



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3125

Introduced 2/17/2023, by Rep. Elizabeth "Lisa" Hernandez

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.2

from Ch. 23, par. 5-5.2

Amends the Medical Assistance Article of the Illinois Public Aid Code. Provides that, on and after July 1, 2023 (rather than July 1, 2014), the reimbursement rates for the support component of the nursing facility rate for facilities licensed under the Nursing Home Care Act as skilled or intermediate care facilities shall be the rate in effect on June 30, 2014 increased by 8.17%. Effective July 1, 2023.

LRB103 29884 KTG 56295 b

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 5-5.2 as follows:

6 (305 ILCS 5/5-5.2) (from Ch. 23, par. 5-5.2)

7 Sec. 5-5.2. Payment.

8 (a) All nursing facilities that are grouped pursuant to
9 Section 5-5.1 of this Act shall receive the same rate of
10 payment for similar services.

11 (b) It shall be a matter of State policy that the Illinois
12 Department shall utilize a uniform billing cycle throughout
13 the State for the long-term care providers.

14 (c) (Blank).

15 (c-1) Notwithstanding any other provisions of this Code,
16 the methodologies for reimbursement of nursing services as
17 provided under this Article shall no longer be applicable for
18 bills payable for nursing services rendered on or after a new
19 reimbursement system based on the Patient Driven Payment Model
20 (PDPM) has been fully operationalized, which shall take effect
21 for services provided on or after the implementation of the
22 PDPM reimbursement system begins. For the purposes of this
23 amendatory Act of the 102nd General Assembly, the

1 implementation date of the PDPM reimbursement system and all
2 related provisions shall be July 1, 2022 if the following
3 conditions are met: (i) the Centers for Medicare and Medicaid
4 Services has approved corresponding changes in the
5 reimbursement system and bed assessment; and (ii) the
6 Department has filed rules to implement these changes no later
7 than June 1, 2022. Failure of the Department to file rules to
8 implement the changes provided in this amendatory Act of the
9 102nd General Assembly no later than June 1, 2022 shall result
10 in the implementation date being delayed to October 1, 2022.

11 (d) The new nursing services reimbursement methodology
12 utilizing the Patient Driven Payment Model, which shall be
13 referred to as the PDPM reimbursement system, taking effect
14 July 1, 2022, upon federal approval by the Centers for
15 Medicare and Medicaid Services, shall be based on the
16 following:

17 (1) The methodology shall be resident-centered,
18 facility-specific, cost-based, and based on guidance from
19 the Centers for Medicare and Medicaid Services.

20 (2) Costs shall be annually rebased and case mix index
21 quarterly updated. The nursing services methodology will
22 be assigned to the Medicaid enrolled residents on record
23 as of 30 days prior to the beginning of the rate period in
24 the Department's Medicaid Management Information System
25 (MMIS) as present on the last day of the second quarter
26 preceding the rate period based upon the Assessment

1 Reference Date of the Minimum Data Set (MDS).

2 (3) Regional wage adjustors based on the Health
3 Service Areas (HSA) groupings and adjusters in effect on
4 April 30, 2012 shall be included, except no adjuster shall
5 be lower than 1.06.

6 (4) PDPM nursing case mix indices in effect on March
7 1, 2022 shall be assigned to each resident class at no less
8 than 0.7858 of the Centers for Medicare and Medicaid
9 Services PDPM unadjusted case mix values, in effect on
10 March 1, 2022.

11 (5) The pool of funds available for distribution by
12 case mix and the base facility rate shall be determined
13 using the formula contained in subsection (d-1).

14 (6) The Department shall establish a variable per diem
15 staffing add-on in accordance with the most recent
16 available federal staffing report, currently the Payroll
17 Based Journal, for the same period of time, and if
18 applicable adjusted for acuity using the same quarter's
19 MDS. The Department shall rely on Payroll Based Journals
20 provided to the Department of Public Health to make a
21 determination of non-submission. If the Department is
22 notified by a facility of missing or inaccurate Payroll
23 Based Journal data or an incorrect calculation of
24 staffing, the Department must make a correction as soon as
25 the error is verified for the applicable quarter.

26 Facilities with at least 70% of the staffing indicated

1 by the STRIVE study shall be paid a per diem add-on of \$9,
2 increasing by equivalent steps for each whole percentage
3 point until the facilities reach a per diem of \$14.88.
4 Facilities with at least 80% of the staffing indicated by
5 the STRIVE study shall be paid a per diem add-on of \$14.88,
6 increasing by equivalent steps for each whole percentage
7 point until the facilities reach a per diem add-on of
8 \$23.80. Facilities with at least 92% of the staffing
9 indicated by the STRIVE study shall be paid a per diem
10 add-on of \$23.80, increasing by equivalent steps for each
11 whole percentage point until the facilities reach a per
12 diem add-on of \$29.75. Facilities with at least 100% of
13 the staffing indicated by the STRIVE study shall be paid a
14 per diem add-on of \$29.75, increasing by equivalent steps
15 for each whole percentage point until the facilities reach
16 a per diem add-on of \$35.70. Facilities with at least 110%
17 of the staffing indicated by the STRIVE study shall be
18 paid a per diem add-on of \$35.70, increasing by equivalent
19 steps for each whole percentage point until the facilities
20 reach a per diem add-on of \$38.68. Facilities with at
21 least 125% or higher of the staffing indicated by the
22 STRIVE study shall be paid a per diem add-on of \$38.68.
23 Beginning April 1, 2023, no nursing facility's variable
24 staffing per diem add-on shall be reduced by more than 5%
25 in 2 consecutive quarters. For the quarters beginning July
26 1, 2022 and October 1, 2022, no facility's variable per

1 diem staffing add-on shall be calculated at a rate lower
2 than 85% of the staffing indicated by the STRIVE study. No
3 facility below 70% of the staffing indicated by the STRIVE
4 study shall receive a variable per diem staffing add-on
5 after December 31, 2022.

6 (7) For dates of services beginning July 1, 2022, the
7 PDPM nursing component per diem for each nursing facility
8 shall be the product of the facility's (i) statewide PDPM
9 nursing base per diem rate, \$92.25, adjusted for the
10 facility average PDPM case mix index calculated quarterly
11 and (ii) the regional wage adjuster, and then add the
12 Medicaid access adjustment as defined in (e-3) of this
13 Section. Transition rates for services provided between
14 July 1, 2022 and October 1, 2023 shall be the greater of
15 the PDPM nursing component per diem or:

16 (A) for the quarter beginning July 1, 2022, the
17 RUG-IV nursing component per diem;

18 (B) for the quarter beginning October 1, 2022, the
19 sum of the RUG-IV nursing component per diem
20 multiplied by 0.80 and the PDPM nursing component per
21 diem multiplied by 0.20;

22 (C) for the quarter beginning January 1, 2023, the
23 sum of the RUG-IV nursing component per diem
24 multiplied by 0.60 and the PDPM nursing component per
25 diem multiplied by 0.40;

26 (D) for the quarter beginning April 1, 2023, the

1 sum of the RUG-IV nursing component per diem
2 multiplied by 0.40 and the PDPM nursing component per
3 diem multiplied by 0.60;

4 (E) for the quarter beginning July 1, 2023, the
5 sum of the RUG-IV nursing component per diem
6 multiplied by 0.20 and the PDPM nursing component per
7 diem multiplied by 0.80; or

8 (F) for the quarter beginning October 1, 2023 and
9 each subsequent quarter, the transition rate shall end
10 and a nursing facility shall be paid 100% of the PDPM
11 nursing component per diem.

12 (d-1) Calculation of base year Statewide RUG-IV nursing
13 base per diem rate.

14 (1) Base rate spending pool shall be:

15 (A) The base year resident days which are
16 calculated by multiplying the number of Medicaid
17 residents in each nursing home as indicated in the MDS
18 data defined in paragraph (4) by 365.

19 (B) Each facility's nursing component per diem in
20 effect on July 1, 2012 shall be multiplied by
21 subsection (A).

22 (C) Thirteen million is added to the product of
23 subparagraph (A) and subparagraph (B) to adjust for
24 the exclusion of nursing homes defined in paragraph
25 (5).

26 (2) For each nursing home with Medicaid residents as

1 indicated by the MDS data defined in paragraph (4),
2 weighted days adjusted for case mix and regional wage
3 adjustment shall be calculated. For each home this
4 calculation is the product of:

5 (A) Base year resident days as calculated in
6 subparagraph (A) of paragraph (1).

7 (B) The nursing home's regional wage adjustor
8 based on the Health Service Areas (HSA) groupings and
9 adjustors in effect on April 30, 2012.

10 (C) Facility weighted case mix which is the number
11 of Medicaid residents as indicated by the MDS data
12 defined in paragraph (4) multiplied by the associated
13 case weight for the RUG-IV 48 grouper model using
14 standard RUG-IV procedures for index maximization.

15 (D) The sum of the products calculated for each
16 nursing home in subparagraphs (A) through (C) above
17 shall be the base year case mix, rate adjusted
18 weighted days.

19 (3) The Statewide RUG-IV nursing base per diem rate:

20 (A) on January 1, 2014 shall be the quotient of the
21 paragraph (1) divided by the sum calculated under
22 subparagraph (D) of paragraph (2);

23 (B) on and after July 1, 2014 and until July 1,
24 2022, shall be the amount calculated under
25 subparagraph (A) of this paragraph (3) plus \$1.76; and

26 (C) beginning July 1, 2022 and thereafter, \$7

1 shall be added to the amount calculated under
2 subparagraph (B) of this paragraph (3) of this
3 Section.

4 (4) Minimum Data Set (MDS) comprehensive assessments
5 for Medicaid residents on the last day of the quarter used
6 to establish the base rate.

7 (5) Nursing facilities designated as of July 1, 2012
8 by the Department as "Institutions for Mental Disease"
9 shall be excluded from all calculations under this
10 subsection. The data from these facilities shall not be
11 used in the computations described in paragraphs (1)
12 through (4) above to establish the base rate.

13 (e) Beginning July 1, 2014, the Department shall allocate
14 funding in the amount up to \$10,000,000 for per diem add-ons to
15 the RUGS methodology for dates of service on and after July 1,
16 2014:

17 (1) \$0.63 for each resident who scores in I4200
18 Alzheimer's Disease or I4800 non-Alzheimer's Dementia.

19 (2) \$2.67 for each resident who scores either a "1" or
20 "2" in any items S1200A through S1200I and also scores in
21 RUG groups PA1, PA2, BA1, or BA2.

22 (e-1) (Blank).

23 (e-2) For dates of services beginning January 1, 2014 and
24 ending September 30, 2023, the RUG-IV nursing component per
25 diem for a nursing home shall be the product of the statewide
26 RUG-IV nursing base per diem rate, the facility average case

1 mix index, and the regional wage adjustor. For dates of
2 service beginning July 1, 2022 and ending September 30, 2023,
3 the Medicaid access adjustment described in subsection (e-3)
4 shall be added to the product.

5 (e-3) A Medicaid Access Adjustment of \$4 adjusted for the
6 facility average PDPM case mix index calculated quarterly
7 shall be added to the statewide PDPM nursing per diem for all
8 facilities with annual Medicaid bed days of at least 70% of all
9 occupied bed days adjusted quarterly. For each new calendar
10 year and for the 6-month period beginning July 1, 2022, the
11 percentage of a facility's occupied bed days comprised of
12 Medicaid bed days shall be determined by the Department
13 quarterly. For dates of service beginning January 1, 2023, the
14 Medicaid Access Adjustment shall be increased to \$4.75. This
15 subsection shall be inoperative on and after January 1, 2028.

16 (f) (Blank).

17 (g) Notwithstanding any other provision of this Code, on
18 and after July 1, 2012, for facilities not designated by the
19 Department of Healthcare and Family Services as "Institutions
20 for Mental Disease", rates effective May 1, 2011 shall be
21 adjusted as follows:

22 (1) (Blank);

23 (2) (Blank);

24 (3) Facility rates for the capital and support
25 components shall be reduced by 1.7%.

26 (h) Notwithstanding any other provision of this Code, on

1 and after July 1, 2012, nursing facilities designated by the
2 Department of Healthcare and Family Services as "Institutions
3 for Mental Disease" and "Institutions for Mental Disease" that
4 are facilities licensed under the Specialized Mental Health
5 Rehabilitation Act of 2013 shall have the nursing,
6 socio-developmental, capital, and support components of their
7 reimbursement rate effective May 1, 2011 reduced in total by
8 2.7%.

9 (i) On and after July 1, 2023 ~~2014~~, the reimbursement
10 rates for the support component of the nursing facility rate
11 for facilities licensed under the Nursing Home Care Act as
12 skilled or intermediate care facilities shall be the rate in
13 effect on June 30, 2014 increased by 8.17%.

14 (j) Notwithstanding any other provision of law, subject to
15 federal approval, effective July 1, 2019, sufficient funds
16 shall be allocated for changes to rates for facilities
17 licensed under the Nursing Home Care Act as skilled nursing
18 facilities or intermediate care facilities for dates of
19 services on and after July 1, 2019: (i) to establish, through
20 June 30, 2022 a per diem add-on to the direct care per diem
21 rate not to exceed \$70,000,000 annually in the aggregate
22 taking into account federal matching funds for the purpose of
23 addressing the facility's unique staffing needs, adjusted
24 quarterly and distributed by a weighted formula based on
25 Medicaid bed days on the last day of the second quarter
26 preceding the quarter for which the rate is being adjusted.

1 Beginning July 1, 2022, the annual \$70,000,000 described in
2 the preceding sentence shall be dedicated to the variable per
3 diem add-on for staffing under paragraph (6) of subsection
4 (d); and (ii) in an amount not to exceed \$170,000,000 annually
5 in the aggregate taking into account federal matching funds to
6 permit the support component of the nursing facility rate to
7 be updated as follows:

8 (1) 80%, or \$136,000,000, of the funds shall be used
9 to update each facility's rate in effect on June 30, 2019
10 using the most recent cost reports on file, which have had
11 a limited review conducted by the Department of Healthcare
12 and Family Services and will not hold up enacting the rate
13 increase, with the Department of Healthcare and Family
14 Services.

15 (2) After completing the calculation in paragraph (1),
16 any facility whose rate is less than the rate in effect on
17 June 30, 2019 shall have its rate restored to the rate in
18 effect on June 30, 2019 from the 20% of the funds set
19 aside.

20 (3) The remainder of the 20%, or \$34,000,000, shall be
21 used to increase each facility's rate by an equal
22 percentage.

23 (k) During the first quarter of State Fiscal Year 2020,
24 the Department of Healthcare of Family Services must convene a
25 technical advisory group consisting of members of all trade
26 associations representing Illinois skilled nursing providers

1 to discuss changes necessary with federal implementation of
2 Medicare's Patient-Driven Payment Model. Implementation of
3 Medicare's Patient-Driven Payment Model shall, by September 1,
4 2020, end the collection of the MDS data that is necessary to
5 maintain the current RUG-IV Medicaid payment methodology. The
6 technical advisory group must consider a revised reimbursement
7 methodology that takes into account transparency,
8 accountability, actual staffing as reported under the
9 federally required Payroll Based Journal system, changes to
10 the minimum wage, adequacy in coverage of the cost of care, and
11 a quality component that rewards quality improvements.

12 (1) The Department shall establish per diem add-on
13 payments to improve the quality of care delivered by
14 facilities, including:

15 (1) Incentive payments determined by facility
16 performance on specified quality measures in an initial
17 amount of \$70,000,000. Nothing in this subsection shall be
18 construed to limit the quality of care payments in the
19 aggregate statewide to \$70,000,000, and, if quality of
20 care has improved across nursing facilities, the
21 Department shall adjust those add-on payments accordingly.
22 The quality payment methodology described in this
23 subsection must be used for at least State Fiscal Year
24 2023. Beginning with the quarter starting July 1, 2023,
25 the Department may add, remove, or change quality metrics
26 and make associated changes to the quality payment

1 methodology as outlined in subparagraph (E). Facilities
2 designated by the Centers for Medicare and Medicaid
3 Services as a special focus facility or a hospital-based
4 nursing home do not qualify for quality payments.

5 (A) Each quality pool must be distributed by
6 assigning a quality weighted score for each nursing
7 home which is calculated by multiplying the nursing
8 home's quality base period Medicaid days by the
9 nursing home's star rating weight in that period.

10 (B) Star rating weights are assigned based on the
11 nursing home's star rating for the LTS quality star
12 rating. As used in this subparagraph, "LTS quality
13 star rating" means the long-term stay quality rating
14 for each nursing facility, as assigned by the Centers
15 for Medicare and Medicaid Services under the Five-Star
16 Quality Rating System. The rating is a number ranging
17 from 0 (lowest) to 5 (highest).

18 (i) Zero-star or one-star rating has a weight
19 of 0.

20 (ii) Two-star rating has a weight of 0.75.

21 (iii) Three-star rating has a weight of 1.5.

22 (iv) Four-star rating has a weight of 2.5.

23 (v) Five-star rating has a weight of 3.5.

24 (C) Each nursing home's quality weight score is
25 divided by the sum of all quality weight scores for
26 qualifying nursing homes to determine the proportion

1 of the quality pool to be paid to the nursing home.

2 (D) The quality pool is no less than \$70,000,000
3 annually or \$17,500,000 per quarter. The Department
4 shall publish on its website the estimated payments
5 and the associated weights for each facility 45 days
6 prior to when the initial payments for the quarter are
7 to be paid. The Department shall assign each facility
8 the most recent and applicable quarter's STAR value
9 unless the facility notifies the Department within 15
10 days of an issue and the facility provides reasonable
11 evidence demonstrating its timely compliance with
12 federal data submission requirements for the quarter
13 of record. If such evidence cannot be provided to the
14 Department, the STAR rating assigned to the facility
15 shall be reduced by one from the prior quarter.

16 (E) The Department shall review quality metrics
17 used for payment of the quality pool and make
18 recommendations for any associated changes to the
19 methodology for distributing quality pool payments in
20 consultation with associations representing long-term
21 care providers, consumer advocates, organizations
22 representing workers of long-term care facilities, and
23 payors. The Department may establish, by rule, changes
24 to the methodology for distributing quality pool
25 payments.

26 (F) The Department shall disburse quality pool

1 payments from the Long-Term Care Provider Fund on a
2 monthly basis in amounts proportional to the total
3 quality pool payment determined for the quarter.

4 (G) The Department shall publish any changes in
5 the methodology for distributing quality pool payments
6 prior to the beginning of the measurement period or
7 quality base period for any metric added to the
8 distribution's methodology.

9 (2) Payments based on CNA tenure, promotion, and CNA
10 training for the purpose of increasing CNA compensation.
11 It is the intent of this subsection that payments made in
12 accordance with this paragraph be directly incorporated
13 into increased compensation for CNAs. As used in this
14 paragraph, "CNA" means a certified nursing assistant as
15 that term is described in Section 3-206 of the Nursing
16 Home Care Act, Section 3-206 of the ID/DD Community Care
17 Act, and Section 3-206 of the MC/DD Act. The Department
18 shall establish, by rule, payments to nursing facilities
19 equal to Medicaid's share of the tenure wage increments
20 specified in this paragraph for all reported CNA employee
21 hours compensated according to a posted schedule
22 consisting of increments at least as large as those
23 specified in this paragraph. The increments are as
24 follows: an additional \$1.50 per hour for CNAs with at
25 least one and less than 2 years' experience plus another
26 \$1 per hour for each additional year of experience up to a

1 maximum of \$6.50 for CNAs with at least 6 years of
2 experience. For purposes of this paragraph, Medicaid's
3 share shall be the ratio determined by paid Medicaid bed
4 days divided by total bed days for the applicable time
5 period used in the calculation. In addition, and additive
6 to any tenure increments paid as specified in this
7 paragraph, the Department shall establish, by rule,
8 payments supporting Medicaid's share of the
9 promotion-based wage increments for CNA employee hours
10 compensated for that promotion with at least a \$1.50
11 hourly increase. Medicaid's share shall be established as
12 it is for the tenure increments described in this
13 paragraph. Qualifying promotions shall be defined by the
14 Department in rules for an expected 10-15% subset of CNAs
15 assigned intermediate, specialized, or added roles such as
16 CNA trainers, CNA scheduling "captains", and CNA
17 specialists for resident conditions like dementia or
18 memory care or behavioral health.

19 (m) The Department shall work with nursing facility
20 industry representatives to design policies and procedures to
21 permit facilities to address the integrity of data from
22 federal reporting sites used by the Department in setting
23 facility rates.

24 (Source: P.A. 101-10, eff. 6-5-19; 101-348, eff. 8-9-19;
25 102-77, eff. 7-9-21; 102-558, eff. 8-20-21; 102-1035, eff.
26 5-31-22; 102-1118, eff. 1-18-23.)

1 Section 99. Effective date. This Act takes effect July 1,
2 2023.