reports for the facility fiscal year ending at any point
26 in time during the previous calendar year, updated to the

1 midpoint of the rate year. The cost report shall be on file
2 with the Department no later than April 1 of the current rate
3 year. Should the cost report not be on file by April 1, the
4 Department shall base the rate on the latest cost report filed
5 by each skilled care facility and intermediate care facility,
6 updated to the midpoint of the current rate year. In
7 determining rates for services rendered on and after July 1,
8 1985, fixed time shall not be computed at less than zero. The
9 Department shall not make any alterations of regulations which
10 would reduce any component of the Medicaid rate to a level
11 below what that component would have been utilizing in the rate
12 effective on July 1, 1984.

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

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

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

25 The Department of Healthcare and Family Services shall
26 develop precise standards for payments to reimburse nursing

1 facilities for any utilization of appropriate rehabilitative
2 personnel for the provision of rehabilitative services which is
3 authorized by federal regulations, including reimbursement for
4 services provided by qualified therapists or qualified
5 assistants, and which is in accordance with accepted
6 professional practices. Reimbursement also may be made for
7 utilization of other supportive personnel under appropriate
8 supervision.

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

13 Section 99. Effective date. This Act takes effect July 1,
14 2008.