



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0662

Introduced 02/06/09, by Rep. Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

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

from Ch. 23, par. 5-5.4

Amends the Mental Health and Developmental Disabilities Administrative Act and the Illinois Public Aid Code. Provides that the Department of Human Services shall provide an annual increase in funding to all programs serving individuals with developmental disabilities for which the Department has established payment rates, including but not limited to intermediate care facilities for the developmentally disabled, services provided under the Illinois Home and Community Based Services Medicaid Waiver for adults with developmental disabilities, and other programs for individuals with developmental disabilities supported by State funds or by funding under the Social Security Act; provides that the annual increase in rates shall be effective the first day of every State fiscal year. Provides that Medicaid payment rates for all nursing facilities certified by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities shall be increased annually on July 1 by the over-the-year increase in the previous calendar year of the non-seasonally-adjusted Employment Cost Index for total compensation for all civilian workers compiled by the U.S. Bureau of Labor Statistics. Effective July 1, 2009.

LRB096 04067 DRJ 14105 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

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

7 (20 ILCS 1705/54.5 new)

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

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

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

7 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

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

13 (1) Provide for the determination of a facility's payment
14 for skilled nursing and intermediate care services on a
15 prospective basis. The amount of the payment rate for all
16 nursing facilities certified by the Department of Public Health
17 under the Nursing Home Care Act as Intermediate Care for the
18 Developmentally Disabled facilities, Long Term Care for Under
19 Age 22 facilities, Skilled Nursing facilities, or Intermediate
20 Care facilities under the medical assistance program shall be
21 prospectively established annually on the basis of historical,
22 financial, and statistical data reflecting actual costs from
23 prior years, which shall be applied to the current rate year
24 and updated for inflation, except that the capital cost element

1 for newly constructed facilities shall be based upon projected
2 budgets. The annually established payment rate shall take
3 effect on July 1 in 1984 and subsequent years. No rate increase
4 and no update for inflation shall be provided on or after July
5 1, 1994 and before July 1, 2009, unless specifically provided
6 for in this Section. The changes made by Public Act 93-841
7 extending the duration of the prohibition against a rate
8 increase or update for inflation are effective retroactive to
9 July 1, 2004. Pursuant to Section 54.5 of the Mental Health and
10 Developmental Disabilities Administrative Act, payment rates
11 for all nursing facilities certified by the Department of
12 Public Health under the Nursing Home Care Act as Intermediate
13 Care for the Developmentally Disabled facilities shall be
14 increased annually on July 1 by the over-the-year increase in
15 the previous calendar year of the non-seasonally-adjusted
16 Employment Cost Index for total compensation for all civilian
17 workers compiled by the U.S. Bureau of Labor Statistics.

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

1 Department. For facilities licensed by the Department of Public
2 Health under the Nursing Home Care Act as Intermediate Care
3 Facilities for the Developmentally Disabled or Long Term Care
4 for Under Age 22 facilities, the rates taking effect on January
5 1, 2006 shall include an increase of 3%. For facilities
6 licensed by the Department of Public Health under the Nursing
7 Home Care Act as Intermediate Care Facilities for the
8 Developmentally Disabled or Long Term Care for Under Age 22
9 facilities, the rates taking effect on January 1, 2009 shall
10 include an increase sufficient to provide a \$0.50 per hour wage
11 increase for non-executive staff.

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

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

1 Age 22 facilities, the rates taking effect on July 1, 2000
2 shall include an increase of 2.5% per resident-day, as defined
3 by the Department. For facilities licensed by the Department of
4 Public Health under the Nursing Home Care Act as Skilled
5 Nursing facilities or Intermediate Care facilities, the rates
6 taking effect on July 1, 2000 shall include an increase of 2.5%
7 per resident-day, as defined by the Department.

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

24 (A) For a facility that would receive a lower nursing
25 component rate per patient day under the new system than
26 the facility received effective on the date immediately

1 preceding the date that the Department implements the new
2 payment methodology, the nursing component rate per
3 patient day for the facility shall be held at the level in
4 effect on the date immediately preceding the date that the
5 Department implements the new payment methodology until a
6 higher nursing component rate of reimbursement is achieved
7 by that facility.

8 (B) For a facility that would receive a higher nursing
9 component rate per patient day under the payment
10 methodology in effect on July 1, 2003 than the facility
11 received effective on the date immediately preceding the
12 date that the Department implements the new payment
13 methodology, the nursing component rate per patient day for
14 the facility shall be adjusted.

15 (C) Notwithstanding paragraphs (A) and (B), the
16 nursing component rate per patient day for the facility
17 shall be adjusted subject to appropriations provided by the
18 General Assembly.

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 Under
22 Age 22 facilities, the rates taking effect on March 1, 2001
23 shall include a statewide increase of 7.85%, as defined by the
24 Department.

25 Notwithstanding any other provision of this Section, for
26 facilities licensed by the Department of Public Health under

1 the Nursing Home Care Act as skilled nursing facilities or
2 intermediate care facilities, the numerator of the ratio used
3 by the Department of Healthcare and Family Services to compute
4 the rate payable under this Section using the Minimum Data Set
5 (MDS) methodology shall incorporate the following annual
6 amounts as the additional funds appropriated to the Department
7 specifically to pay for rates based on the MDS nursing
8 component methodology in excess of the funding in effect on
9 December 31, 2006:

10 (i) For rates taking effect January 1, 2007,
11 \$60,000,000.

12 (ii) For rates taking effect January 1, 2008,
13 \$110,000,000.

14 (iii) For rates taking effect January 1, 2009,
15 \$194,000,000.

16 Notwithstanding any other provision of this Section, for
17 facilities licensed by the Department of Public Health under
18 the Nursing Home Care Act as skilled nursing facilities or
19 intermediate care facilities, the support component of the
20 rates taking effect on January 1, 2008 shall be computed using
21 the most recent cost reports on file with the Department of
22 Healthcare and Family Services no later than April 1, 2005,
23 updated for inflation to January 1, 2006.

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

1 Age 22 facilities, the rates taking effect on April 1, 2002
2 shall include a statewide increase of 2.0%, as defined by the
3 Department. This increase terminates on July 1, 2002; beginning
4 July 1, 2002 these rates are reduced to the level of the rates
5 in effect on March 31, 2002, as defined by the Department.

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

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, the Illinois Department shall
19 determine by rule the rates taking effect on July 1, 2002,
20 which shall be 5.9% less than the rates in effect on June 30,
21 2002.

22 Notwithstanding any other provision of this Section, for
23 facilities licensed by the Department of Public Health under
24 the Nursing Home Care Act as skilled nursing facilities or
25 intermediate care facilities, if the payment methodologies
26 required under Section 5A-12 and the waiver granted under 42

1 CFR 433.68 are approved by the United States Centers for
2 Medicare and Medicaid Services, the rates taking effect on July
3 1, 2004 shall be 3.0% greater than the rates in effect on June
4 30, 2004. These rates shall take effect only upon approval and
5 implementation of the payment methodologies required under
6 Section 5A-12.

7 Notwithstanding any other provisions of this Section, for
8 facilities licensed by the Department of Public Health under
9 the Nursing Home Care Act as skilled nursing facilities or
10 intermediate care facilities, the rates taking effect on
11 January 1, 2005 shall be 3% more than the rates in effect on
12 December 31, 2004.

13 Notwithstanding any other provision 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, effective January 1, 2009, the
17 per diem support component of the rates effective on January 1,
18 2008, computed using the most recent cost reports on file with
19 the Department of Healthcare and Family Services no later than
20 April 1, 2005, updated for inflation to January 1, 2006, shall
21 be increased to the amount that would have been derived using
22 standard Department of Healthcare and Family Services methods,
23 procedures, and inflators.

24 Notwithstanding any other provisions of this Section, for
25 facilities licensed by the Department of Public Health under
26 the Nursing Home Care Act as intermediate care facilities that

1 are federally defined as Institutions for Mental Disease, a
2 socio-development component rate equal to 6.6% of the
3 facility's nursing component rate as of January 1, 2006 shall
4 be established and paid effective July 1, 2006. The
5 socio-development component of the rate shall be increased by a
6 factor of 2.53 on the first day of the month that begins at
7 least 45 days after January 11, 2008 (the effective date of
8 Public Act 95-707). As of August 1, 2008, the socio-development
9 component rate shall be equal to 6.6% of the facility's nursing
10 component rate as of January 1, 2006, multiplied by a factor of
11 3.53. The Illinois Department may by rule adjust these
12 socio-development component rates, but in no case may such
13 rates be diminished.

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

20 For facilities licensed by the Department of Public Health
21 under the Nursing Home Care Act as Intermediate Care for the
22 Developmentally Disabled facilities or Long Term Care for Under
23 Age 22 facilities, the rates taking effect on the first day of
24 the month that begins at least 45 days after the effective date
25 of this amendatory Act of the 95th General Assembly shall
26 include a statewide increase of 2.5%, as defined by the

1 Department.

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, effective January 1, 2005,
6 facility rates shall be increased by the difference between (i)
7 a facility's per diem property, liability, and malpractice
8 insurance costs as reported in the cost report filed with the
9 Department of Public Aid and used to establish rates effective
10 July 1, 2001 and (ii) those same costs as reported in the
11 facility's 2002 cost report. These costs shall be passed
12 through to the facility without caps or limitations, except for
13 adjustments required under normal auditing procedures.

14 Rates established effective each July 1 shall govern
15 payment for services rendered throughout that fiscal year,
16 except that rates established on July 1, 1996 shall be
17 increased by 6.8% for services provided on or after January 1,
18 1997. Such rates will be based upon the rates calculated for
19 the year beginning July 1, 1990, and for subsequent years
20 thereafter until June 30, 2001 shall be based on the facility
21 cost reports for the facility fiscal year ending at any point
22 in time during the previous calendar year, updated to the
23 midpoint of the rate year. The cost report shall be on file
24 with the Department no later than April 1 of the current rate
25 year. Should the cost report not be on file by April 1, the
26 Department shall base the rate on the latest cost report filed

1 by each skilled care facility and intermediate care facility,
2 updated to the midpoint of the current rate year. In
3 determining rates for services rendered on and after July 1,
4 1985, fixed time shall not be computed at less than zero. The
5 Department shall not make any alterations of regulations which
6 would reduce any component of the Medicaid rate to a level
7 below what that component would have been utilizing in the rate
8 effective on July 1, 1984.

9 (2) Shall take into account the actual costs incurred by
10 facilities in providing services for recipients of skilled
11 nursing and intermediate care services under the medical
12 assistance program.

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

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

21 The Department of Healthcare and Family Services shall
22 develop precise standards for payments to reimburse nursing
23 facilities for any utilization of appropriate rehabilitative
24 personnel for the provision of rehabilitative services which is
25 authorized by federal regulations, including reimbursement for
26 services provided by qualified therapists or qualified

1 assistants, and which is in accordance with accepted
2 professional practices. Reimbursement also may be made for
3 utilization of other supportive personnel under appropriate
4 supervision.

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

9 Section 99. Effective date. This Act takes effect July 1,
10 2009.