



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1564

Introduced 2/19/2009, by Sen. David Koehler

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 establish payment rates providing equal pay by July 1, 2016 for direct care workers in all programs serving individuals with developmental disabilities, including but not limited to intermediate care facilities for the developmentally disabled, services provided under the Illinois Home and Community Based Services Medicaid Waivers for adults and children with developmental disabilities, and other programs for individuals with developmental disabilities supported by State funds or by funding under Title XIX of the Social Security Act. Provides that wage rates at specified percentages of the target shall be in effect in years before 2016.

LRB096 09819 KTG 19982 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

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. Wage parity for community service providers
9 serving persons with a developmental disability. The
10 Department shall establish payment rates providing equal pay
11 for direct care workers in all programs serving individuals
12 with developmental disabilities pursuant to Section 54 of this
13 Act, including but not limited to intermediate care facilities
14 for the developmentally disabled, services provided under the
15 Illinois Home and Community Based Services Medicaid Waivers for
16 adults and children with developmental disabilities, and other
17 programs for individuals with developmental disabilities
18 supported by State funds or by funding under Title XIX of the
19 Social Security Act. Such rates shall include wage rates for
20 direct care workers that are no lower than those identified in
21 State collective bargaining agreements for the title Mental
22 Health Technician I, step 1. These wage rates shall be in
23 effect no later than July 1, 2016. Wage rates at 95% of the

1 target shall be in effect no later than July 1, 2015. Wage
2 rates at 90% of the target shall be in effect no later than
3 July 1, 2014. Wage rates at 85% of the target shall be in
4 effect no later than July 1, 2013. Wage rates at 80% of the
5 target shall be in effect no later than July 1, 2012. Wage
6 rates at 75% of the target shall be in effect no later than
7 July 1, 2011. Wage rates at 72% of the target shall be in
8 effect no later than July 1, 2010.

9 Section 10. The Illinois Public Aid Code is amended by
10 changing Section 5-5.4 as follows:

11 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

12 Sec. 5-5.4. Standards of Payment - Department of Healthcare
13 and Family Services. The Department of Healthcare and Family
14 Services shall develop standards of payment of skilled nursing
15 and intermediate care services in facilities providing such
16 services under this Article which:

17 (1) Provide for the determination of a facility's payment
18 for skilled nursing and intermediate care services on a
19 prospective basis. The amount of the payment rate for all
20 nursing facilities certified by the Department of Public Health
21 under the Nursing Home Care Act as Intermediate Care for the
22 Developmentally Disabled facilities, Long Term Care for Under
23 Age 22 facilities, Skilled Nursing facilities, or Intermediate
24 Care facilities under the medical assistance program shall be

1 prospectively established annually on the basis of historical,
2 financial, and statistical data reflecting actual costs from
3 prior years, which shall be applied to the current rate year
4 and updated for inflation, except that the capital cost element
5 for newly constructed facilities shall be based upon projected
6 budgets. The annually established payment rate shall take
7 effect on July 1 in 1984 and subsequent years. No rate increase
8 and no update for inflation shall be provided on or after July
9 1, 1994 and before July 1, 2009, unless specifically provided
10 for in this Section. The changes made by Public Act 93-841
11 extending the duration of the prohibition against a rate
12 increase or update for inflation are effective retroactive to
13 July 1, 2004. Pursuant to Section 54.5 of the Mental Health and
14 Development Disabilities Administrative Act, payments rates
15 for all nursing facilities certified by the Department of
16 Public Health under the Nursing Home Care Act as Intermediate
17 Care for the Developmentally Disabled facilities shall provide
18 equal pay for direct care workers. Such rates shall include
19 wage rates for direct care workers that are no lower than those
20 identified in State collective bargaining agreements for the
21 title Mental Health Technician I, step 1. These wages rates
22 shall be in effect no later than July 1, 2016. Wage rates at
23 95% of the target shall be in effect no later than July 1,
24 2015. Wage rates at 90% of the target shall be in effect no
25 later than July 1, 2014. Wage rates at 85% of the target shall
26 be in effect no later than July 1, 2013. Wage rates at 80% of

1 the target shall be in effect no later than July 1, 2012. Wage
2 rates at 75% of the target shall be in effect no later than
3 July 1, 2011. Wage rates at 72% of the target shall be in
4 effect no later than July 1, 2010.

5 For facilities licensed by the Department of Public Health
6 under the Nursing Home Care Act as Intermediate Care for the
7 Developmentally Disabled facilities or Long Term Care for Under
8 Age 22 facilities, the rates taking effect on July 1, 1998
9 shall include an increase of 3%. 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, 1998 shall include an
13 increase of 3% plus \$1.10 per resident-day, as defined by the
14 Department. For facilities licensed by the Department of Public
15 Health under the Nursing Home Care Act as Intermediate Care
16 Facilities for the Developmentally Disabled or Long Term Care
17 for Under Age 22 facilities, the rates taking effect on January
18 1, 2006 shall include an increase of 3%. For facilities
19 licensed by the Department of Public Health under the Nursing
20 Home Care Act as Intermediate Care Facilities for the
21 Developmentally Disabled or Long Term Care for Under Age 22
22 facilities, the rates taking effect on January 1, 2009 shall
23 include an increase sufficient to provide a \$0.50 per hour wage
24 increase for non-executive staff.

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

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 July 1, 2000
15 shall include an increase of 2.5% per resident-day, as defined
16 by the Department. For facilities licensed by the Department of
17 Public Health under the Nursing Home Care Act as Skilled
18 Nursing facilities or Intermediate Care facilities, the rates
19 taking effect on July 1, 2000 shall include an increase of 2.5%
20 per resident-day, as defined by the Department.

21 For facilities licensed by the Department of Public Health
22 under the Nursing Home Care Act as skilled nursing facilities
23 or intermediate care facilities, a new payment methodology must
24 be implemented for the nursing component of the rate effective
25 July 1, 2003. The Department of Public Aid (now Healthcare and
26 Family Services) shall develop the new payment methodology

1 using the Minimum Data Set (MDS) as the instrument to collect
2 information concerning nursing home resident condition
3 necessary to compute the rate. The Department shall develop the
4 new payment methodology to meet the unique needs of Illinois
5 nursing home residents while remaining subject to the
6 appropriations provided by the General Assembly. A transition
7 period from the payment methodology in effect on June 30, 2003
8 to the payment methodology in effect on July 1, 2003 shall be
9 provided for a period not exceeding 3 years and 184 days after
10 implementation of the new payment methodology as follows:

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

21 (B) For a facility that would receive a higher nursing
22 component rate per patient day under the payment
23 methodology in effect on July 1, 2003 than the facility
24 received effective on the date immediately preceding the
25 date that the Department implements the new payment
26 methodology, the nursing component rate per patient day for

1 the facility shall be adjusted.

2 (C) Notwithstanding paragraphs (A) and (B), the
3 nursing component rate per patient day for the facility
4 shall be adjusted subject to appropriations provided by the
5 General Assembly.

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

12 Notwithstanding any other provision of this Section, for
13 facilities licensed by the Department of Public Health under
14 the Nursing Home Care Act as skilled nursing facilities or
15 intermediate care facilities, the numerator of the ratio used
16 by the Department of Healthcare and Family Services to compute
17 the rate payable under this Section using the Minimum Data Set
18 (MDS) methodology shall incorporate the following annual
19 amounts as the additional funds appropriated to the Department
20 specifically to pay for rates based on the MDS nursing
21 component methodology in excess of the funding in effect on
22 December 31, 2006:

23 (i) For rates taking effect January 1, 2007,
24 \$60,000,000.

25 (ii) For rates taking effect January 1, 2008,
26 \$110,000,000.

1 (iii) For rates taking effect January 1, 2009,
2 \$194,000,000.

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, the support component of the
7 rates taking effect on January 1, 2008 shall be computed using
8 the most recent cost reports on file with the Department of
9 Healthcare and Family Services no later than April 1, 2005,
10 updated for inflation to January 1, 2006.

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 April 1, 2002
15 shall include a statewide increase of 2.0%, as defined by the
16 Department. This increase terminates on July 1, 2002; beginning
17 July 1, 2002 these rates are reduced to the level of the rates
18 in effect on March 31, 2002, as defined by the Department.

19 For facilities licensed by the Department of Public Health
20 under the Nursing Home Care Act as skilled nursing facilities
21 or intermediate care facilities, the rates taking effect on
22 July 1, 2001 shall be computed using the most recent cost
23 reports on file with the Department of Public Aid no later than
24 April 1, 2000, updated for inflation to January 1, 2001. For
25 rates effective July 1, 2001 only, rates shall be the greater
26 of the rate computed for July 1, 2001 or the rate effective on

1 June 30, 2001.

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

9 Notwithstanding any other provision of this Section, for
10 facilities licensed by the Department of Public Health under
11 the Nursing Home Care Act as skilled nursing facilities or
12 intermediate care facilities, if the payment methodologies
13 required under Section 5A-12 and the waiver granted under 42
14 CFR 433.68 are approved by the United States Centers for
15 Medicare and Medicaid Services, the rates taking effect on July
16 1, 2004 shall be 3.0% greater than the rates in effect on June
17 30, 2004. These rates shall take effect only upon approval and
18 implementation of the payment methodologies required under
19 Section 5A-12.

20 Notwithstanding any other provisions 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, the rates taking effect on
24 January 1, 2005 shall be 3% more than the rates in effect on
25 December 31, 2004.

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, effective January 1, 2009, the
4 per diem support component of the rates effective on January 1,
5 2008, computed using the most recent cost reports on file with
6 the Department of Healthcare and Family Services no later than
7 April 1, 2005, updated for inflation to January 1, 2006, shall
8 be increased to the amount that would have been derived using
9 standard Department of Healthcare and Family Services methods,
10 procedures, and inflators.

11 Notwithstanding any other provisions of this Section, for
12 facilities licensed by the Department of Public Health under
13 the Nursing Home Care Act as intermediate care facilities that
14 are federally defined as Institutions for Mental Disease, a
15 socio-development component rate equal to 6.6% of the
16 facility's nursing component rate as of January 1, 2006 shall
17 be established and paid effective July 1, 2006. The
18 socio-development component of the rate shall be increased by a
19 factor of 2.53 on the first day of the month that begins at
20 least 45 days after January 11, 2008 (the effective date of
21 Public Act 95-707). As of August 1, 2008, the socio-development
22 component rate shall be equal to 6.6% of the facility's nursing
23 component rate as of January 1, 2006, multiplied by a factor of
24 3.53. The Illinois Department may by rule adjust these
25 socio-development component rates, but in no case may such
26 rates be diminished.

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

7 For facilities licensed by the Department of Public Health
8 under the Nursing Home Care Act as Intermediate Care for the
9 Developmentally Disabled facilities or Long Term Care for Under
10 Age 22 facilities, the rates taking effect on the first day of
11 the month that begins at least 45 days after the effective date
12 of this amendatory Act of the 95th General Assembly shall
13 include a statewide increase of 2.5%, as defined by the
14 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, effective January 1, 2005,
19 facility rates shall be increased by the difference between (i)
20 a facility's per diem property, liability, and malpractice
21 insurance costs as reported in the cost report filed with the
22 Department of Public Aid and used to establish rates effective
23 July 1, 2001 and (ii) those same costs as reported in the
24 facility's 2002 cost report. These costs shall be passed
25 through to the facility without caps or limitations, except for
26 adjustments required under normal auditing procedures.

1 Rates established effective each July 1 shall govern
2 payment for services rendered throughout that fiscal year,
3 except that rates established on July 1, 1996 shall be
4 increased by 6.8% for services provided on or after January 1,
5 1997. Such rates will be based upon the rates calculated for
6 the year beginning July 1, 1990, and for subsequent years
7 thereafter until June 30, 2001 shall be based on the facility
8 cost reports for the facility fiscal year ending at any point
9 in time during the previous calendar year, updated to the
10 midpoint of the rate year. The cost report shall be on file
11 with the Department no later than April 1 of the current rate
12 year. Should the cost report not be on file by April 1, the
13 Department shall base the rate on the latest cost report filed
14 by each skilled care facility and intermediate care facility,
15 updated to the midpoint of the current rate year. In
16 determining rates for services rendered on and after July 1,
17 1985, fixed time shall not be computed at less than zero. The
18 Department shall not make any alterations of regulations which
19 would reduce any component of the Medicaid rate to a level
20 below what that component would have been utilizing in the rate
21 effective on July 1, 1984.

22 (2) Shall take into account the actual costs incurred by
23 facilities in providing services for recipients of skilled
24 nursing and intermediate care services under the medical
25 assistance program.

26 (3) Shall take into account the medical and psycho-social

1 characteristics and needs of the patients.

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

8 The Department of Healthcare and Family Services shall
9 develop precise standards for payments to reimburse nursing
10 facilities for any utilization of appropriate rehabilitative
11 personnel for the provision of rehabilitative services which is
12 authorized by federal regulations, including reimbursement for
13 services provided by qualified therapists or qualified
14 assistants, and which is in accordance with accepted
15 professional practices. Reimbursement also may be made for
16 utilization of other supportive personnel under appropriate
17 supervision.

18 (Source: P.A. 94-48, eff. 7-1-05; 94-85, eff. 6-28-05; 94-697,
19 eff. 11-21-05; 94-838, eff. 6-6-06; 94-964, eff. 6-28-06;
20 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
21 95-744, eff. 7-18-08.)