



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3399

Introduced 2/8/2024, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.55 new

20 ILCS 1705/55.5 new

20 ILCS 1705/74

305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

305 ILCS 5/5-5.4i

Amends the Mental Health and Developmental Disabilities Administrative Act. Requires the Department of Human Services to establish reimbursement rates that build toward livable wages for front-line personnel in residential and day programs and service coordination agencies serving persons with intellectual and developmental disabilities. Provides that for community-based providers serving persons with intellectual or developmental disabilities, subject to federal approval, the rates taking effect for services delivered on or after July 1, 2024 shall be increased sufficiently to: (i) provide a minimum \$3.00 per hour wage increase over the wages in effect on June 30, 2024 for front-line personnel; and (ii) provide wages for all other residential non-executive direct care staff, excluding direct support professionals, at the U.S. Department of Labor's average wage as defined, by rule, by the Department. Amends the Illinois Public Aid Code. Provides that for ID/DD facilities and MC/DD facilities, the rates taking effect for services delivered on or after July 1, 2024, shall be increased sufficiently to: (i) provide a minimum \$3.00 per hour wage increase over the wages in effect on June 30, 2024 for front-line personnel; and (ii) provide wages for all other residential non-executive direct care staff, excluding direct support professionals, at the U.S. Department of Labor's average wage as defined, by rule, by the Department. Requires the same increase for front-line personnel employed at community-based providers serving persons with intellectual or developmental disabilities. Amends the Illinois Administrative Procedure Act. Grants the Departments of Human Services and Healthcare and Family Services emergency rulemaking authority. Effective immediately.

LRB103 37183 KTG 67302 b

1 AN ACT concerning care for persons with developmental
2 disabilities.

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

5 Section 1. This Act may be referred to as the Community
6 Disability Living Wage Act.

7 Section 2. Findings.

8 (1) An estimated 22,000 children and adults with
9 intellectual and developmental disabilities are supported
10 in community-based settings in Illinois; direct support
11 professionals (DSPs), are trained paraprofessional staff
12 who are engaged in activities of daily living and
13 community support; too many of these employees earn wages
14 that place them and their families below the poverty
15 level.

16 (2) In Illinois, nearly half of direct care workers
17 rely on public assistance to make ends meet, creating
18 additional expenditures for State government; low wages
19 are a consequence of the historically low reimbursement
20 rates paid by the State of Illinois to community-based
21 service providers.

22 (3) The lack of adequate wages for employees who
23 perform the challenging work of supporting persons with

1 intellectual and developmental disabilities results in
2 high employee turnover, which in turn negatively impacts
3 the quality of services provided, higher wages are proven
4 to reduce staff turnover, improving stability and quality
5 of services while reducing employer training costs.

6 (4) Rising wages in other sectors now mean, despite
7 the modest wage increase and strenuous efforts to recruit
8 new workers, agencies are experiencing DSP vacancy rates
9 of 25%; excessive vacancies force employers to rely more
10 on overtime, leading to staff burnout and driving up
11 costs.

12 (5) A December 2020 report issued by an independent
13 consulting group commissioned by the State to propose
14 changes to the State's reimbursement for community
15 disability agencies recommended that addressing DSP wages
16 was the number one priority for ensuring compliance with
17 the mandates of the Ligas Consent Decree, and further
18 recommended that wages for DSPs should be fixed at 150% of
19 the prevailing minimum wage plus additional funding for
20 benefits.

21 (6) The difference between 150% of the State minimum
22 wage on January 1, 2025 and the hourly DSP wage rate set by
23 the State amounts to \$3.00 per hour.

24 (7) The General Assembly finds that in order to reduce
25 turnover, increase retention, fill vacancies, and ensure
26 DSPs are adequately compensated for the critically

1 important work they do, an increase in rates and
2 reimbursements to community-based service providers to
3 effectuate an increase in the hourly wage paid to DSPs is
4 needed.

5 Section 3. Purpose and intent. It is the purpose of this
6 Act to increase the wages of DSPs and other front-line staff in
7 community disability agencies beyond the poverty level and to
8 a level competitive with rival employers and above the State
9 minimum wage, in an effort to improve the lives of DSPs and the
10 lives of the vulnerable persons they support.

11 It is the intent of the General Assembly to ensure that all
12 funds resulting from rate increases provided to community
13 disability agencies are allocated to front-line employee wages
14 in order to address the current workforce crisis which is the
15 primary obstacle to the availability of community-based
16 services for people with disabilities.

17 Section 5. The Illinois Administrative Procedure Act is
18 amended by adding Section 5-45.55 as follows:

19 (5 ILCS 100/5-45.55 new)

20 Sec. 5-45.55 Emergency rulemaking; Departments of Human
21 Services and Healthcare and Family Services. To provide for
22 the expeditious and timely implementation of changes made by
23 this amendatory Act of the 103rd General Assembly to Section

1 74 of the Mental Health and Developmental Disabilities
2 Administrative Act and to Sections 5-5.4 and 5-5.4i of the
3 Illinois Public Aid Code, emergency rules implementing the
4 changes made by this amendatory Act of the 103rd General
5 Assembly to Section 74 of the Mental Health and Developmental
6 Disabilities Administrative Act and to Sections 5-5.4 and
7 5-5.4i of the Illinois Public Aid Code may be adopted in
8 accordance with Section 5-45 by the respective Department. The
9 adoption of emergency rules authorized by Section 5-45 and
10 this Section is deemed to be necessary for the public
11 interest, safety, and welfare.

12 This Section is repealed one year after the effective date
13 of this amendatory Act of the 103rd General Assembly.

14 Section 10. The Mental Health and Developmental
15 Disabilities Administrative Act is amended by changing Section
16 74 and by adding Section 55.5 as follows:

17 (20 ILCS 1705/55.5 new)

18 Sec. 55.5. Increased wages for front-line personnel. As
19 used in this Section, "front-line personnel" means direct
20 support professionals, aides, front-line supervisors, and
21 non-administrative support staff working in service settings
22 outlined in this Section.

23 The Department shall establish reimbursement rates that
24 build toward livable wages for front-line personnel in

1 residential and day programs and service coordination agencies
2 servicing persons with intellectual and developmental
3 disabilities under Section 54 of this Act, including, but not
4 limited to, intermediate care for the developmentally disabled
5 facilities, medically complex for the developmentally disabled
6 facilities, community-integrated living arrangements,
7 community day services, employment, and other residential and
8 day programs for persons with intellectual and developmental
9 disabilities supported by State funds or funding under Title
10 XIX of the federal Social Security Act.

11 The Department shall increase rates and reimbursements so
12 that by July 1, 2024 direct support professionals wages shall
13 be increased by \$3.00 per hour, and so that other front-line
14 personnel earn a commensurate wage.

15 (20 ILCS 1705/74)

16 Sec. 74. Rates and reimbursements.

17 (a) Within 30 days after July 6, 2017 (the effective date
18 of Public Act 100-23), the Department shall increase rates and
19 reimbursements to fund a minimum of a \$0.75 per hour wage
20 increase for front-line personnel, including, but not limited
21 to, direct support professionals, aides, front-line
22 supervisors, qualified intellectual disabilities
23 professionals, nurses, and non-administrative support staff
24 working in community-based provider organizations serving
25 individuals with developmental disabilities. The Department

1 shall adopt rules, including emergency rules under subsection
2 (y) of Section 5-45 of the Illinois Administrative Procedure
3 Act, to implement the provisions of this Section.

4 (b) Rates and reimbursements. Within 30 days after June 4,
5 2018 (the effective date of Public Act 100-587), the
6 Department shall increase rates and reimbursements to fund a
7 minimum of a \$0.50 per hour wage increase for front-line
8 personnel, including, but not limited to, direct support
9 professionals, aides, front-line supervisors, qualified
10 intellectual disabilities professionals, nurses, and
11 non-administrative support staff working in community-based
12 provider organizations serving individuals with developmental
13 disabilities. The Department shall adopt rules, including
14 emergency rules under subsection (bb) of Section 5-45 of the
15 Illinois Administrative Procedure Act, to implement the
16 provisions of this Section.

17 (c) Rates and reimbursements. Within 30 days after June 5,
18 2019 (the effective date of Public Act 101-10), subject to
19 federal approval, the Department shall increase rates and
20 reimbursements in effect on June 30, 2019 for community-based
21 providers for persons with Developmental Disabilities by 3.5%
22 The Department shall adopt rules, including emergency rules
23 under subsection (jj) of Section 5-45 of the Illinois
24 Administrative Procedure Act, to implement the provisions of
25 this Section, including wage increases for direct care staff.

26 (d) For community-based providers serving persons with

1 intellectual/developmental disabilities, subject to federal
2 approval of any relevant Waiver Amendment, the rates taking
3 effect for services delivered on or after January 1, 2022,
4 shall include an increase in the rate methodology sufficient
5 to provide a \$1.50 per hour wage increase for direct support
6 professionals in residential settings and sufficient to
7 provide wages for all residential non-executive direct care
8 staff, excluding direct support professionals, at the federal
9 Department of Labor, Bureau of Labor Statistics' average wage
10 as defined in rule by the Department.

11 The establishment of and any changes to the rate
12 methodologies for community-based services provided to persons
13 with intellectual/developmental disabilities are subject to
14 federal approval of any relevant Waiver Amendment and shall be
15 defined in rule by the Department. The Department shall adopt
16 rules, including emergency rules as authorized by Section 5-45
17 of the Illinois Administrative Procedure Act, to implement the
18 provisions of this subsection (d).

19 (e) For community-based providers serving persons with
20 intellectual/developmental disabilities, subject to federal
21 approval of any relevant Waiver Amendment, the rates taking
22 effect for services delivered on or after January 1, 2023,
23 shall include an increase in the rate methodology sufficient
24 to provide a \$1.00 per hour wage increase for all direct
25 support professionals and all other frontline personnel who
26 are not subject to the Bureau of Labor Statistics' average

1 wage increases, who work in residential and community day
2 services settings, with at least \$0.50 of those funds to be
3 provided as a direct increase to base wages, with the
4 remaining \$0.50 to be used flexibly for base wage increases.
5 In addition, the rates taking effect for services delivered on
6 or after January 1, 2023 shall include an increase sufficient
7 to provide wages for all residential non-executive direct care
8 staff, excluding direct support professionals, at the federal
9 Department of Labor, Bureau of Labor Statistics' average wage
10 as defined in rule by the Department.

11 The establishment of and any changes to the rate
12 methodologies for community-based services provided to persons
13 with intellectual/developmental disabilities are subject to
14 federal approval of any relevant Waiver Amendment and shall be
15 defined in rule by the Department. The Department shall adopt
16 rules, including emergency rules as authorized by Section 5-45
17 of the Illinois Administrative Procedure Act, to implement the
18 provisions of this subsection.

19 (f) For community-based providers serving persons with
20 intellectual/developmental disabilities, subject to federal
21 approval of any relevant Waiver Amendment, the rates taking
22 effect for services delivered on or after January 1, 2024
23 shall include an increase in the rate methodology sufficient
24 to provide a \$2.50 per hour wage increase for all direct
25 support professionals and all other frontline personnel who
26 are not subject to the Bureau of Labor Statistics' average

1 wage increases and who work in residential and community day
2 services settings. At least \$1.25 of the per hour wage
3 increase shall be provided as a direct increase to base wages,
4 and the remaining \$1.25 of the per hour wage increase shall be
5 used flexibly for base wage increases. In addition, the rates
6 taking effect for services delivered on or after January 1,
7 2024 shall include an increase sufficient to provide wages for
8 all residential non-executive direct care staff, excluding
9 direct support professionals, at the federal Department of
10 Labor, Bureau of Labor Statistics' average wage as defined in
11 rule by the Department.

12 The establishment of and any changes to the rate
13 methodologies for community-based services provided to persons
14 with intellectual/developmental disabilities are subject to
15 federal approval of any relevant Waiver Amendment and shall be
16 defined in rule by the Department. The Department shall adopt
17 rules, including emergency rules as authorized by Section 5-45
18 of the Illinois Administrative Procedure Act, to implement the
19 provisions of this subsection.

20 (g) For community-based providers serving persons with
21 intellectual or developmental disabilities, subject to federal
22 approval, the rates taking effect for services delivered on or
23 after July 1, 2024 shall be increased sufficiently to provide
24 a minimum \$3.00 per hour wage increase over the wages in effect
25 on June 30, 2024 for front-line personnel, including, but not
26 limited to, direct support professionals, aides, front-line

1 supervisors, and non-administrative support staff working in
2 community-based provider organizations serving individuals
3 with developmental disabilities, and sufficient to provide
4 wages for all other residential non-executive direct care
5 staff, excluding direct support professionals, at the U.S.
6 Department of Labor, Bureau of Labor Statistics' average wage
7 as defined, by rule, by the Department. The Department shall
8 adopt rules, including emergency rules in accordance with the
9 Illinois Administrative Procedure Act, to implement the
10 provisions of this subsection.

11 (Source: P.A. 102-16, eff. 6-17-21; 102-699, eff. 4-19-22;
12 102-830, eff. 1-1-23; 103-8, eff. 6-7-23; 103-154, eff.
13 6-30-23.)

14 Section 15. The Illinois Public Aid Code is amended by
15 changing Sections 5-5.4 and 5-5.4i as follows:

16 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

17 Sec. 5-5.4. Standards of Payment - Department of
18 Healthcare and Family Services. The Department of Healthcare
19 and Family Services shall develop standards of payment of
20 nursing facility and ICF/DD services in facilities providing
21 such services under this Article which:

22 (1) Provide for the determination of a facility's payment
23 for nursing facility or ICF/DD services on a prospective
24 basis. The amount of the payment rate for all nursing

1 facilities certified by the Department of Public Health under
2 the ID/DD Community Care Act or the Nursing Home Care Act as
3 Intermediate Care for the Developmentally Disabled facilities,
4 Long Term Care for Under Age 22 facilities, Skilled Nursing
5 facilities, or Intermediate Care facilities under the medical
6 assistance program shall be prospectively established annually
7 on the basis of historical, financial, and statistical data
8 reflecting actual costs from prior years, which shall be
9 applied to the current rate year and updated for inflation,
10 except that the capital cost element for newly constructed
11 facilities shall be based upon projected budgets. The annually
12 established payment rate shall take effect on July 1 in 1984
13 and subsequent years. No rate increase and no update for
14 inflation shall be provided on or after July 1, 1994, unless
15 specifically provided for in this Section. The changes made by
16 Public Act 93-841 extending the duration of the prohibition
17 against a rate increase or update for inflation are effective
18 retroactive to July 1, 2004.

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

1 include an increase of 3% plus \$1.10 per resident-day, as
2 defined by the Department. For facilities licensed by the
3 Department of Public Health under the Nursing Home Care Act as
4 Intermediate Care Facilities for the Developmentally Disabled
5 or Long Term Care for Under Age 22 facilities, the rates taking
6 effect on January 1, 2006 shall include an increase of 3%. For
7 facilities licensed by the Department of Public Health under
8 the Nursing Home Care Act as Intermediate Care Facilities for
9 the Developmentally Disabled or Long Term Care for Under Age
10 22 facilities, the rates taking effect on January 1, 2009
11 shall include an increase sufficient to provide a \$0.50 per
12 hour wage increase for non-executive staff. For facilities
13 licensed by the Department of Public Health under the ID/DD
14 Community Care Act as ID/DD Facilities the rates taking effect
15 within 30 days after July 6, 2017 (the effective date of Public
16 Act 100-23) shall include an increase sufficient to provide a
17 \$0.75 per hour wage increase for non-executive staff. The
18 Department shall adopt rules, including emergency rules under
19 subsection (y) of Section 5-45 of the Illinois Administrative
20 Procedure Act, to implement the provisions of this paragraph.
21 For facilities licensed by the Department of Public Health
22 under the ID/DD Community Care Act as ID/DD Facilities and
23 under the MC/DD Act as MC/DD Facilities, the rates taking
24 effect within 30 days after June 5, 2019 (the effective date of
25 Public Act 101-10) shall include an increase sufficient to
26 provide a \$0.50 per hour wage increase for non-executive

1 front-line personnel, including, but not limited to, direct
2 support persons, aides, front-line supervisors, qualified
3 intellectual disabilities professionals, nurses, and
4 non-administrative support staff. The Department shall adopt
5 rules, including emergency rules under subsection (bb) of
6 Section 5-45 of the Illinois Administrative Procedure Act, to
7 implement the provisions of this paragraph.

8 For facilities licensed by the Department of Public Health
9 under the ID/DD Community Care Act as ID/DD facilities and
10 under the MC/DD Act as MC/DD facilities, subject to federal
11 approval, the rates taking effect for services delivered on or
12 after July 1, 2024, shall be increased sufficiently to provide
13 a minimum \$3.00 per hour wage increase over the wages in effect
14 on June 30, 2024 for front-line personnel, including, but not
15 limited to, direct support professionals, aides, front-line
16 supervisors, and non-administrative support staff working in
17 community-based provider organizations serving individuals
18 with developmental disabilities, and sufficient to provide
19 wages for all other residential non-executive direct care
20 staff, excluding direct support professionals, at the U.S.
21 Department of Labor, Bureau of Labor Statistics' average wage
22 as defined, by rule, by the Department. The Department shall
23 adopt rules, including emergency rules in accordance with the
24 Illinois Administrative Procedure Act, to implement the
25 provisions of this paragraph.

26 For facilities licensed by the Department of Public Health

1 under the Nursing Home Care Act as Intermediate Care for the
2 Developmentally Disabled facilities or Long Term Care for
3 Under Age 22 facilities, the rates taking effect on July 1,
4 1999 shall include an increase of 1.6% plus \$3.00 per
5 resident-day, as defined by the Department. For facilities
6 licensed by the Department of Public Health under the Nursing
7 Home Care Act as Skilled Nursing facilities or Intermediate
8 Care facilities, the rates taking effect on July 1, 1999 shall
9 include an increase of 1.6% and, for services provided on or
10 after October 1, 1999, shall be increased by \$4.00 per
11 resident-day, 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
15 Under Age 22 facilities, the rates taking effect on July 1,
16 2000 shall include an increase of 2.5% per resident-day, as
17 defined by the Department. For facilities licensed by the
18 Department of Public Health under the Nursing Home Care Act as
19 Skilled Nursing facilities or Intermediate Care facilities,
20 the rates taking effect on July 1, 2000 shall include an
21 increase of 2.5% per resident-day, as defined by the
22 Department.

23 For facilities licensed by the Department of Public Health
24 under the Nursing Home Care Act as skilled nursing facilities
25 or intermediate care facilities, a new payment methodology
26 must be implemented for the nursing component of the rate

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

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

24 (B) For a facility that would receive a higher nursing
25 component rate per patient day under the payment
26 methodology in effect on July 1, 2003 than the facility

1 received effective on the date immediately preceding the
2 date that the Department implements the new payment
3 methodology, the nursing component rate per patient day
4 for the facility shall be adjusted.

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

9 For facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act as Intermediate Care for the
11 Developmentally Disabled facilities or Long Term Care for
12 Under Age 22 facilities, the rates taking effect on March 1,
13 2001 shall include a statewide increase of 7.85%, as defined
14 by the 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, except facilities participating
19 in the Department's demonstration program pursuant to the
20 provisions of Title 77, Part 300, Subpart T of the Illinois
21 Administrative Code, the numerator of the ratio used by the
22 Department of Healthcare and Family Services to compute the
23 rate payable under this Section using the Minimum Data Set
24 (MDS) methodology shall incorporate the following annual
25 amounts as the additional funds appropriated to the Department
26 specifically to pay for rates based on the MDS nursing

1 component methodology in excess of the funding in effect on
2 December 31, 2006:

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

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

7 (iii) For rates taking effect January 1, 2009,
8 \$194,000,000.

9 (iv) For rates taking effect April 1, 2011, or the
10 first day of the month that begins at least 45 days after
11 February 16, 2011 (the effective date of Public Act
12 96-1530), \$416,500,000 or an amount as may be necessary to
13 complete the transition to the MDS methodology for the
14 nursing component of the rate. Increased payments under
15 this item (iv) are not due and payable, however, until (i)
16 the methodologies described in this paragraph are approved
17 by the federal government in an appropriate State Plan
18 amendment and (ii) the assessment imposed by Section 5B-2
19 of this Code is determined to be a permissible tax under
20 Title XIX of the Social Security Act.

21 Notwithstanding any other provision of this Section, for
22 facilities licensed by the Department of Public Health under
23 the Nursing Home Care Act as skilled nursing facilities or
24 intermediate care facilities, the support component of the
25 rates taking effect on January 1, 2008 shall be computed using
26 the most recent cost reports on file with the Department of

1 Healthcare and Family Services no later than April 1, 2005,
2 updated for inflation to January 1, 2006.

3 For facilities licensed by the Department of Public Health
4 under the Nursing Home Care Act as Intermediate Care for the
5 Developmentally Disabled facilities or Long Term Care for
6 Under Age 22 facilities, the rates taking effect on April 1,
7 2002 shall include a statewide increase of 2.0%, as defined by
8 the Department. This increase terminates on July 1, 2002;
9 beginning July 1, 2002 these rates are reduced to the level of
10 the rates in effect on March 31, 2002, as defined by the
11 Department.

12 For facilities licensed by the Department of Public Health
13 under the Nursing Home Care Act as skilled nursing facilities
14 or intermediate care facilities, the rates taking effect on
15 July 1, 2001 shall be computed using the most recent cost
16 reports on file with the Department of Public Aid no later than
17 April 1, 2000, updated for inflation to January 1, 2001. For
18 rates effective July 1, 2001 only, rates shall be the greater
19 of the rate computed for July 1, 2001 or the rate effective on
20 June 30, 2001.

21 Notwithstanding any other provision of this Section, for
22 facilities licensed by the Department of Public Health under
23 the Nursing Home Care Act as skilled nursing facilities or
24 intermediate care facilities, the Illinois Department shall
25 determine by rule the rates taking effect on July 1, 2002,
26 which shall be 5.9% less than the rates in effect on June 30,

1 2002.

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

13 Notwithstanding any other provisions of this Section, for
14 facilities licensed by the Department of Public Health under
15 the Nursing Home Care Act as skilled nursing facilities or
16 intermediate care facilities, the rates taking effect on
17 January 1, 2005 shall be 3% more than the rates in effect on
18 December 31, 2004.

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, effective January 1, 2009, the
23 per diem support component of the rates effective on January
24 1, 2008, computed using the most recent cost reports on file
25 with the Department of Healthcare and Family Services no later
26 than April 1, 2005, updated for inflation to January 1, 2006,

1 shall be increased to the amount that would have been derived
2 using standard Department of Healthcare and Family Services
3 methods, procedures, and inflators.

4 Notwithstanding any other provisions of this Section, for
5 facilities licensed by the Department of Public Health under
6 the Nursing Home Care Act as intermediate care facilities that
7 are federally defined as Institutions for Mental Disease, or
8 facilities licensed by the Department of Public Health under
9 the Specialized Mental Health Rehabilitation Act of 2013, a
10 socio-development component rate equal to 6.6% of the
11 facility's nursing component rate as of January 1, 2006 shall
12 be established and paid effective July 1, 2006. The
13 socio-development component of the rate shall be increased by
14 a factor of 2.53 on the first day of the month that begins at
15 least 45 days after January 11, 2008 (the effective date of
16 Public Act 95-707). As of August 1, 2008, the
17 socio-development component rate shall be equal to 6.6% of the
18 facility's nursing component rate as of January 1, 2006,
19 multiplied by a factor of 3.53. For services provided on or
20 after April 1, 2011, or the first day of the month that begins
21 at least 45 days after February 16, 2011 (the effective date of
22 Public Act 96-1530), whichever is later, the Illinois
23 Department may by rule adjust these socio-development
24 component rates, and may use different adjustment
25 methodologies for those facilities participating, and those
26 not participating, in the Illinois Department's demonstration

1 program pursuant to the provisions of Title 77, Part 300,
2 Subpart T of the Illinois Administrative Code, but in no case
3 may such rates be diminished below those in effect on August 1,
4 2008.

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 as long-term care
8 facilities for residents under 22 years of age, the rates
9 taking effect on July 1, 2003 shall include a statewide
10 increase of 4%, as 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
14 Under Age 22 facilities, the rates taking effect on the first
15 day of the month that begins at least 45 days after January 11,
16 2008 (the effective date of Public Act 95-707) shall include a
17 statewide increase of 2.5%, as defined by the Department.

18 Notwithstanding any other provision of this Section, for
19 facilities licensed by the Department of Public Health under
20 the Nursing Home Care Act as skilled nursing facilities or
21 intermediate care facilities, effective January 1, 2005,
22 facility rates shall be increased by the difference between
23 (i) a facility's per diem property, liability, and malpractice
24 insurance costs as reported in the cost report filed with the
25 Department of Public Aid and used to establish rates effective
26 July 1, 2001 and (ii) those same costs as reported in the

1 facility's 2002 cost report. These costs shall be passed
2 through to the facility without caps or limitations, except
3 for adjustments required under normal auditing procedures.

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

25 (2) Shall take into account the actual costs incurred by
26 facilities in providing services for recipients of skilled

1 nursing and intermediate care services under the medical
2 assistance program.

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

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

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

21 The Department shall develop enhanced payments to offset
22 the additional costs incurred by a facility serving
23 exceptional need residents and shall allocate at least
24 \$4,000,000 of the funds collected from the assessment
25 established by Section 5B-2 of this Code for such payments.
26 For the purpose of this Section, "exceptional needs" means,

1 but need not be limited to, ventilator care and traumatic
2 brain injury care. The enhanced payments for exceptional need
3 residents under this paragraph are not due and payable,
4 however, until (i) the methodologies described in this
5 paragraph are approved by the federal government in an
6 appropriate State Plan amendment and (ii) the assessment
7 imposed by Section 5B-2 of this Code is determined to be a
8 permissible tax under Title XIX of the Social Security Act.

9 Beginning January 1, 2014 the methodologies for
10 reimbursement of nursing facility services as provided under
11 this Section 5-5.4 shall no longer be applicable for services
12 provided on or after January 1, 2014.

13 No payment increase under this Section for the MDS
14 methodology, exceptional care residents, or the
15 socio-development component rate established by Public Act
16 96-1530 of the 96th General Assembly and funded by the
17 assessment imposed under Section 5B-2 of this Code shall be
18 due and payable until after the Department notifies the
19 long-term care providers, in writing, that the payment
20 methodologies to long-term care providers required under this
21 Section have been approved by the Centers for Medicare and
22 Medicaid Services of the U.S. Department of Health and Human
23 Services and the waivers under 42 CFR 433.68 for the
24 assessment imposed by this Section, if necessary, have been
25 granted by the Centers for Medicare and Medicaid Services of
26 the U.S. Department of Health and Human Services. Upon

1 notification to the Department of approval of the payment
2 methodologies required under this Section and the waivers
3 granted under 42 CFR 433.68, all increased payments otherwise
4 due under this Section prior to the date of notification shall
5 be due and payable within 90 days of the date federal approval
6 is received.

7 On and after July 1, 2012, the Department shall reduce any
8 rate of reimbursement for services or other payments or alter
9 any methodologies authorized by this Code to reduce any rate
10 of reimbursement for services or other payments in accordance
11 with Section 5-5e.

12 For facilities licensed by the Department of Public Health
13 under the ID/DD Community Care Act as ID/DD Facilities and
14 under the MC/DD Act as MC/DD Facilities, subject to federal
15 approval, the rates taking effect for services delivered on or
16 after August 1, 2019 shall be increased by 3.5% over the rates
17 in effect on June 30, 2019. The Department shall adopt rules,
18 including emergency rules under subsection (ii) of Section
19 5-45 of the Illinois Administrative Procedure Act, to
20 implement the provisions of this Section, including wage
21 increases for direct care staff.

22 For facilities licensed by the Department of Public Health
23 under the ID/DD Community Care Act as ID/DD Facilities and
24 under the MC/DD Act as MC/DD Facilities, subject to federal
25 approval, the rates taking effect on the latter of the
26 approval date of the State Plan Amendment for these facilities

1 or the Waiver Amendment for the home and community-based
2 services settings shall include an increase sufficient to
3 provide a \$0.26 per hour wage increase to the base wage for
4 non-executive staff. The Department shall adopt rules,
5 including emergency rules as authorized by Section 5-45 of the
6 Illinois Administrative Procedure Act, to implement the
7 provisions of this Section, including wage increases for
8 direct care staff.

9 For facilities licensed by the Department of Public Health
10 under the ID/DD Community Care Act as ID/DD Facilities and
11 under the MC/DD Act as MC/DD Facilities, subject to federal
12 approval of the State Plan Amendment and the Waiver Amendment
13 for the home and community-based services settings, the rates
14 taking effect for the services delivered on or after July 1,
15 2020 shall include an increase sufficient to provide a \$1.00
16 per hour wage increase for non-executive staff. For services
17 delivered on or after January 1, 2021, subject to federal
18 approval of the State Plan Amendment and the Waiver Amendment
19 for the home and community-based services settings, shall
20 include an increase sufficient to provide a \$0.50 per hour
21 increase for non-executive staff. The Department shall adopt
22 rules, including emergency rules as authorized by Section 5-45
23 of the Illinois Administrative Procedure Act, to implement the
24 provisions of this Section, including wage increases for
25 direct care staff.

26 For facilities licensed by the Department of Public Health

1 under the ID/DD Community Care Act as ID/DD Facilities and
2 under the MC/DD Act as MC/DD Facilities, subject to federal
3 approval of the State Plan Amendment, the rates taking effect
4 for the residential services delivered on or after July 1,
5 2021, shall include an increase sufficient to provide a \$0.50
6 per hour increase for aides in the rate methodology. For
7 facilities licensed by the Department of Public Health under
8 the ID/DD Community Care Act as ID/DD Facilities and under the
9 MC/DD Act as MC/DD Facilities, subject to federal approval of
10 the State Plan Amendment, the rates taking effect for the
11 residential services delivered on or after January 1, 2022
12 shall include an increase sufficient to provide a \$1.00 per
13 hour increase for aides in the rate methodology. In addition,
14 for residential services delivered on or after January 1, 2022
15 such rates shall include an increase sufficient to provide
16 wages for all residential non-executive direct care staff,
17 excluding aides, at the federal Department of Labor, Bureau of
18 Labor Statistics' average wage as defined in rule by the
19 Department. The Department shall adopt rules, including
20 emergency rules as authorized by Section 5-45 of the Illinois
21 Administrative Procedure Act, to implement the provisions of
22 this Section.

23 For facilities licensed by the Department of Public Health
24 under the ID/DD Community Care Act as ID/DD facilities and
25 under the MC/DD Act as MC/DD facilities, subject to federal
26 approval of the State Plan Amendment, the rates taking effect

1 for services delivered on or after January 1, 2023, shall
2 include a \$1.00 per hour wage increase for all direct support
3 personnel and all other frontline personnel who are not
4 subject to the Bureau of Labor Statistics' average wage
5 increases, who work in residential and community day services
6 settings, with at least \$0.50 of those funds to be provided as
7 a direct increase to all aide base wages, with the remaining
8 \$0.50 to be used flexibly for base wage increases to the rate
9 methodology for aides. In addition, for residential services
10 delivered on or after January 1, 2023 the rates shall include
11 an increase sufficient to provide wages for all residential
12 non-executive direct care staff, excluding aides, at the
13 federal Department of Labor, Bureau of Labor Statistics'
14 average wage as determined by the Department. Also, for
15 services delivered on or after January 1, 2023, the rates will
16 include adjustments to employment-related expenses as defined
17 in rule by the Department. The Department shall adopt rules,
18 including emergency rules as authorized by Section 5-45 of the
19 Illinois Administrative Procedure Act, to implement the
20 provisions of this Section.

21 For facilities licensed by the Department of Public Health
22 under the ID/DD Community Care Act as ID/DD facilities and
23 under the MC/DD Act as MC/DD facilities, subject to federal
24 approval of the State Plan Amendment, the rates taking effect
25 for services delivered on or after January 1, 2024 shall
26 include a \$2.50 per hour wage increase for all direct support

1 personnel and all other frontline personnel who are not
2 subject to the Bureau of Labor Statistics' average wage
3 increases and who work in residential and community day
4 services settings. At least \$1.25 of the per hour wage
5 increase shall be provided as a direct increase to all aide
6 base wages, and the remaining \$1.25 of the per hour wage
7 increase shall be used flexibly for base wage increases to the
8 rate methodology for aides. In addition, for residential
9 services delivered on or after January 1, 2024, the rates
10 shall include an increase sufficient to provide wages for all
11 residential non-executive direct care staff, excluding aides,
12 at the federal Department of Labor, Bureau of Labor
13 Statistics' average wage as determined by the Department.
14 Also, for services delivered on or after January 1, 2024, the
15 rates will include adjustments to employment-related expenses
16 as defined in rule by the Department. The Department shall
17 adopt rules, including emergency rules as authorized by
18 Section 5-45 of the Illinois Administrative Procedure Act, to
19 implement the provisions of this Section.

20 For facilities licensed by the Department of Public Health
21 under the ID/DD Community Care Act as ID/DD facilities and
22 under the MC/DD Act as MC/DD facilities, subject to federal
23 approval, the rates taking effect for services delivered on or
24 after July 1, 2024, shall be increased sufficiently to provide
25 a minimum \$3.00 per hour wage increase over the wages in effect
26 on June 30, 2024 for front-line personnel, including, but not

1 limited to, direct support professionals, aides, front-line
2 supervisors, and non-administrative support staff working in
3 community-based provider organizations serving individuals
4 with developmental disabilities, and sufficient to provide
5 wages for all other residential non-executive direct care
6 staff, excluding direct support professionals, at the U.S.
7 Department of Labor, Bureau of Labor Statistics' average wage
8 as defined, by rule, by the Department. The Department shall
9 adopt rules, including emergency rules in accordance with the
10 Illinois Administrative Procedure Act, to implement the
11 provisions of this paragraph.

12 (Source: P.A. 102-16, eff. 6-17-21; 102-699, eff. 4-19-22;
13 103-8, eff. 6-7-23.)

14 (305 ILCS 5/5-5.4i)

15 Sec. 5-5.4i. Rates and reimbursements.

16 (a) Within 30 days after July 6, 2017 (the effective date
17 of Public Act 100-23), the Department shall increase rates and
18 reimbursements to fund a minimum of a \$0.75 per hour wage
19 increase for front-line personnel, including, but not limited
20 to, direct support persons, aides, front-line supervisors,
21 qualified intellectual disabilities professionals, nurses, and
22 non-administrative support staff working in community-based
23 provider organizations serving individuals with developmental
24 disabilities. The Department shall adopt rules, including
25 emergency rules under subsection (y) of Section 5-45 of the

1 Illinois Administrative Procedure Act, to implement the
2 provisions of this Section.

3 (b) Within 30 days after June 4, 2018 (the effective date
4 of Public Act 100-587), the Department shall increase rates
5 and reimbursements to fund a minimum of a \$0.50 per hour wage
6 increase for front-line personnel, including, but not limited
7 to, direct support persons, aides, front-line supervisors,
8 qualified intellectual disabilities professionals, nurses, and
9 non-administrative support staff working in community-based
10 provider organizations serving individuals with developmental
11 disabilities. The Department shall adopt rules, including
12 emergency rules under subsection (bb) of Section 5-45 of the
13 Illinois Administrative Procedure Act, to implement the
14 provisions of this Section.

15 (c) Within 30 days after the effective date of this
16 amendatory Act of the 101st General Assembly, subject to
17 federal approval, the Department shall increase rates and
18 reimbursements in effect on June 30, 2019 for community-based
19 providers for persons with Developmental Disabilities by 3.5%.
20 The Department shall adopt rules, including emergency rules
21 under subsection (ii) of Section 5-45 of the Illinois
22 Administrative Procedure Act, to implement the provisions of
23 this Section, including wage increases for direct care staff.

24 (d) For community-based providers serving persons with
25 intellectual or developmental disabilities, subject to federal
26 approval, the rates taking effect for services delivered on or

1 after July 1, 2024, shall be increased sufficiently to provide
2 a minimum \$3.00 per hour wage increase over the wages in effect
3 on June 30, 2024 for front-line personnel, including, but not
4 limited to, direct support professionals, aides, front-line
5 supervisors, and non-administrative support staff working in
6 community-based provider organizations serving individuals
7 with developmental disabilities, and sufficient to provide
8 wages for all other residential non-executive direct care
9 staff, excluding direct support professionals, at the U.S.
10 Department of Labor, Bureau of Labor Statistics' average wage
11 as defined, by rule, by the Department. The Department shall
12 adopt rules, including emergency rules in accordance with the
13 Illinois Administrative Procedure Act, to implement the
14 provisions of this subsection.

15 (Source: P.A. 100-23, eff. 7-6-17; 100-587, eff. 6-4-18;
16 101-10, eff. 6-5-19.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.