Section 140.569 Clients With Exceptional Care Needs

a) Exceptional Care Program

1) Effective July 1, 2006, Exceptional Care services shall be covered under the MDS-based reimbursement methodology as described in 89 Ill. Adm. Code 147.Table A. Any resident who qualifies for the Department's Exceptional Care Program, as defined in this Section, as of June 30, 2006, shall be reimbursed at the rate in effect for that resident on June 30, 2006. This shall continue until the resident is no longer eligible for the Exceptional Care category for that resident. Department reviews shall continue on these residents every 90 days.

During the 90 day reviews, any resident who qualifies for the Department's Exceptional Care Program as of June 30, 2006, who becomes eligible for a different Exceptional Care category of service will be changed to the rate for the new category, provided that the facility has an existing contract with the Department to provide that category of service.

No new residents will be accepted into the Department's Exceptional Care Program upon adoption of this Section. When a facility no longer has any Exceptional Care residents, the Department will terminate the facility's Exceptional Care contract. New Exceptional Care contracts and amendments to existing Exceptional Care contracts will not be accepted by the Department upon adoption of this amended section.

The Minimum Data Sets (MDS) for existing Exceptional Care residents will not be used to determine the facility's nursing rate from 89 Ill. Adm. Code 147 Table A.

2)~~1)~~ Pursuant to Section 5-5.8a of the Illinois Public Aid Code [305 ILCS 5/5-5.8a], the Department may make payments for exceptional care services to nursing facilities ("providers") that meet licensure and certification requirements as may be prescribed by the Department of Public Health and are enrolled in and meet participation requirements of the Medical Assistance Program pursuant to Sections 140.11 and 140.12.

3)~~2)~~ Exceptional medical care is defined as the level of care with extraordinary costs related to services which may include physician, nurse, ancillary specialist services, and medical equipment and/or supplies that have been determined to be a medical necessity. This shall apply to Medicaid patients who are

being discharged from the hospital or other setting where Medicaid reimbursement is at a rate higher than the exceptional care rate for related services or to persons who are in need of exceptional care services who would otherwise be in an alternative setting at a higher cost to the Department and Medicaid eligible residents transitioning from Medicare to Medicaid while in the nursing facility. This includes but is not limited to head-injured persons, ventilator dependent persons or persons with HIV/AIDS.

4)~~3)~~ The Department shall negotiate rates with facilities requesting payment for exceptional care services (see Section 5-5.8a of the Public Aid Code [305 ILCS 5/5-5.8a]). In determining the rates of payment, the Department shall consider data collected from exceptional care providers during fiscal year 1994, any intervening rate adjustments (including any updates for inflation) and the average cost of each service category for the geographic area in which the facility is located. After approval of negotiated rates, the Department shall annually update a facility's rates for inflation.

b) Exceptional Care Requirements
The Department may enter into agreements with providers for the provision of exceptional care services only if the provider agrees to the following terms:

1) The provider will maintain separate records regarding costs related to the care of the exceptional care residents.

2) The provider must demonstrate the capacity and capability to provide exceptional care as documented by Department of Public Health and Department of Public Aid records, including, but not limited to, being free of finalized Department of Public Health findings (exhaustion of appeals process with deficiencies remaining) after January 1, 1997, that the provider has deficiencies related to substandard quality of care during the period of time since the last standard certification survey or imposition of a conditional license.

3) The provider must maintain and provide documentation demonstrating:

A) Adherence to staffing requirements as set out in subsection (c) of this Section;

B) Adherence to staff training requirements as set out in subsection (d) of this Section;

C) Validity of written agreements as required in subsection (e) of this Section;

D) Presence of emergency policy and procedures as set out in subsection (f) of this Section;

E) Medical condition of the resident; and

F) Care, treatments and services provided to the resident.

4) The provider must have and maintain physical plant adaptations to accommodate the necessary equipment, such as an emergency electrical backup system.

c) Exceptional Care Staffing Requirements

Staffing requirements for providers of exceptional care include:

1) A minimum of one RN on duty on the day shift, seven days per week (as required by the Department of Public Health in 77 Ill. Adm. Code 300.1240 or 250.910(e) and (f)(1) as appropriate). Additional RN staff may be determined necessary by the Department of Public Aid, based on the Department's review of the exceptional care services needs;

2) A minimum of the required number of LPN staff (as required by the Department of Public Health in 77 Ill. Adm. Code 300.1230 and 300.1240 or 250.910(e) and (f)(1) as appropriate), on duty, with an RN on call, if not on duty on the evening and night shifts, seven days per week; and

3) For those providers of complex respiratory or ventilator services under the exceptional care program, a certified respiratory therapy technician or registered respiratory therapist, on staff or on contract with the provider.

d) Training Requirements for Providers of Exceptional Care for Ventilator Dependent Residents

1) At least one of the full-time professional nursing staff members must have successfully completed a course in the care of ventilator dependent individuals and the use of ventilators, conducted and documented by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one year experience in the care of ventilator dependent persons.

2) All staff caring for ventilator dependent residents must have documented inservice training in ventilator care prior to providing such care. Inservice training must be conducted at least annually by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one year experience in the care of ventilator dependent persons. Inservice training documentation shall include name and qualification of the inservice director, duration of presentation, content of presentation and signature and position description of all participants.

e) Exceptional Care Agreement Requirements

The provider must have a valid written agreement with:

1) A medical equipment and supply provider which must include a service contract for ventilator equipment when accepting ventilator dependent residents;

2) A local emergency transportation provider;

3) A local hospital capable of providing the necessary care for equipment dependent residents, when appropriate; and

4) A certified respiratory therapy technician or registered respiratory therapist (unless a respiratory therapist is on staff within the facility), when accepting ventilator dependent residents or residents requiring respiratory therapy services.

f) Exceptional Care Emergency Policy and Procedures Requirements

The provider must have specific written policies and procedures addressing emergency needs for residents requiring exceptional care.

g) Accessibility to Records
The provider must make accessible to IDPA and/or IDPH all provider, resident and other records necessary to determine that the needs of the resident are being met and to determine the appropriateness of exceptional care services.

h) Provider Approval Process

1) A provider shall notify the Department, in writing, of its interest in participating in the Exceptional Care Program.

2) If approved by the Department, a written exceptional care agreement with the provider shall be executed. Such agreements are separate and distinct from the provider agreements specified in Section 140.11(a)(6) and are not subject to the provisions regarding notice and right to hearing in the event of termination specified in 89 Ill. Adm. Code 104.208 and 104.210.

3) Providers desiring to discontinue providing exceptional care shall notify the Department, in writing, at least 60 days prior to the date of termination. Payment for exceptional care residents already residing in facilities which notify the Department that they wish to discontinue providing exceptional care services will remain at the previous exceptional care rate as long as the resident meets exceptional care criteria and as long as all related criteria are met by the provider as determined by the Department's utilization review (see Monitoring, subsections (k)(2) and (3) of this Section) or the resident is discharged.

4) It is the responsibility of the provider to effect appropriate discharge planning for exceptional care residents when terminating services for exceptional care. The Department agrees to assist providers with any information available regarding appropriate placement settings.

5) The Department may terminate a provider's agreement, for any reason, upon 60 days written notice to the provider. Reasons for which the Department may terminate an agreement include, but are not limited to, Department of Public Health findings that the provider has deficiencies related to substandard quality of care or imposition of a conditional license.

i) Determining Eligibility for Exceptional Care Payment

1) A person being discharged from a hospital or those who are in another setting must be approved by an authorized Department representative prior to placement in a facility to be eligible for exceptional care payment.

2) In order for a person to be approved for exceptional care reimbursement, the cost of the person's care must be at least 50% more than the proposed admitting provider's Medicaid per diem rate (capital, support and nursing components). Eligible items which may be used in computing the cost of the resident's care include nursing services costs, therapy services costs, and medical equipment and supply costs. Computations for determining cost of care shall be based upon costs for services, medical equipment and

supplies for the proposed admitting provider as determined by the Department.

j) Provision for Hospital Patients for which a Long Term Care Placement is Unavailable
In the event placement for a patient in need of exceptional care services or skilled nursing services cannot be located, the Department shall approve payment to the hospital in which the patient is receiving services at a rate not to exceed the average Statewide long term care provider per diem for the level of services provided.

k) Monitoring

1) All utilization controls applied to exceptional care by the Department in accordance with the approved plan for medical services under the Illinois Public Aid Code [305 ILCS 5/5-2], and Title XIX of the Federal Social Security Act (42 U.S.C. 1396a) shall continue to apply to exceptional care provided under the Exceptional Care Program described in the Health Finance Reform Act [20 ILCS 2215/3-5].

2) The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with Medical Peer Review organizations to provide utilization review and quality assurance.

3) The Department shall review exceptional care residents' utilization of services every 90 days. A review may be waived by the Department if one or more previous assessments show that a resident's condition has stabilized. However, two consecutive reviews shall not be waived. Department staff will maintain contact with the long term care provider regarding the resident's condition during the time period any assessment is waived.

4) In the event that it is determined that the resident is no longer in need of or receiving exceptional care services, the Department shall discontinue the exceptional care payment rate for the resident and reduce the rate of payment to the provider to the provider's standard Medicaid per diem rate.

(Source: Amended at 30 Ill. Reg. ______, effective ________