

# HB3323



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3323

Introduced 2/24/2011, by Rep. Thaddeus Jones

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.4

from Ch. 23, par. 5-5.4

Amends the Medical Assistance Article of the Illinois Public Aid Code. Provides that for facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2011 shall include a 3% increase. Effective July 1, 2011.

LRB097 09351 KTG 49486 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 5-5.4 as follows:

6 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

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

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

1 except that the capital cost element for newly constructed  
2 facilities shall be based upon projected budgets. The annually  
3 established payment rate shall take effect on July 1 in 1984  
4 and subsequent years. No rate increase and no update for  
5 inflation shall be provided on or after July 1, 1994 and before  
6 July 1, 2011, unless specifically provided for in this Section.  
7 The changes made by Public Act 93-841 extending the duration of  
8 the prohibition against a rate increase or update for inflation  
9 are effective retroactive to July 1, 2004. For facilities  
10 licensed by the Department of Public Health under the Nursing  
11 Home Care Act as Intermediate Care for the Developmentally  
12 Disabled facilities or Long Term Care for Under Age 22  
13 facilities, the rates taking effect on July 1, 2011 shall  
14 include a 3% increase.

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

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

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 Under  
12 Age 22 facilities, the rates taking effect on July 1, 1999  
13 shall include an increase of 1.6% plus \$3.00 per resident-day,  
14 as defined by the Department. For facilities licensed by the  
15 Department of Public Health under the Nursing Home Care Act as  
16 Skilled Nursing facilities or Intermediate Care facilities,  
17 the rates taking effect on July 1, 1999 shall include an  
18 increase of 1.6% and, for services provided on or after October  
19 1, 1999, shall be increased by \$4.00 per resident-day, as  
20 defined by the Department.

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

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

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

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

1 effect on the date immediately preceding the date that the  
2 Department implements the new payment methodology until a  
3 higher nursing component rate of reimbursement is achieved  
4 by that facility.

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

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

16 For facilities licensed by the Department of Public Health  
17 under the Nursing Home Care Act as Intermediate Care for the  
18 Developmentally Disabled facilities or Long Term Care for Under  
19 Age 22 facilities, the rates taking effect on March 1, 2001  
20 shall include a statewide increase of 7.85%, as defined by the  
21 Department.

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, the numerator of the ratio used  
26 by the Department of Healthcare and Family Services to compute

1 the rate payable under this Section using the Minimum Data Set  
2 (MDS) methodology shall incorporate the following annual  
3 amounts as the additional funds appropriated to the Department  
4 specifically to pay for rates based on the MDS nursing  
5 component methodology in excess of the funding in effect on  
6 December 31, 2006:

7 (i) For rates taking effect January 1, 2007,  
8 \$60,000,000.

9 (ii) For rates taking effect January 1, 2008,  
10 \$110,000,000.

11 (iii) For rates taking effect January 1, 2009,  
12 \$194,000,000.

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

21 For facilities licensed by the Department of Public Health  
22 under the Nursing Home Care Act as Intermediate Care for the  
23 Developmentally Disabled facilities or Long Term Care for Under  
24 Age 22 facilities, the rates taking effect on April 1, 2002  
25 shall include a statewide increase of 2.0%, as defined by the  
26 Department. This increase terminates on July 1, 2002; beginning

1 July 1, 2002 these rates are reduced to the level of the rates  
2 in effect on March 31, 2002, as defined by the Department.

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

12 Notwithstanding any other provision of this Section, for  
13 facilities licensed by the Department of Public Health under  
14 the Nursing Home Care Act as skilled nursing facilities or  
15 intermediate care facilities, the Illinois Department shall  
16 determine by rule the rates taking effect on July 1, 2002,  
17 which shall be 5.9% less than the rates in effect on June 30,  
18 2002.

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, if the payment methodologies  
23 required under Section 5A-12 and the waiver granted under 42  
24 CFR 433.68 are approved by the United States Centers for  
25 Medicare and Medicaid Services, the rates taking effect on July  
26 1, 2004 shall be 3.0% greater than the rates in effect on June



1 30, 2004. These rates shall take effect only upon approval and  
2 implementation of the payment methodologies required under  
3 Section 5A-12.

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 skilled nursing facilities or  
7 intermediate care facilities, the rates taking effect on  
8 January 1, 2005 shall be 3% more than the rates in effect on  
9 December 31, 2004.

10 Notwithstanding any other provision of this Section, for  
11 facilities licensed by the Department of Public Health under  
12 the Nursing Home Care Act as skilled nursing facilities or  
13 intermediate care facilities, effective January 1, 2009, the  
14 per diem support component of the rates effective on January 1,  
15 2008, computed using the most recent cost reports on file with  
16 the Department of Healthcare and Family Services no later than  
17 April 1, 2005, updated for inflation to January 1, 2006, shall  
18 be increased to the amount that would have been derived using  
19 standard Department of Healthcare and Family Services methods,  
20 procedures, and inflators.

21 Notwithstanding any other provisions of this Section, for  
22 facilities licensed by the Department of Public Health under  
23 the Nursing Home Care Act as intermediate care facilities that  
24 are federally defined as Institutions for Mental Disease, a  
25 socio-development component rate equal to 6.6% of the  
26 facility's nursing component rate as of January 1, 2006 shall

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

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 as long-term care  
14 facilities for residents under 22 years of age, the rates  
15 taking effect on July 1, 2003 shall include a statewide  
16 increase of 4%, as defined by the Department.

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

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

1 1985, fixed time shall not be computed at less than zero. The  
2 Department shall not make any alterations of regulations which  
3 would reduce any component of the Medicaid rate to a level  
4 below what that component would have been utilizing in the rate  
5 effective on July 1, 1984.

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

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

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

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

1 supervision.

2 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,  
3 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;  
4 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff.  
5 7-2-10.)

6 Section 99. Effective date. This Act takes effect July 1,  
7 2011.