

2003

ILLINOIS

REGISTER RULES OF GOVERNMENTAL AGENCIES



Volume 27 Issue 26
June 27, 2003
Pages 9512 - 9655

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

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Editor’s Note 1: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedules for the quarterly and annual indexes are (End of March, June, Sept, and Dec) as follows:

- Issue 28 - July 11, 2003: Data through June 30, 2003 (2nd Quarter)
- Issue 41 - October 10, 2003: Data through September 29, 2003 (3rd Quarter)
- Issue 2 - January 9, 2004: Data through December 29, 2003 (Annual)
- Issue 15 - April 00, 2004: Data through March 31, 2004 (1stQuarter)

Editor’s Note 2: Submit all rulemaking documentation to the following address:
 Secretary of State
 Department of Index
 Administrative Code Division
 111 East Monroe Street
 Springfield, Illinois 62756

Editor’s Note3:

To: All State Agencies – Springfield Area
 From: Secretary of State
 Department of Index
 Administrative Code Division

The Code Division will be conducting a monthly workshop. This is the opportunity for the Administrative Code Division to ask the question “How can we help you?” Each month will consist of different discussion topics. State agencies will be able to select one or more workshops to attend. Please return the included registration form at least two weeks prior to the scheduled workshop. Topics will come from the Secretary of State’s Style Manual and 1 Ill. Adm. Code 100. All workshops will be scheduled from 8:30am to 12:00pm on selected dates. Unless other wise announced workshops will be held at the Illinois State Library, 300 S. Second St., Rm. 403-404, Springfield, IL. 62701. If you have any questions or concerns please contact our office (217)782-6537.

To: [All State Agencies in the Chicago Area](#)

From: Secretary of State
 Department of Index
 Administrative Code Division

Our department will be conducting a bi-monthly workshop. This is the opportunity for the Administrative Code Division to ask the Chicago area “How can I help you?” Each session will consist of different discussion topics. Topics will range from – Trouble shooting with formatting, Secretary Style Manual and 1 Illinois Administrative Code 100.

Workshop Schedule and Signup Sheet on following page:

**Secretary of State
Department of Index
Administrative Code Division**
SPRINGFIELD AREA - Workshop Schedule and Signup Sheet

- | | |
|---|---------------------|
| <p><u>Springfield</u> - June 25, 2003
Topics:</p> <ul style="list-style-type: none">• Miscellaneous Information<ul style="list-style-type: none">Emergency RulesSecond NoticesExecutive Orders/ProclamationsRegulatory AgendaOther Notices• Checklists | Number
Attending |
| <p><u>Springfield</u> – July 23, 2003
Topics:</p> <ul style="list-style-type: none">• Proposed Rulemaking<ul style="list-style-type: none">○ Regulatory Agenda○ 1st Notice - Proposed○ 2nd Notice – JCAR Approval○ Final Notice - Adopted | Number
Attending |

Agency Name: _____
Contact Name: _____
Address: _____
City/Zip: _____
Phone Number: _____

Please return this registration sheets to: Springfield Workshops

Secretary of State Department of Index Administrative Code Division Attn: Brenna Boston 111 E. Monroe Springfield, IL 62756 Fax Number: (217) 524-0308	Illinois State Library 300 S. Second St. Rm. 403-404 Springfield, IL 62701 8:30am – 12:00pm
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If you have any question please call (217) 782-6537.

**Secretary of State
Department of Index
Administrative Code Division**
CHICAGO AREA - Workshop Schedule and Signup Sheet

<u>CHICAGO</u> – July 30, 2003 Topics	Number Attending
<ul style="list-style-type: none">• Miscellaneous Information<ul style="list-style-type: none">○ Emergency Rules○ Second Notices○ Executive Orders/Proclamations○ Regulatory Agenda○ Other Notices• Checklists• Proposed Rulemaking<ul style="list-style-type: none">○ Regulatory Agenda○ 1st Notice - Proposed○ 2nd Notice – JCAR Approval• Final Notice - Adopted	

Agency Name: _____
Contact Name: _____
Address: _____
City/Zip: _____
Phone Number: _____

Please return this registration sheets to:

Secretary of State	Chicago Workshops
Department of Index	Thompson Center
Administrative Code Division	100 West Randolph
Attn: Brenna Boston	Chicago, IL
111 E. Monroe	
Springfield, IL 62756	
Fax Number: (217) 524-0308	

If you have any question please call (217) 782-6537.

INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register will also contain the Cumulative Index and Sections Affected Indices will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are the end of March, June, Sept, Dec.

Rulemaking activity consist of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update the Illinois Administrative code (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies'

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5ILCS 100/1-1 et seq.].

2003 REGISTER SCHEDULE VOLUME # 27

<u>Issue#</u>	<u>Copy Due by 4:30 pm</u>	<u>Publication Date</u>	<u>Issue#</u>	<u>Copy Due by 4:30 pm</u>	<u>Publication Date</u>
Issue 1	December 23, 2002	January 03, 2003	Issue 38	September 08, 2003	September 19, 2003
Issue 2	December 31, 2002	January 10, 2003	Issue 39	September 15, 2003	September 26, 2003
Issue 3	January 06, 2003	January 17, 2003	Issue 40	September 22, 2003	October 03, 2003
Issue 4	January 13, 2003	January 24, 2003	Issue 41	September 29, 2003	October 10, 2003
Issue 5	January 21, 2003	January 31, 2003	Issue 42	October 06, 2003	October 17, 2003
Issue 6	January 27, 2003	February 07, 2003	Issue 43	October 14, 2003	October 24, 2003
Issue 7	February 03, 2003	February 14, 2003	Issue 44	October 20, 2003	October 31, 2003
Issue 8	February 10, 2003	February 21, 2003	Issue 45	October 27, 2003	November 07, 2003
Issue 9	February 18, 2003	February 28, 2003	Issue 46	November 03, 2003	November 14, 2003
Issue 10	February 24, 2003	March 07, 2003	Issue 47	November 10, 2003	November 21, 2003
Issue 11	March 03, 2003	March 14, 2003	Issue 48	November 17, 2003	November 28, 2003
Issue 12	March 10, 2003	March 21, 2003	Issue 49	November 24, 2003	December 05, 2003
Issue 13	March 17, 2003	March 28, 2003	Issue 50	December 01, 2003	December 12, 2003
Issue 14	March 24, 2003	April 04, 2003	Issue 51	December 08, 2003	December 19, 2003
Issue 15	March 31, 2003	April 11, 2003	Issue 52	December 15, 2003	December 26, 2003
Issue 16	April 07, 2003	April 18, 2003			
Issue 17	April 14, 2003	April 25, 2003			
Issue 18	April 21, 2003	May 02, 2003			
Issue 19	April 28, 2003	May 09, 2003			
Issue 20	May 05, 2003	May 16, 2003			
Issue 21	May 12, 2003	May 23, 2003			
Issue 22	May 19, 2003	May 30, 2003			
Issue 23	May 27, 2003	June 06, 2003			
Issue 24	June 02, 2003	June 13, 2003			
Issue 25	June 09, 2003	June 20, 2003			
Issue 26	June 16, 2003	June 27, 2003			
Issue 27	June 23, 2003	July 04, 2003			
Issue 28	June 30, 2003	July 11, 2003			
Issue 29	July 07, 2003	July 18, 2003			
Issue 30	July 14, 2003	July 25, 2003			
Issue 31	July 21, 2003	August 01, 2003			
Issue 32	July 28, 2003	August 08, 2003			
Issue 33	August 04, 2003	August 15, 2003			
Issue 34	August 11, 2003	August 22, 2003			
Issue 35	August 18, 2003	August 29, 2003			
Issue 36	August 25, 2003	September 05, 2003			
Issue 37	September 02, 2003	September 12, 2003			

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Numbers: 120.520 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendments regarding SeniorCare pharmaceutical benefits provide technical clarifications that align Section 120.520 with the Department's operational policies. Concerning eligibility for SeniorCare, subsection (a) specifies that an individual must be a U.S. citizen or qualify as an eligible non-citizen as described at Section 120.310. Concerning termination of SeniorCare coverage, subsection (j)(5) is being revised to include discovery that the initial determination of eligibility was incorrect, as a termination determinant.

Companion amendments concerning SeniorCare are also being proposed at 89 Ill. Adm. Code 140.405 to eliminate the processing of SeniorCare claims by an outside contractor.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002 (217)524-0081

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments on the Internet at <http://www.state.il.us/dpa/html/publicnotice.htm>. Access to the Internet is available through any local public library. In addition, the amendments may be reviewed at the Illinois Department of Human Services' local offices (except in Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph Street, Tenth Floor, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because:

This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the proposed amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 120
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section
120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section
120.10 Eligibility For Medical Assistance
120.11 MANG(P) Eligibility
120.12 Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 KidCare Parent Coverage Waiver Eligibility and Income Standard
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120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section
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Approved Home and Community Based Residential Settings Under 89 Ill. Adm.
Code 140.643
120.63 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings
120.64 MANG(P) Cases
120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
Licensed Community - Integrated Living Arrangements

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DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

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120.210	Citizenship (Repealed)
120.211	Residence (Repealed)
120.212	Age (Repealed)
120.215	Relationship (Repealed)
120.216	Living Arrangement (Repealed)
120.217	Supplemental Payments (Repealed)
120.218	Institutional Status (Repealed)
120.224	Foster Care Program (Repealed)
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120.235	Exempt Unearned Income (Repealed)
120.236	Education Benefits (Repealed)
120.240	Unearned Income In-Kind (Repealed)
120.245	Earmarked Income (Repealed)
120.250	Lump Sum Payments and Income Tax Refunds (Repealed)
120.255	Protected Income (Repealed)
120.260	Earned Income (Repealed)
120.261	Budgeting Earned Income (Repealed)
120.262	Exempt Earned Income (Repealed)
120.270	Recognized Employment Expenses (Repealed)

DEPARTMENT OF PUBLIC AID

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DEPARTMENT OF PUBLIC AID

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DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As
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AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; preemptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; preemptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; preemptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; preemptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency

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amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994;

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amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April, 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; amended at 27 Ill. Reg. _____, effective _____.

SUBPART I: SPECIAL PROGRAMS

Section 120.520 SeniorCare

- a) To be eligible for SeniorCare pharmaceutical benefits as set forth at 89 Ill. Adm. Code 140.405, an individual must meet all of the following eligibility requirements:
 - 1) Be a U.S. citizen or [qualify as an eligible non-citizen pursuant to Section 120.310](#) ~~an immigrant admitted for permanent residence~~.
 - 2) Reside in Illinois.
 - 3) Be 65 years of age or older.

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- 4) Assign rights to medical support and collection of payments as described in Section 120.319.
 - 5) Furnish his or her Social Security Number.
 - 6) Have countable annual income at or below 200 percent of the poverty guidelines published annually by the U.S. Department of Health and Human Services.
- b) The earned and unearned income of the applicant and his or her spouse (if the spouse resides with the applicant) shall be counted when determining eligibility, except that the following shall not be counted:
- 1) cash gifts;
 - 2) child support payments;
 - 3) Circuit Breaker grants;
 - 4) damages awarded from a lawsuit for a physical personal injury or sickness;
 - 5) Energy Assistance payments;
 - 6) federal income tax refunds;
 - 7) IRAs rolled over into other retirement accounts;
 - 8) lump sums from inheritances;
 - 9) lump sums from insurance policies;
 - 10) money borrowed against a life insurance policy;
 - 11) reverse mortgage income;
 - 12) stipends from the Foster Parent and Foster Grandparent programs; and
 - 13) Worker's Compensation.
- c) Assets shall not be considered.

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- d) SeniorCare participants shall be exempt from the requirements of 89 Ill. Adm. Code 102.210, Estate Claims, with regard to expenditures made for SeniorCare benefits.
- e) An individual who is eligible for medical assistance with a spenddown may participate in SeniorCare.
- f) An individual who receives benefits from any of the Medicare Savings programs (QMB, SLIB, or QI) may participate in SeniorCare.
- g) Application Process
 - 1) Individuals shall apply by completing and submitting an application as specified by the Illinois Department of Revenue.
 - 2) Spouses may apply on the same application as long as the application contains both signatures.
 - 3) After eligibility is determined by the Illinois Department of Revenue, notice of the outcome shall be sent to the applicant.
 - 4) An individual enrolled in SeniorCare shall receive coverage under his or her own name and unique Recipient Identification ~~Social Security~~ Number.
- h) Enrollment Periods
 - 1) Enrollment shall be effective no later than one month after the date when the applicant was determined to be eligible for the program.
 - 2) An individual who first enrolls in SeniorCare between July 1 and December 31 of any year shall be enrolled through the end of that State fiscal year. For example, an individual who first enrolls on December 1, 2002, shall be eligible through June 30, 2003.
 - 3) An individual who first enrolls in SeniorCare between January 1 and June 30 of any year shall be enrolled through the end of that fiscal year plus all of the following fiscal year. For example, an individual who first enrolls on January 1, 2003, shall be eligible through June 30, 2004.
 - 4) Individuals must reapply annually.

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- 5) Subsequent uninterrupted periods of enrollment shall be for 12 months and shall be coincident with the State fiscal year.
- i) Authorization of SeniorCare
 - 1) Once an individual has been determined eligible for SeniorCare, a SeniorCare identification card shall be sent to the individual.
 - 2) Upon receipt of the card, the participant shall have the option of receiving a SeniorCare Rebate as established in 89 Ill. Adm. Code 140.405 instead of using the SeniorCare card. [Enrollment in the SeniorCare Rebate option shall be effective prospectively for the month following the month in which the individual is approved for SeniorCare Rebate.](#)
 - j) SeniorCare coverage shall terminate:
 - 1) at the end of a participant's enrollment period unless the participant reapplies timely and is found to continue to be eligible;
 - 2) when a participant no longer resides in Illinois;
 - 3) when a participant becomes an inmate of a public institution as set forth in 42 CFR 435.1008; ~~or~~
 - 4) upon a participant's death; ~~or~~
 - 5) [upon discovery that the initial determination of the participant's eligibility was incorrect.](#)
 - k) Individuals applying for or enrolled in SeniorCare shall be entitled to appeal rights as described at 89 Ill. Adm. Code 102.80.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

- 1) [Heading of the Part: Medical Payment](#)

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- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:
140.405 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed changes concerning the SeniorCare pharmaceutical program relate to elimination of the services of the pharmacy benefit manager who is currently administering the program. Administration of the SeniorCare program will be brought in-house in order to save the administrative costs of a third-party contractor.

The proposed amendments are necessary to make reimbursement changes compatible with in-house handling of claims processing. Absent the proposed changes, rates paid under SeniorCare would revert to the Medicaid rates established in the Department's pharmacy rules and this would result in an additional cost of approximately \$30 million annually.

The budgetary impact of the proposed changes is expected to save the Department \$15 million.

Companion amendments concerning SeniorCare are also being proposed at 89 Ill. Adm. Code 120.520 to provide several technical clarifications on eligibility for, and termination from, the SeniorCare pharmaceutical program.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.15	Amendment	February 28, 2003 (27 Ill. Reg. 3241)
140.420	Amendment	March 14, 2003 (27 Ill. Reg. 4470)
140.421	Amendment	March 14, 2003 (27 Ill. Reg. 4470)
140.471	Amendment	March 28, 2003 (27 Ill. Reg. 5127)
140.472	Amendment	March 28, 2003 (27 Ill. Reg. 5127)

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140.474	Amendment	March 28, 2003 (27 Ill. Reg. 5127)
140.514	Amendment	March 21, 2003 (27 Ill. Reg. 4888)
140.551	Amendment	May 30, 2003 (27 Ill Reg 8635)
140.553	Amendment	May 30, 2003 (27 Ill Reg 8635)
140.554	Repeal	May 30, 2003 (27 Ill Reg 8635)
140.642	Amendment	March 21, 2003 (27 Ill. Reg. 4888)
140.830	Amendment	May 30, 2003 (27 Ill Reg 8635)
Table D	Amendment	March 14, 2003 (27 Ill. Reg. 4470)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
 Office of the General Counsel, Rules Section
 Illinois Department of Public Aid
 201 South Grand Avenue East, Third Floor
 Springfield, Illinois 62763-0002
 (217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments on the Internet at <http://www.state.il.us/dpa/html/publicnotice.htm>. Access to the Internet is available through any local public library. In addition, the amendments may be reviewed at the Illinois Department of Human Services' local offices (except in Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph Street, Tenth Floor, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small

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municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because:

This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the proposed amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
- 140.20 Submittal of Claims

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- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Terminated, Suspended or Barred Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained
- 140.55 Recipient Eligibility Verification (REV) System
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recodified)
- 140.97 Special Requirements (Recodified)
- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)

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- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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Section	
140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
140.431	Services Not Covered by Independent Clinical Laboratories
140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
140.438	Imaging Centers
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items

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- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Clinic Services
- 140.453 Definitions
- 140.454 Types of Mental Health Clinic Services
- 140.455 Payment for Mental Health Clinic Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Home Health Services
- 140.471 Home Health Covered Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
- 140.486 Limitations on Medichek Services (Repealed)
- 140.487 Healthy Kids Program Timeliness Standards

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140.488	Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids

SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
140.512	Utilization Control
140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care
140.515	Management of Recipient Funds--Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

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SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill.

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Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917,

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effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 117; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of

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150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994;

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amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665,

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effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; emergency amendment at 26 Ill. Reg. 16593, effective October 22, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 1, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; amended at 27 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.405 SeniorCare Pharmaceutical Benefit

a) Definitions. For purposes of this Section:

"Brand name drug@means those drugs as defined in Section 140.440(g)(3).

"FPL@means the federal poverty income guideline as determined annually by the United States Department of Health and Human Services.

"Generic drug@means those legend drugs as defined in Section 140.440(g)(2).

"Over-the-counter items@means those pharmaceutical items that may be purchased off the shelf by the general public, but for Medicaid-eligible individuals require a prescription.

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"Pharmaceutical product@means a brand name drug, a generic drug, or an over-the-counter item.

"Reimbursable amount@means the price payable by the Department or its agent for a pharmaceutical product, as defined in subsection (e) of this Section.

"SeniorCare@means the provision of benefits to individuals qualifying for medical assistance under the provisions of 89 Ill. Adm. Code 120.520.

"SeniorCare benefit amount@means the cumulative sum of the reimbursable amounts for prescribed pharmaceutical products received by an individual eligible for SeniorCare during any State fiscal year.

"SeniorCare rebate@means a SeniorCare benefit in the form of a monetary payment (a monthly payment of \$25) made to an individual enrolled in a third-party plan that provides a pharmacy benefit. The payment is made in lieu of the covered services described in this Section.

b) Covered Services

Except for an individual who elects to participate in the SeniorCare rebate program, covered services under the SeniorCare program shall consist of pharmaceutical products that are prescribed by licensed medical professionals authorized under State law to issue prescriptions within the scope of their professional practice, and subject to the provisions in Section 140.443.

c) Co-Payment

An individual eligible for SeniorCare benefits shall be responsible for payment of applicable co-payments. The co-payment for each brand name drug prescription or generic drug prescription is:

- 1) For an individual with a household income equal to or greater than the FPL, \$1 for each dispensing of a generic drug and \$4 for each dispensing of a brand name drug, in addition to any applicable co-payment under subsection (c)(2) of this Section.
- 2) [For all individuals, twenty percent of the reimbursable amount for each prescription dispensed after the SeniorCare benefit amount has exceeded \\$1,750 for the State fiscal year. If any part of the cost is paid for by Medicare or another third party, the 20 percent is calculated on the net](#)

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~~amount paid by the Department. Twenty percent of any reimbursable amount that, when added to the SeniorCare benefit amount, results in the SeniorCare benefit amount exceeding \$1,750 during the State fiscal year.~~

3) On any prescription for which Medicare is the primary payer, the co-payments described in subsection (c)(1) and (2) of this Section do not apply.

d) Additional Payment

An individual eligible for SeniorCare benefits may be responsible for an additional payment to the pharmacy, as determined in subsection (e)(2) or (3) of this Section.

e) Reimbursable Amount

1) Except as provided in subsections (e)(2) and (3) of this Section, the reimbursable amount for a pharmaceutical product shall be:

A) For legend (prescription) drugs, the Department shall pay the lower of:

i) the pharmacy's prevailing charge to the general public; or

ii) the Department's maximum price plus a dispensing fee of \$2.75 for generic drugs and \$1.50 for brand name drugs less applicable co-payments as set forth in subsection (c) of this Section. ~~The price arrived at using the applicable reimbursement methodology set forth in either Section 140.445 for legend prescription items or Section 140.446 for over-the-counter items; or~~

B) For generic drugs, the Department's maximum price is calculated as the lowest of:

i) the average wholesale price minus 25 percent; or

ii) the Federal Upper Limit for drugs; or

iii) the State Upper Limit for drugs; or

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[established by the third party contractor for its pharmacy network or the amount required to be paid to pharmacies by the Department's contract with the third-party.](#)

f) Provider Participation

In order to participate in the SeniorCare program, pharmacies shall meet the following requirements:

- 1) Prior to enrolling with the Department of Public Aid, the pharmacy must possess a current registration issued by the United States Drug Enforcement Administration (see 21 CFR 1301) and, if located in Illinois, a current controlled substances license issued by the Illinois Department of Professional Regulation (68 Ill. Adm. Code 1330) pursuant to the Illinois Controlled Substances Act [720 ILCS 570].
- 2) The pharmacy must be licensed as required by applicable State and federal laws and regulations.
- 3) The pharmacy must meet all enrollment criteria set forth by the Department of Public Aid and, if the Department contracts with a third-party to manage some portion of the SeniorCare program, agree to the terms required for participation in that third-party's pharmacy network.
- 4) The pharmacy must agree to comply with all applicable State and federal laws and regulations.
- 5) The pharmacy must agree to comply with all applicable Department of Public Aid policies and directives.
- 6) The pharmacy must agree not to limit prescriptions filled for individuals receiving care or services from the group practice or long term care facility to those written by practitioners connected with a group practice or long term care facility.
- 7) If it is located in, or administratively associated with a group practice or long term care facility, the pharmacy must:
 - A) Provide the same scope of general pharmacy and professional services as does a pharmacy not so affiliated.

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- B) Be retail in nature and open and accessible to the general public.
- 8) A hospital pharmacy that provides pharmaceutical services and supplies for inpatients, outpatient clinic patients, or emergency room patients of the hospital shall not enroll as a participating pharmacy unless licensed to provide pharmaceutical services to the general public (division V license).
- g) Payment
- Payment by the Department to a participating pharmacy for a pharmaceutical product dispensed to an individual eligible for SeniorCare shall be the difference of the reimbursable amount, as described in subsection (e) of this Section, less applicable co-payments, as described in subsection (c) of this Section, and any amount paid or payable by Medicare or another third-party as described in Section 140.12(h)(2).
- h) SeniorCare Rebate
- An individual eligible for SeniorCare who maintains coverage by a third-party plan that provides a pharmacy benefit may, ~~at the time of application or re-application,~~ elect to participate in the SeniorCare rebate program. Individuals making that election shall receive a monthly payment of \$25.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: Proposed Action:

148.160	Amendment
148.170	Amendment
148.190	Amendment
148.290	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules on hospital services pertain to copayments for inpatient services under the Medical Assistance Program. The primary changes increase the patient age for copayment assessment from 18 to 19 years, and allow copayment assessment for adults under the State Children and Family Assistance Program. These proposed amendments bring copayment provisions for hospital and noninstitutional provider services into alignment.

The Department is also proposing related amendments at 89 Ill. Adm. Code 149.150.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.295	Amendment	March 28, 2003 (27 Ill. Reg. 5148)
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposed amendments pertain to Medicaid funded hospitals.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because:

This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the proposed amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 148
HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section	
148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section	
148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.90	Heart Transplants (Repealed)
148.100	Liver Transplants (Repealed)
148.105	Psychiatric Adjustment Payments
148.110	Bone Marrow Transplants (Repealed)
148.115	Rural Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170	Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175	Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act

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- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- EMERGENCY
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.390 Hearings
- 148.400 Special Hospital Reporting Requirements

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

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Section	
148.500	Definitions
148.510	Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section	
148.600	Definitions
148.610	Scope of the Program
148.620	Assistance Level and Reimbursement
148.630	Criteria and Information Required to Establish Eligibility
148.640	Covered Services
148.TABLE A	Renal Participation Fee Worksheet
148.TABLE B	Bureau of Labor Statistics Equivalence
148.TABLE C	List of Metropolitan Counties by SMSA Definition

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days;

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amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill.

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Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; emergency repealed at 26 Ill. Reg. 7786, effective July 1, 2002; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 8320, effective May 28, 2003; amended at 27 Ill. Reg. _____, effective _____.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million

a) Reimbursement Methodology

In accordance with 89 Ill. Adm. Code 149.50 (c)(8), county-owned hospitals in an Illinois county with a population greater than three million are excluded from the DRG PPS and are reimbursed in accordance with this Section.

b) Base Year Costs

- 1) The hospitals' base year operating costs shall be contained in the hospitals' audited cost reports (see 42 CFR 447.260 and 447.265 (1982)) for hospitals fiscal years ending between 20 and 31 months prior to the fiscal year for which rates are being set.
- 2) The hospitals' base year capital related costs shall be derived from the same audited cost reports used for operating costs in subsection (b)(1) of this Section.

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- 3) The hospitals' base year direct medical education costs shall be derived from the same audited cost reports used for operating costs in subsection (b)(1) of this Section.
 - 4) The hospitals' base year direct medical education costs shall be derived from the same audited cost reports used for operating costs in subsection (b)(1) of this Section.
 - 5) The base year cost per diem shall be the sum of the operating cost per diem, capital related cost per diem and medical education cost per diem defined in subsections (b)(1) through (b)(3) [of this Section](#).
 - 6) New hospitals, for which a base year cost report is not on file, will be reimbursed the per diem rate calculated in subsection (b)(4) of this Section and inflated in subsection (d)(1) of this Section.
- c) Restructuring Adjustments

Adjustments to the base year cost per diem, as described in subsection (b)(4) of this Section, will be made to reflect restructuring since filing the base year cost reports. The restructuring must have been mandated to meet state, federal or local health and safety standards. The allowable Medicare/Medicaid costs (see 42 CFR Part 405, Subpart D, 1982) must be incurred as a result of mandated restructuring and identified from the most recent audited cost reports available before or during the rate year. The restructuring costs must be significant, i.e., on a per unit basis; they must constitute one percent or more of the total allowable Medicare/Medicaid unit costs for the same time period. The Department will use the most recent available audited cost reports to determine restructuring costs. If audited cost reports become available during the rate year, the reimbursement rate will be recalculated at that time to reflect restructuring cost adjustments. For audited reports received at the Illinois Department of Public Aid, Office of Health Finance, between the first and fifteenth of the month, the effective date of the recalculated rate will be the first day of the following month. For audited reports received at the Office of Health Finance, between the sixteenth and last day of the month, the effective date will be the first day of the second month following the month the reports are received. Allowable restructuring costs are adjusted to account for inflation from the midpoint of the restructuring cost reporting year to the midpoint of the base year according to the index and methodology of Data Resources, Inc. (DRI), national hospital market basket price proxies and added to the base year cost per diem, as described in subsection (b)(4) [of this Section](#).

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which is subject to the inflation adjustment described in subsection (d) of this Section.

d) Inflation Adjustment For Base Year Cost Report Inflation

- 1) The base year cost per diem, as defined in subsection (b)(4) of this Section, shall be inflated from the midpoint of the hospitals' base year to the midpoint of the time period for which rates are being set (rate period) according to the historical rate of annual cost increases. The historical rate of annual cost increases shall be calculated by dividing the operating cost per diem as defined in subsection (b)(1) of this Section by the previous year's operating cost per diem.
- 2) Effective October 1, 1992, the final reimbursement rate shall be no less than the reimbursement rate in effect on June 1, 1992; except that this minimum shall be adjusted each July 1 thereafter by the annual percentage change in the per diem cost of inpatient hospital services as reported in the most recent annual Medicaid cost reports.

e) Review Procedure

The review procedure shall be in accordance with Section 148.310.

f) Applicable Inpatient Adjustments

- 1) The criteria and methodology for making applicable adjustments to DSH hospitals, which are exempt from the DRG PPS as described in subsection (a) of this Section, shall be in accordance with Section 148.120.
- 2) The criteria and methodology for making applicable Medicaid Percentage Adjustments to hospitals which are exempt from the DRG PPS as described in subsection (a) of this Section ~~are~~ is described in this Section.
 - A) The payment adjustment shall be \$150 plus \$2 for each one percent that the hospital's Medicaid inpatient utilization rate, as described in Section 148.120(k)(5), exceeds 1.5 standard deviations above the mean Medicaid inpatient utilization rate, as defined in Section 148.120(k)(3), multiplied by 3.75. This payment adjustment is based on a rate year 1993 base rate and shall be trended forward to the current rate year for inflationary increases.

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- B) The amount calculated pursuant to subsection (f)(2)(A) of this Section shall be adjusted on October 1, 1995, and annually thereafter, by a percentage equal to the lesser of:
- i) The increase in the national hospital market basket price proxies (DRI) hospital cost index for the most recent 12 month period for which data are available; or
 - ii) The percentage increase in the statewide average hospital payment rate, as described in Section 148.120(k)(8) over the previous year's statewide average hospital payment rate.
- C) The amount calculated pursuant to subsections (f)(2)(A) through (f)(2)(B) of this Section shall be no less than the rate calculated in accordance with Section 148.120(g)(2) in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services is calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
- D) The amount calculated pursuant to subsection (f)(2) of this Section shall be the Medicaid percentage adjustment which shall be paid on a per diem basis and shall be applied to each covered day of care provided.
- 3) County Provider Adjustment.
- A) Effective July 1, 1995, hospitals reimbursed under this Section shall be eligible to receive a county provider adjustment. The methodology used to determine the add-on payment amount is as follows:
- i) Beginning with July 1, 1995, hospitals under this Section shall receive \$15,500 per Medicaid inpatient admission in the base period.
 - ii) The payments made under this subsection shall be made on a quarterly basis.

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B) County Provider Adjustment Definitions.

- i) "Base Period" means State fiscal year 1994.
- ii) "Medicaid Inpatient Admission" means hospital inpatient admissions provided in the base period, which were subsequently adjudicated by the Department through the last day of June, 1995, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns and Medicare/Medicaid crossover days.

- 4) Hospitals reimbursed under this Section shall receive supplemental inpatient payments. Effective with admissions on or after July 1, 1995, supplemental inpatient payments for hospitals reimbursed under this Section shall be calculated by multiplying the sum of the base year cost per diem, as described in subsection (b)(4) of this Section, as adjusted for restructuring, as described in subsection (c) of this Section, and as adjusted for inflation, as described in subsection (d) of this Section, and the sum of the calculated disproportionate share and Medicaid percentage per diem payments as described in Section 148.120 and subsection (f)(2) of this Section, by the hospitals' percentage of charges which are not reimbursed by a third party payer for the period of August 1, 1991, through July 31, 1992. Effective July 1, 1995, the supplemental inpatient payments calculated under this subsection shall be no less than the supplemental inpatient rates in effect on June 1, 1992, except that this minimum shall be adjusted as of July 1, 1992, and on the first day of July of each year thereafter, by the annual percentage change in the per diem cost of inpatient hospital services as reported in the most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services is calculated by dividing the total allowable Medicaid cost by the total allowable Medicaid days. The supplemental inpatient payment adjustment shall be paid on a per diem basis and shall be applied to each covered day of care provided.

g) Outlier Adjustments

Outlier adjustments to payment amounts for medically necessary inpatient hospital services involving exceptionally high costs for certain individuals shall be made in accordance with Section 148.130.

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- h) Trauma Center Adjustments. Trauma center adjustments shall be made in accordance with Section 148.290(c).
- i) Reductions to Total Payments
- 1) Copayments. Copayments are ~~assessed under all medical programs administered by the Department except the Family and Children Assistance Program, formerly known as the General Assistance Program, and shall be assessed~~ in accordance with Section 148.190.
 - 2) Third Party Payments. The requirements of Section 148.290(f)(2) shall apply.
- j) Prepayment and Utilization Review
- Prepayment and utilization review requirements shall be in accordance with Section 148.240.
- k) Cost Reporting Requirements
- Cost reporting requirements shall be in accordance with Section 148.210.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act

- a) In accordance with 89 Ill. Adm. Code 149.50(c)(8), a hospital organized under the University of Illinois Hospital Act shall be excluded from the DRG PPS and shall be reimbursed in accordance with this Section.
- b) Base Year Costs
- 1) Each hospital's base year cost per diem shall be derived from an audited cost report (see 42 CFR 447.260 and 447.265 (1982)) for hospitals' fiscal year 1992.
 - 2) For new hospitals for which a base year cost report is not on file, the Department will use a more recent filed cost report or, if no cost report is on file, the hospital's estimate of costs, adjusted as necessary according to experience with hospitals of similar size, location and service intensity.

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The Department will recalculate any reimbursement rate based on a rate estimated as soon as a cost report becomes available. The recalculated rate will be effective for the entire fiscal year and the Department will retroactively adjust payments if reported costs are not consistent with the estimate on which the payments are based.

c) Restructuring Adjustment

Adjustments to base year costs will be made to reflect restructuring since filing the base year cost report. The restructuring must have been mandated to meet state, federal or local health and safety standards. The allowable Medicare/Medicaid costs (see 42 CFR Part 405, Subpart D, 1982) must be incurred as a result of mandated restructuring and identified from the most recent audited cost report available before or during the rate year. The restructuring costs must be significant, i.e., on a per unit basis; they must constitute one percent or more of the total allowable Medicare/Medicaid unit costs for the same time period. The Department will use the most recent available audited cost report to determine restructuring costs. If an audited cost report becomes available during the rate year, the reimbursement rate will be recalculated at that time to reflect restructuring cost adjustments. For audited reports received at the Illinois Department of Public Aid, Office of Health Finance, between the first and fifteenth of the month, the effective date of the recalculated rate will be the first day of the following month. For audited reports received at the Finance Section between the sixteenth and last day of the month, the effective date will be the first day of the second month following the month the report is received. Allowable restructuring costs are adjusted to account for inflation from the midpoint of the restructuring cost reporting year to the midpoint of the base year according to the index and methodology of Data Resources, Inc. (DRI), national hospital market basket price proxies and added to the base year costs.

d) Inflation Adjustment For Base Year Cost Report Inflation

Base year costs, including any adjustments for mandated restructuring, will be updated from the midpoint of each hospital's base year to the midpoint of the fiscal year for which rates are being set according to the hospital's historical rate of annual cost increases.

e) Review Procedure

The review procedure shall be in accordance with Section 148.310.

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- f) Applicable adjustments for DSH Hospitals
- 1) The criteria and methodology for making applicable adjustments to DSH hospitals, which are exempt from the DRG PPS as described in subsection (a) of this Section, shall be in accordance with Section 148.120.
 - 2) Effective October 1, 1993, in addition to the DSH payment adjustments described in Section 148.120, hospitals reimbursed under this Section shall have supplemental DSH payments. Effective with admissions on or after October 1, 1993, supplemental DSH payments for hospitals reimbursed under this Section shall be calculated by multiplying the sum of the hospital's base year costs, as described in subsection (b) of this Section, as adjusted for restructuring, as described in subsection (c) of this Section, and as adjusted for inflation, as described in subsection (d) of this Section, and the calculated disproportionate share per diem payment adjustment as described in Section 148.120, by the hospital's percentage of charges which are not reimbursed by a third party payer for the period of August 1, 1991, through July 31, 1992. The resulting product shall be multiplied by 4.50 and this amount shall be the supplemental DSH payment adjustment which shall be paid on a per diem basis and shall be applied to each covered day of care provided.
- g) Outlier Adjustments
- Outlier adjustments to payment amounts for medically necessary inpatient hospital services involving exceptionally high costs for certain individuals shall be made in accordance with Section 148.130.
- h) Reductions to Total Payments
- 1) Copayments. Copayments are assessed ~~under all medical programs administered by the Department except the Children and Family Assistance Program, formerly known as the General Assistance Program, and shall be assessed~~ in accordance with Section 148.190.
 - 2) Third Party Payments. The requirements of Section 148.290(f)(2) shall apply.
- i) Prepayment and Utilization Review
- Prepayment and utilization review requirements shall be in accordance with

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Section 148.240.

j) Cost Reporting Requirements

Cost reporting requirements shall be in accordance with Section 148.210.

k) Rate Period

The rate period for hospitals reimbursed under this Section shall be the 12 month period beginning on October 1 of the year and ending September 30 of the following year, except for the period of July 1, 1995, through September 30, 1995.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 148.190 Copayments

a) With the exception of those classes of individuals identified in 89 Ill. Adm. Code 140.402(d), copayments will be assessed on inpatient services provided under all Medical Assistance Programs administered by the Department. Copayments will be ~~assessed on inpatient hospital services~~ in the following amounts:

- 1) Inpatient hospital services in hospitals with an alternate cost per diem rate (see Section 148.270(a)) of \$325 or more \$3 per day.
- 2) Inpatient hospital services in hospitals with an alternate cost per diem rate (see Section 148.270(a)) of more than \$275 but less than \$325 \$2 per day.
- 3) Inpatient hospital services in hospitals with an alternate cost per diem rate (see Section 148.270(a)) of \$275 or less No Copayment.

b) In each instance where a copayment is payable, the Department will reduce the amount payable to the affected provider by the amount of the required copayment. ~~Copayments will be assessed under all medical programs administered by the Department except the Children and Family Assistance Program, formerly known as the General Assistance medical program. Copayments will not be assessed against individuals under the age of 18, pregnant women (including post-partum women who have given birth within the last six weeks), or group care recipients. Copayments will be deducted automatically by the Department upon payment for services provided.~~

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- c) No provider may deny care or services on account of an individual's inability to pay a copayment; this requirement, however, shall not extinguish the liability for payment of the copayment by the individual to whom the care or services were furnished.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 148.290 Adjustments and Reductions to Total Payments

- a) Applicable Adjustments for DSH

The criteria and methodology for making applicable DSH adjustments to hospitals shall be in accordance with Section 148.120.

- b) Outlier Adjustments

Outlier adjustments to payment amounts for medically necessary inpatient hospital services involving exceptionally high costs for certain individuals shall be made in accordance with Section 148.130 for hospitals that are exempt from the DRG PPS (see 89 Ill. Adm. Code 149).

- c) County Trauma Center Adjustment (TCA). Illinois hospitals that, on the first day of July preceding the TCA rate period, are recognized as Level I or Level II trauma centers by the Illinois Department of Public Health, shall receive an adjustment that shall be calculated as follows:

- 1) The available funds from the Trauma Center Fund for each quarter shall be divided by each eligible hospital's (as defined in subsection (c)(4) of this Section) Medicaid trauma admissions in the same quarter of the TCA base period to determine the adjustment for the TCA rate period. The result of this calculation shall be the County TCA adjustment per Medicaid trauma admission for the applicable quarter.
- 2) The county trauma center adjustment payments shall not be treated as payments for hospital services under Title XIX of the Social Security Act for purposes of the calculation of the intergovernmental transfer provided for in Section 15-3(a) of the Public Aid Code.
- 3) The trauma center adjustments shall be paid to eligible hospitals on a quarterly basis.

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- 4) Trauma Center Adjustment Limitations. Hospitals that qualify for trauma center adjustments under this subsection shall not be eligible for the total trauma center adjustment if, during the TCA rate period, the hospital is no longer recognized by the Illinois Department of Public Health, or the appropriate licensing agency, as a Level I or a Level II trauma center as required for the adjustment described in subsection (c) of this Section. In these instances, the adjustments calculated under this subsection shall be pro-rated, as applicable, based upon the date that such recognition ceased.
- 5) Trauma Center Adjustment Definitions. The definitions of terms used with reference to calculation of the trauma center adjustments required by subsection (c) [of this Section](#) are as follows:
 - A) "Available funds" means funds which have been deposited into the Trauma Center Fund, which have been distributed to the Department by the State Treasurer, and which have been appropriated by the Illinois General Assembly.
 - B) "Medicaid trauma admission" means those claims billed as admissions, excluding admissions for normal newborns, which were subsequently adjudicated by the Department through the last day of June preceding the TCA rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.98, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.3, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99. For those hospitals recognized as Level I trauma centers solely for pediatric trauma cases, Medicaid trauma admissions are only calculated for the claims billed as admissions, excluding admissions for normal newborns, which were subsequently adjudicated by the

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Department through the last day of June preceding the TCA rate period and contained within the Department's paid claims data base, with ICD-9-CM diagnoses within the above ranges for children under 18 years of age.

- C) "TCA base period" means State Fiscal Year 1991, for TCA payments calculated for the October 1, 1992 TCA rate period, State Fiscal Year 1992 for TCA payments calculated for the October 1, 1993, TCA rate period, etc.
 - D) "TCA rate period" means, beginning October 1, 1992, the 12 month period beginning on October 1 of the year and ending September 30 of the following year.
 - E) "Trauma Center Fund" means the fund created for the purpose of distributing a portion of monies received by county circuit clerks for certain violations of laws or ordinances regulating the movement of traffic to Level I and Level II trauma centers located in the State of Illinois. The Trauma Center Fund shall also consist of all federal matching funds received by the Department as a result of expenditures made by the Department as required by subsection (c)(4) of this Section.
- d) Medicaid High Volume Adjustments (MHVA)
- 1) For inpatient admissions occurring on or after October 1, 1993, the Department shall make Medicaid High Volume Adjustments (MHVA) to hospitals that meet the following criteria:
 - A) Be eligible to receive the adjustment payments described in Section 148.120 in the MHVA rate period;
 - B) Not be a county-owned hospital, as described in Section 148.25 (b)(1)(A), or a hospital organized under the University of Illinois Hospital Act, as described in Section 148.25 (b)(1)(B) in the MHVA rate period; and
 - C) Not be a facility operated by the Department of Human Services, as described in Section 148.25(b)(6).
 - 2) Calculation of Medicaid High Volume Adjustments

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- A) Hospitals meeting the criteria specified in subsection (d)(1) of this Section shall receive a MHVA payment adjustment of \$60.
- B) For children's hospitals, as defined in Section 148.120 (a)(5), the payment adjustment calculated under subsection (d)(2)(A) of this Section shall be multiplied by 2.0.
- C) The amount calculated pursuant to subsections (d)(2)(A) and (d)(2)(B) of this Section shall be adjusted on October 1, 1993, and annually thereafter, by a percentage equal to the lesser of:
- i) The increase in the national hospital market basket price proxies (DRI) hospital cost index for the most recent 12 month period for which data are available; or
 - ii) The percentage increase in the statewide average hospital payment rate, as described in subsection (d)(4)(C) of this Section, over the previous year's statewide average hospital payment rate.
- D) The adjustments calculated under subsections (d)(2)(A) through (d)(2)(C) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.
- 3) Medicaid High Volume Adjustment Limitations. Hospitals that qualify for MHVA adjustments under subsections (d)(2)(A) through (d)(2)(C) of this Section shall not be eligible for such MHVA adjustments if they are no longer recognized or designated by the Department as a DSH hospital, as required by subsection (d)(1) of this Section. In this instance, the annual adjustment described in subsections (d)(2)(A) through (d)(2)(C) [of this Section](#) shall be pro-rated, as applicable, based upon the date that the hospital was deemed ineligible for DSH payments adjustments, under Section 148.120, by the Department.
- 4) Medicaid High Volume Adjustment Definitions. The definitions of terms used with reference to calculation of the MHVA adjustments required by subsection (d) [of this Section](#) are as follows:
- A) "MHVA base fiscal year" means, for example, the hospital's fiscal year ending in 1991 for the October 1, 1993, MHVA determination

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year, the hospital's fiscal year ending in 1992 for the October 1, 1994, MHVA determination year, etc.

- B) "MHVA rate period" means, beginning October 1, 1993, the 12 month period beginning on October 1 of the year and ending September 30 of the following year.
 - C) "Statewide Average Hospital Payment Rate" means the hospital's alternative reimbursement rate, as defined in Section 148.270(a).
- e) Inpatient Payment Adjustments based upon Reviews. Appeals based upon a hospital's ineligibility for the inpatient payment adjustments described in this Section, or their payment adjustment amounts, in accordance with Section 148.310, which result in a change in a hospital's eligibility for inpatient payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the inpatient payment adjustments of any other hospital or the payment adjustment amount of any other hospital that has received notification from the Department of their eligibility for inpatient payment adjustments based upon the requirements of this Section.
- f) Reductions to Total Payments
- 1) Copayments. Copayments are assessed ~~under all medical programs administered by the Department except the Children and Family Assistance Program, formerly known as the General Assistance medical program, and shall be assessed~~ in accordance with Section 148.190.
 - 2) Third Party Payments. Hospitals shall determine that services are not covered, in whole or in part, under any program or under any other private group indemnification or insurance program, health maintenance organization, workers compensation or the tort liability of any third party. To the extent that such coverage is available, the Department's payment obligation shall be reduced.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Diagnosis Related Grouping (Drg) Prospective Payment System (Pps)
- 2) Code Citation: 89 Ill. Adm. Code 149
- 3) Section Numbers: Proposed Action:
149.150 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules on inpatient hospital services reimbursed under DRG PPS pertain to copayments under the Medical Assistance Program. Related amendments affecting hospital services are being proposed to 89 Ill. Adm. Code 148. Implementation of these changes will bring copayment provisions for hospital and noninstitutional provider services into alignment. The primary changes increase the patient age for copayment assessment from 18 to 19 years, and allow copayment assessment for adults under the State Children and Family Assistance Program.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

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(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposed rulemaking pertains to inpatient hospital services that are reimbursed under DRG PPS.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because:

This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the proposed amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 149

DIAGNOSIS RELATED GROUPING (DRG) PROSPECTIVE PAYMENT SYSTEM (PPS)

Section

- 149.5 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
- 149.10 Applicability of Other Provisions
- 149.25 General Provisions
- 149.50 Hospital Services Subject to and Excluded from the DRG Prospective Payment System
- 149.75 Conditions for Payment Under the DRG Prospective Payment System
- 149.100 Basic Methodology for Determining DRG Prospective Payment Rates
- 149.105 Payment For Outlier Cases
- 149.125 Special Treatment of Certain Facilities
- 149.140 Methodology for Determining Primary Care Access Health Care Education Payments (Repealed)
- 149.150 Payments to Hospitals Under the DRG Prospective Payment System
- 149.175 Payments to Contracting Hospitals (Repealed)
- 149.200 Admitting and Clinical Privileges (Repealed)
- 149.205 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Repealed)
- 149.225 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Repealed)
- 149.250 Contract Monitoring (Repealed)
- 149.275 Transfer of Recipients (Repealed)
- 149.300 Validity of Contracts (Repealed)
- 149.305 Termination of ICARE Contracts (Repealed)
- 149.325 Hospital Services Procurement Advisory Board (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI, VII and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 140.940 through 140.972 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 12095, effective July 15, 1988; amended at 13 Ill. Reg. 554, effective January 1, 1989; amended at 13 Ill. Reg. 15070, effective September 15, 1989; amended at 15 Ill. Reg. 1826, effective January 28, 1991; emergency amendment at 15 Ill. Reg. 16308, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 6195, effective March

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27, 1992; emergency amendment at 16 Ill. Reg. 11937, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14733, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19868, effective December 7, 1992; amended at 17 Ill. Reg. 3217, effective March 1, 1993; emergency amendment at 17 Ill. Reg. 17275, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3378, effective February 25, 1994; amended at 19 Ill. Reg. 10674, effective July 1, 1995; amended at 21 Ill. Reg. 2238, effective February 3, 1997; emergency amendment at 22 Ill. Reg. 13064, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19866, effective October 30, 1998; amended at 25 Ill. Reg. 8775, effective July 1, 2001; amended at 26 Ill. Reg. 13676 effective September 3, 2002; amended at 27 Ill. Reg. _____, effective _____.

Section 149.150 Payments to Hospitals Under the DRG Prospective Payment System

- a) Total Medicaid Payment. Under the DRG PPS, the total payment for inpatient hospital services furnished to a Medicaid client by a hospital will equal the sum of the payments listed in subsections (b) through (c). In addition to the payments listed in subsections (b) through (c) of this Section, hospitals shall also receive disproportionate share adjustments in accordance with 89 Ill. Adm. Code 148.120, if applicable, uncompensated care adjustments in accordance with 89 Ill. Adm. Code 148.150, if applicable, and various specific inpatient payment adjustments in accordance with 89 Ill. Adm. Code 148.290, if applicable.
- b) Payments Determined on a Per Case Basis. A hospital will be paid on a per case basis (with the exception of kidney acquisition costs) the following amounts:
 - 1) the appropriate DRG PPS rate for each discharge as determined in accordance with Section 149.100(c).
 - 2) The appropriate outlier payment amounts determined under Section 149.105.
 - 3) Capital related costs as determined under subsection (c)(1)(A) [of this Section below](#).
- c) Payments for Capital Costs. For the rate period described in 89 Ill. Adm. Code 148.25(g)(2)(A) these costs shall be paid on a per case basis. For the rate periods described in 89 Ill. Adm. Code 148.25(g)(2)(B), these costs shall be paid on a per diem basis. Payments for these costs shall be calculated as follows:
 - 1) Capital Related Costs

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- A) For the rate period described in 89 Ill. Adm. Code 148.25(g)(2)(A):
- i) The capital related cost per diem shall be calculated by taking the hospital's total capital related costs as reported on the hospital's latest audited Medicare cost report on file with the Department for the base period as defined in 89 Ill. Adm. Code 148.25(g)(1), divided by the hospital's total inpatient days, trended forward to the midpoint of the rate period using the national total hospital market basket price proxies (DRI).
 - ii) These two trended capital related cost per diems are then added together and divided by two to calculate the hospital's adjusted capital related cost per diem.
 - iii) The adjusted capital related cost per diem amount, as calculated in subsection (c)(1)(A)(ii) above, shall be rank ordered for all hospitals and capped at the 80th percentile.
 - iv) Each hospital shall receive a per case add-on for capital related costs which shall be equal to the amount calculated in subsection (c)(1)(A)(ii) or subsection (c)(1)(A)(iii) above, whichever is less, multiplied by the hospital's average length of stay for services reimbursed under the DRG PPS.
- B) For the rate periods described in 89 Ill. Adm. Code 148.25(g)(2)(B):
- i) Capital related cost per diem shall be calculated in accordance with subsections (c)(1)(A)(i) through (c)(1)(A)(iii) of this Section ~~above~~.
 - ii) Each hospital shall receive a per diem add-on for capital related costs which shall be equal to the amount calculated in subsection (c)(1)(A)(ii) or subsection (c)(1)(A)(iii) of this Section ~~above~~, whichever is less.
- 2) A hospital wishing to appeal the calculation of its rates must notify the Department within 30 days after receipt of the rate change notification.

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- d) Method of Payment
- 1) General Rule. Unless the provisions of subsection (d)(2) [of this Section](#) apply, hospitals are paid for each discharge based on the submission of a discharge bill. Payments for inpatient hospital services furnished by an excluded distinct part psychiatric or a rehabilitation unit of a hospital are made in accordance with 89 Ill. Adm. Code 148.270(b).
 - 2) Special Interim Payment for Unusually Long Lengths of Stay
 - A) First Interim Payment. A hospital may request an interim payment after a Medicaid client has been in the hospital at least 60 days. Payment for the interim bill is determined as if the bill were a final discharge bill and includes any outlier payment determined as of the last day for which services have been billed.
 - B) Additional Interim Payments. A hospital may request additional interim payments at intervals of at least 60 days after the date of the first interim bill submitted under subsection (d)(2)(A) [of this Section](#). Payment for these additional interim bills, as well as the final bill, is determined as if the bill were the final bill with appropriate adjustments made to the payment amount to reflect any previous interim payment made under the provisions of subsection (d)(2).
 - 3) Outlier Payments. Except as provided in subsection (d)(2) [of this Section](#), payment for outlier cases (described in Section 149.105) are not made on an interim basis. The outlier payments are made based on submitted bills and represent final payment.
- e) Reductions to Total Payments
- 1) Copayments. Copayments are assessed ~~under all medical programs administered by the Department and shall be assessed~~ in accordance with 89 Ill. Adm. Code 148.190.
 - 2) Third Party Payments. Hospitals shall determine that services rendered are not covered, in whole or in part, under any other state or federal medical care program or under any other private group indemnification or insurance program, health maintenance organization, preferred provider organization, workers compensation or the tort liability of any third party.

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To the extent that such coverage is available, the Department's payment obligation shall be reduced.

- f) Effect of Change of Ownership on Payments Under the DRG Prospective Payment System. When a hospital's ownership changes, the following rule applies: Payment for the cost of inpatient hospital services for each patient, including outlier payments, as provided under subsection (b) [of this Section above](#), will be made to the entity that is the legal owner on the date of discharge. Payments will not be prorated between the buyer and seller.
- 1) The owner on the date of discharge is entitled to submit a bill for all inpatient hospital services furnished to a Medicaid client regardless of when the client's coverage began or ended during a stay, or of how long the stay lasted.
 - 2) Each bill submitted must include all information necessary for the Department to compute the payment amount, whether or not some of the information is attributable to a period during which a different party legally owned the hospital.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Appeals and Hearings
- 2) Code Citation: 89 Ill. Adm. Code 510
- 3) Section Numbers:

	<u>Adopted Action:</u>
510.10	Amendment
510.20	Amendment
510.40	Amendment
510.50	Amendment
510.60	Amendment
510.80	Amendment
510.100	Amendment
510.103	Amendment
510.105	Amendment
510.115	Amendment
510.120	Amendment
- 4) Statutory Authority:

Implementing the Disabled Persons Rehabilitation Act [20 ILCS 2405], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].
- 5) Effective Date of Amendments: June 13, 2003
- 6) Does this rulemaking contain an automatic repeal date?

Yes No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:

December 27, 2002 (26Ill. Reg. 18161)
- 10) Has JCAR Issued a Statement of Objections to this Rule? No
- 11) Difference(s) between proposal and final version:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

The following changes were made in the text of the proposed amendments:

- A) References to “Vending Facilities Program for the Blind” were changed to “Business Enterprise Program for the Blind”.
 - B) In Section 510.80(j)(1), “DHS” was struck.
 - C) In Sections 510.103© and (d), “DHS” was changed to “DHS-ORS”.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace an emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Rule:

These amendments are needed to address changes in federal regulations and to clarify the rule to address issues raised by delays in the hearings process caused by customer’s actions to continually postpone scheduled hearings

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karl Menninger, Acting Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONSPART 510
APPEALS AND HEARINGS

Section	
510.5	Scope and Purpose
510.10	General Information
510.20	What May Be Appealed
510.30	What May Not Be Appealed
510.40	Grievant Rights
510.50	DHS-ORS Rights
510.60	Service Notice
510.70	Level I Hearings (Repealed)
510.80	Request for a Hearing
510.90	Impartial Hearings Officers
510.100	Informal Resolution Conference
510.103	Mediation Process for the Vocational Rehabilitation Program
510.105	Conduct of Hearings
510.110	Associate Director's Review for Residential/Training Programs for Persons with Visual Impairments
510.115	Associate Director's Decision for Hearings Regarding a Blind Vendor
510.120	Exhaustion of Administrative Remedies

AUTHORITY: Implementing the Disabled Persons Rehabilitation Act [20 ILCS 2405], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted and codified at 7 Ill. Reg. 5230, effective April 1, 1983; amended at 7 Ill. Reg. 14526, effective October 19, 1983; amended at 9 Ill. Reg. 12325, effective July 30, 1985; preemptory amendment at 11 Ill. Reg. 6563, effective March 31, 1987; Part repealed, new Part adopted at 13 Ill. Reg. 15769, effective September 26, 1989; amended at 16 Ill. Reg. 8537, effective May 20, 1992; Emergency Amendments at 17 Ill. Reg. 11608, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20296, effective November 15, 1993; amended at 20 Ill. Reg. 8505, effective June 17, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 13195, effective November 15, 1999; amended at 27 Ill. Reg. 9576, effective June 13, 2003.

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Section 510.10 General Information

a) Definitions

For the purposes of this Part, the following terms shall have the following meanings:

"Associate Director" means the Associate Director of the Office of Rehabilitation Services within the Department of Human Services (DHS-ORS).

"Client Assistance Program" (CAP) means a program funded by the federal Rehabilitation Act to provide assistance in informing and advising all customers and applicants of all available benefits under the federal [Vocational Rehabilitation](#) (VR) Act and upon request of such a customer to assist in the customer's relationship with projects, programs and services provided by the VR Act. [CAP may also serve customers of the Home Services Program.](#) CAP services can include assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the customer's rights under the Act.

"Customer" means any individual who has requested, been referred to, applied for, or is receiving services from DHS-ORS (except from the Bureau of Disability Determination Services), or, as appropriate, a parent, family member, guardian, advocate or duly authorized representative of the customer.

"DHS-ORS" means the Department of Human Services – Office of Rehabilitation Services and does not include any contractor, grantee, nominee agency, or service provider.

"Grievant" means any customer, or licensed vendor as specified in 89 Ill. Adm. Code 650 (Vending Facilities Program for the Blind), who has been aggrieved by any action or inaction by DHS-ORS.

"Hearing" means an administrative hearing of the appeal of the grievant as set forth in Section 510.105 and presided over by an Impartial Hearing Officer.

"Hearings Coordinator" means the DHS Chief, Bureau Administrative Hearings, who is responsible for communicating with grievants about their appeal requests, docketing and scheduling hearings, and coordinating the appointment of Impartial Hearing Officers.

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"Impartial Hearing Officer" means the individual appointed to conduct the hearing as set forth in Section 510.90.

"Inaction" means the failure of DHS-ORS to act within the time lines specified by the program to which a customer has applied for services to make an eligibility determination or to act on a request for any change in services unless an extension of time has been agreed to in writing by the customer or necessitated by the VR customer's participation in a trial work period.

"Informal Resolution Conference" means an attempt to informally resolve an appeal by the grievant and DHS-ORS, as set forth in Section 510.100.

"Mediator" means an individual who is qualified in mediation and knowledgeable of the laws and regulations relating to the provision of vocational rehabilitation services.

"Personal representative" means an attorney, CAP representative or other individual designated by a grievant to act on the grievant's behalf in the proceedings contained in this Part, as set forth in subsection (b)(3) of this Section and Section 510.100(d).

"Schools" means the three State Schools operated by DHS-ORS: Illinois Center for Rehabilitation and Education-Roosevelt, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired.

"Services" means services provided directly or purchased by DHS-ORS as set forth in 89 Ill. Adm. Code Chapter IV, Subchapters b (Vocational Rehabilitation (VR)), c (Vocational Related Programs), d (Home Services Program (HSP)), and e (Specialized Services for the Visually Impaired (CRSBVI)).

"Working Days" means Mondays through Fridays, excluding State established holidays or days on which government offices are closed by order of the Governor.

b) General Provisions

- 1) A grievant who is not satisfied with an action taken by DHS-ORS, or with the failure of DHS-ORS to take action, is entitled to a hearing. A customer of the Vocational Rehabilitation program may also request mediation.
- 2) Any and all notices and communications to DHS-ORS made pursuant to

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this Part should be in writing. Nonwritten communications will be accepted if the information required in subsection (b)(6) of this Section is provided. All nonwritten communications shall be documented by DHS-ORS.

- 3) A grievant may appoint a representative in accordance with Section 510.40(e)(2), who may exercise any right of the grievant on the grievant's behalf. A grievant may only designate one representative at a time. The designation must be in writing or on the record.
- 4) All time periods related to communications arising under this Part commence on the date of receipt (receipt is presumed 5 days after the date of postmark or on the day of delivery for hand delivered items) or, if a nonwritten form of communication, on the date of receipt.
- 5) A request for a hearing by any person not a "grievant" cannot be heard by DHS-ORS pursuant to this Part.
- 6) The request for a hearing should include the specific determination and the date of the determination or, if appealing inaction, the date the action was requested, and specific identification of any other matter that is being appealed, but if this information is not readily available to the grievant, the grievant must supply sufficient information for DHS-ORS to identify the specific action or inaction that is being appealed.
- 7) Should a grievant improperly request an appeal and other procedures for appeal are available, DHS-ORS will advise the grievant of the proper appeal process.
- 8) Failure of a grievant to follow procedures as set forth in this Part or failure to request an appeal within the specified time frames found in Section 510.80 shall result in dismissal of the appeal except if the failure to follow procedure was a result of DHS-ORS failure to provide required notice or information.
- 9) After a request for a hearing is filed, the grievant or DHS-ORS may initiate attempts to resolve the grievance informally. The grievant and the appropriate DHS-ORS employee may agree to resolve disputed issues, at any time during the appeals process, prior to the issuance of the hearing decision. If prior to the hearing there is mutual agreement on an issue

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under dispute, this will remove the need for a hearing on that issue.

- 10) DHS-ORS, and the Department of Public Aid in the case of HSP hearings, will assume all administrative costs of the appeal (i.e., interpreters, pursuant to Section 510.40(b), and record, pursuant to Section 510.80(e)) but will not assume costs personally incurred by the grievant because of the proceeding (e.g., legal fees, travel, witness costs, and room and board).

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

Section 510.20 What May Be Appealed

The following may be appealed under this Part:

- a) DHS-ORS' refusal to provide any service ~~which~~ it is authorized to provide;
- b) modification of any service currently provided to the customer by DHS-ORS, termination of a service or case closure, unless agreed to by the customer and DHS-ORS;
- c) a determination that a customer is ineligible for services;
- d) issues related to sex equity at DHS-ORS schools, set forth in 89 Ill. Adm. Code 829;
- e) refusal of the schools to permit modifications to a student's records, set forth in 89 Ill. Adm. Code 765.60(a)(1);
- f) inaction of DHS-ORS employees as defined in Section 510.10;
- g) dissatisfaction of a licensed vendor in the [Business Enterprise Vending Facilities](#) Program for the Blind with any action of DHS-ORS arising from the administration of the [Business Enterprise Vending Facilities](#) Program for the Blind; and
- h) dissatisfaction of a customer of the [Community Residential Services for the Blind and Visually Impaired \(CRSBVI\)](#) program as set forth in 89 Ill. Adm. Code 730, Subpart D.

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003.)

Section 510.40 Grievant Rights

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- a) DHS-ORS shall make the grievant aware, in a language that is understandable to the grievant, of the right to appeal pursuant to this Part, at the following times or events:
- 1) upon application for services;
 - 2) upon denial of application;
 - 3) after the initiation, or change, of services;
 - 4) upon termination of a service;
 - 5) upon closure;
 - 6) upon enrollment in a DHS-ORS school; and
 - 7) upon entrance into the [Business Enterprise Vending Facilities](#) Program for the Blind.
- b) The grievant may request an interpreter or reader, either sign (if sign-language is the grievant's usual mode of communication) or language (if the grievant's normally spoken language is other than English), to attend the hearing. The request should be made 10 days before the date of the hearing. A visually impaired grievant may either request a reader to read materials provided by DHS-ORS in preparation for the hearing or request that the materials be provided in Braille, large print or audio tape. The request must be made within 5 working days after being informed of the date of the hearing.
- c) All meetings with the grievant pursuant to this Part must occur at a time and location convenient to both parties.
- d) If the grievant is a customer of the VR Program (89 Ill. Adm. Code: Chapter IV, Subchapter b), HSP (89 Ill. Adm. Code: Chapter IV, Subchapter d) or [Community Residential Services for the Blind and Visually Impaired \(CRSBVI\)](#) program (89 Ill. Adm. Code: Chapter IV, Subchapter e), the grievant may have the right to the assistance of the DHS-ORS Client Assistance Program (CAP) in the preparation, presentation and representation of the matters to be heard. DHS-ORS must inform the customer of this right at the time of request for services, application and referral for services and at service initiation or modification, and at closure, as well as when the grievant requests a hearing.

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- e) After a request for a hearing is received by DHS-ORS, the grievant will be provided with written notification of the grievant's right to:
- 1) review the case file and other related documents;
 - 2) be represented by a representative during any informal resolution conference in accordance with Section [510.100\(d\)](#), during any mediation process pursuant to Section 510.103(h) or at a hearing by filing an appearance with the Hearings Coordinator, pursuant to Section 510.105(c);
 - 3) an explanation of the appeal process as set forth in this Part;
 - ~~4) decline to appear for a hearing, in which case a review of the case file and any new evidence or information submitted by the grievant will be examined and a decision made based on that review by the Impartial Hearing Officer;~~
 - ~~45)~~ withdraw the appeal at any time during the process, in which case the grievant cannot request a reopening of the appeal;
 - ~~56)~~ a timely and impartial hearing;
 - ~~67)~~ confidentiality of these proceedings, as set forth in 89 Ill. Adm. Code 505.10 and pursuant to either Section 510.100(a), 510.103(a) or 510.105(a);
 - ~~78)~~ a continuation of services, as set forth in Section 510.60; and
 - ~~89)~~ have DHS-ORS employees involved in the appealed action present at the hearing or any informal resolution conference, and to question them, with the exception listed in Section 510.105(g)(2).

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

Section 510.50 DHS-ORS Rights

DHS has the right to:

- a) refuse to hear appeals pursuant to Section 510.30;

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- b) have a DHS-ORS attorney present at any [proceeding under this Part hearing](#);
- c) cooperation by the grievant; [and](#)
- ~~d) consolidate into a single hearing all issues relating to a grievant or an issue raised by several grievants that arise out of the same set of facts and circumstances.~~
- [de](#)) consolicate into a single hearing all issues relating to a grievant or an issue raised by several grievants [that](#) ~~which~~ arise out of the same set of facts and circumstances.

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

Section 510.60 Service Notice

- a) This Section applies to VR and HSP customers only.
- b) When an individual applies for VR or HSP services from DHS-ORS, the individual must be informed that DHS-ORS notifies customers whenever it denies, modifies or terminates a service or services, if not mutually agreed upon, and of the right to action within 60 calendar days after a request for an application. DHS-ORS must send the customer a service notice at least 15 working days before the effective date of the action.
- c) Any action mutually agreed upon must be so documented in the customer's case file.
- d) The service notice must:
 - 1) contain the name, address and telephone number of the person to whom the request for a hearing must be made;
 - 2) outline the action;
 - 3) state the basis for the action;
 - 4) give the effective date of the action; and
 - 5) inform the customer of the right to a hearing in the matter and of the specific means of initiating the hearing.

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- e) For issues related to the disposition of services during the hearing process, the customer must be advised that DHS-ORS will continue to provide the disputed services until DHS-ORS final decision has been rendered unless:
- 1) the services being provided were obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the customer;
 - 2) the service has been planned but not commenced; or
 - 3) the customer, or as appropriate, the customer's parent, family member, guardian, advocate or duly authorized representative requests the service be terminated. Continuances in the proceeding shall not be issued for the purpose of extending services.
- f) A service ~~that~~ ~~which~~ is the subject of an appeal will not continue if the change is:
- 1) initiated by the customer;
 - 2) unilaterally initiated by a service provider other than DHS-ORS;
 - 3) planned or authorized, but not commenced; or
 - 4) contraindicated on the basis of medical or psychological information contained in the customer's case record.
- g) In no event will a disputed service continue past the ending date on the Individualized Plan for Employment (IPE) for VR and [Community Residential Services for the Blind and Visually Impaired](#) (CRSBVI) customers unless the customer and counselor agree to an extension IPE to be in effect pending the outcome of the hearing.

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

Section 510.80 Request for a Hearing

- a) If ~~a customer is~~ dissatisfied with any determination made by DHS-ORS concerning the furnishing, timeliness or denial of services, ~~the customer~~ ~~he/she~~ may request a timely review of these determinations. This request for a hearing shall be made through the Hearings Coordinator or by completing a request for hearing (IL 488-1949) and presenting it to DHS-ORS. The person receiving the request shall immediately forward it to the Hearings Coordinator.

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- b) A grievant must request a hearing within the following time limits:
- 1) if the request is for review of an action by DHS-ORS VR program or HSP, it must be received within 30 calendar days after the date the grievant receives notice, or knew or should have known of the issue being grieved, or 35 calendar days after the date of the post mark on the notice, if the customer was informed by mail, whichever is later;
 - 2) if the request relates to an available vending facility location, it must be made within 5 working days after receipt by the grievant of the notice of selection; or
 - 3) if the grievance pertains to the conduct of a customer in the adult residential training program for persons with visual disabilities, the request must be received within 2 working days after the date of the action or inaction being grieved.
- c) The request for a hearing must state whether the grievant is unable to attend a hearing in the local DHS-ORS facility due to the grievant's disability. The Hearings Coordinator or Impartial Hearing Officer will contact the grievant or, as appropriate, the grievant's representative to determine a mutually acceptable date for the hearing. Except as set forth in Section 510.80(j)(3) and as specified by the Department of Public Aid for HSP hearings, in no case shall the hearing be held later than 60 ~~45~~ calendar days after receipt of the grievant's request, unless the parties agree to a specific extension of time.
- d) At least 10 ~~30~~ days prior to the scheduled date of the hearing, the DHS Hearings Coordinator or Impartial Hearing officer shall send the grievant a letter, certified mail, return receipt requested:
- 1) acknowledging the request for the hearing;
 - 2) stating the date, time and location for the hearing;
 - 3) stating the name and address of the individual who shall act as the Impartial Hearing Officer;
 - 4) containing a statement of the issues ~~issue(s)~~ being grieved;
 - 5) informing the grievant of the rights accorded under this Part;

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- 6) informing the grievant of the options of the informal resolution conference and, for vocational rehabilitation customers, of the Mediation Process; and
 - 7) directing the grievant to the proper individual to whom to direct the request for these options in accordance with ~~per~~ Sections 510.100 and 510.103 of this Part.
- e) DHS-ORS shall make an audio tape recording of the hearing proceedings and will, upon request, provide one copy to the grievant at no cost. If an audio tape is not an accessible format for the grievant, upon request of the grievant, DHS-ORS shall prepare a transcript in an accessible format, and provide one copy of the transcript to the grievant at no cost.
- f) The official record of the hearing shall consist of:
- 1) all pleadings, motions, and rulings;
 - 2) evidence, including testimony and exhibits;
 - 3) a statement of matters officially noticed;
 - 4) offers of proof;
 - 5) objection and rulings thereon;
 - 6) the Impartial Hearing Officer's decision or findings of fact and recommended decision, as applicable; and
 - 7) if applicable, documents and decisions from an Associate Director's Review (Section 510.110).
- g) For grievances arising from the VR Program, findings of fact and the decision, prepared by the Impartial Hearing Officer, will be mailed within 30 calendar ~~15 working~~ days after the adjournment of the Hearing. The decision of the Impartial Hearing Officer shall be binding on DHS-ORS. DHS-ORS shall initiate implementation of the decision on the date specified in the decision, but no later than 20 calendar days after its receipt. No employee of DHS-ORS shall interfere with the implementation of the decision.
- h) For grievances pertaining to the conduct of a customer in the adult residential training program for persons with visual disabilities, the findings of fact shall be

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provided within 2 working days after the adjournment of the hearing.

- i) For a grievance arising from the selection of a vendor for a vending location in the [Business Enterprise Vending Facilities](#) Program for the Blind, the Impartial Hearing Officer shall submit his/her recommended decision to the Associate Director within 15 days after the date of adjournment of the hearing. The recommendation shall be based upon the record of the hearing, citing applicable provisions of law and policy. The Associate Director shall mail the final decision on the appeal to the grievant, and as appropriate, the grievant's representative, within 5 working days after receiving the Impartial Hearing Officer's recommendation. The Associate Director's decision shall state the principal issues and relevant facts brought out at the hearing, pertinent provisions in law and DHS-ORS policy, the reasoning that led to the decision, the right to appeal pursuant to Section 510.120(c), and the effective date of the decision and shall have attached a copy of the Impartial Hearing Officer's recommendation.
- j) For hearings arising from HSP, in addition to the other provisions contained in this Part, the following procedures shall apply:
 - 1) after receipt of the request for the hearing, pursuant to Section 510.80(b)(1), the ~~DHS~~ Hearings Coordinator shall forward the request to DPA which, pursuant to Medicaid Regulations, shall have administrative authority over all hearings arising from HSP;
 - 2) the hearing shall be conducted by an Impartial Hearing Officer approved by DPA;
 - 3) DPA's rules, as set forth at 89 Ill. Adm. Code 104, shall apply, except 89 Ill. Adm. Code 104.10, 104.11, and 104.80. All other rules contained in this Part shall apply to the extent they do not conflict with DPA's rules;
 - 4) DPA, DHS and the Impartial Hearing Officer shall make any reasonable accommodation necessary to ensure that the customer is able to file an appeal and participate in the hearing; ~~and~~
 - 5) the hearing shall be held in the local DHS-ORS office unless, because of the grievant's disability, the grievant is unable to attend the hearing in the local DHS-ORS office. In such instances, the hearing shall be held in the grievant's home; ~~and~~;
 - 6) [the decision shall be issued and implemented within 90 days after the date](#)

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of the request for hearing; however, that time shall be extended by the length of any continuance or postponement requested or agreed to by the grievant.

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

Section 510.100 Informal Resolution Conference

- a) Every proceeding pursuant to this Section is to be confidential and not open to the general public unless the grievant so requests.
- b) The Informal Resolution Conference is an informal review of the decision with the goal of mutually resolving the issues being appealed. Procedures set forth in the Code of Civil Procedures [735 ILCS 5] do not apply.
- c) A grievant may request an Informal Resolution Conference, in the period between the filing of the appeal and the hearing decision, by contacting the office out of which the grievant receives services.
- d) The grievant may choose to have a representative present at the conference.
- e) If the grievance pertains to the customer's VR program or HSP, the supervisor of the DHS-ORS employee whose action is being grieved must schedule and chair the Informal Resolution Conference ~~informal resolution conference~~ at a time and date convenient to all parties. For grievances by a blind vendor, the chair shall be the Administrator or that person's supervisor. The grievant must be notified of the name, address and telephone number of the DHS-ORS employee chairing the meeting. The informal resolution conference shall be held in the local DHS-ORS facility unless, in the request, the grievant indicates that due to the grievant's disability the grievant cannot attend at the local DHS-ORS facility. In this case the conference shall be held in the grievant's home.
- f) During the Informal Resolution Conference ~~informal resolution conference~~ the chair should:
 - 1) initiate the conference with an opening statement explaining the purpose of the conference;
 - 2) assist the parties in determining and clarifying the issues;
 - 3) facilitate a fair and complete presentation and discussion of relevant

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information, both oral and written;

- 4) as appropriate, summarize the positions of the grievant and DHS-ORS;
 - 5) provide an opportunity to discuss settlement or agree on a course of action; and
 - 6) if no resolution is reached, assure the grievant is made aware of the next step of the appeal process.
- g) The Informal Resolution Conference ~~informal resolution conference~~ is concluded either with a mutually agreed upon resolution of the issue or some of the issues, or with the conclusion that the issues cannot be resolved and the grievance should proceed to hearing. At the conclusion of the informal resolution process, the DHS-ORS staff person chairing the conference shall reduce any mutually agreed upon resolutions to writing. The confirmation of the agreement must be signed by both the grievant and the chair. The confirmation must also include the agreement of the customer to withdraw the grievance on the agreed issues. The agreement should list all agreed issues and all outstanding issues. Unless circumstances prohibit, the agreement should be reduced to writing while all parties are still there. If all the disputed issues are ~~issue(s)~~ resolved, the parties should inform the Hearings Coordinator to withdraw the grievance.
- h) Sessions held as a part of the informal resolution conference shall be scheduled in a timely manner and shall not deny or delay the grievant's right to pursue resolution of the dispute through an impartial hearing held within the applicable time period set out in this Part or any other right under this Part.

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

Section 510.103 Mediation Process for the Vocational Rehabilitation Program

- a) Every mediation ~~proceeding~~ pursuant to this Section is to be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. If deemed necessary by the assigned qualified and impartial mediator, parties to the Mediation Process ~~mediation process~~ may be required to sign a confidentiality pledge prior to commencement of the process.
- b) The customer shall be informed of the availability of the Mediation Process ~~mediation process~~ each time the customer is advised of the right to appeal. The Mediation Process is available whenever a hearing concerning vocational

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rehabilitation services is requested under this Part.

- c) The Mediation Process ~~mediation process~~ shall be voluntary on the part of the grievant and of DHS-ORS parties and shall be conducted by a qualified and impartial mediator who is trained in effective mediation techniques. The mediation may be terminated at any time by either party or by the mediator.
- d) DHS-ORS shall maintain a list of qualified mediators who shall be knowledgeable in the laws and regulations relating to the provisions of vocational rehabilitation services. Mediators shall be selected from this list and assigned on a random basis by the Hearings Coordinator from the list of qualified mediators maintained by DHS-ORS.
- e) ~~To~~ ~~The customer may~~ request the assignment of a mediator to resolve the issues in dispute, the customer shall contact ~~by contacting~~ the Hearings Coordinator. ~~The Hearing Coordinator shall assign the mediator from the list of qualified mediators by DHS.~~
- f) Sessions held as a part of the Mediation Process shall be scheduled in a timely manner and shall not ~~delay the scheduled hearing~~ deny or delay the grievant's right to pursue resolution of the dispute through an impartial hearing held within the applicable time period set out in this Part or any other right under this Part. Mediation sessions shall be scheduled by the mediator.
- g) The mediation sessions shall be held at a location that is mutually agreed upon ~~convenient to all parties.~~
- h) The customer or, as appropriate, the customer's representative may submit evidence and information to support the position of the customer. The Department may also submit evidence and information that supports its position.
- i) Any agreement reached by the parties during the mediation process shall be set forth in a written mediation agreement signed by both parties. The agreement must also include the agreement of the customer to withdraw the grievance on the agreed issues.
- j) Nothing in this Section shall be construed to preclude the parties from informally resolving the dispute prior to proceedings under this Section.
- k) The cost of the mediator shall be paid by DHS-ORS.

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(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

Section 510.105 Conduct of Hearings

- a) Every proceeding pursuant to this Section is to be confidential and not open to the general public unless requested to be so by the grievant.
- b) Procedures set forth in the Code of Civil Procedure [735 ILCS 5], except as provided in subsection (g) of this Section, do not apply to the procedures contained in this Section.
- c) The grievant must notify DHS-ORS Hearings Coordinator of the appointment of a personal representative by filing, no later than 3 working days in advance of a hearing, a notice of appearance stating the personal representative's name, address and telephone number, identifying the grievant represented, and signed by the grievant. If the grievance pertains to the conduct of a customer of the adult residential training program for persons with visual disabilities, ~~the such~~ notice must be made no later than 1 working day in advance of the hearing. ~~The Such~~ notice must be accompanied by appropriate consent to the release of confidential information to the representative, if one is not already on file.
- d) At least 3 working days prior to the hearing, the grievant and the DHS-ORS staff person who has taken the action being grieved must provide each other and the Impartial Hearing Officer with a list of witnesses, copies of documents not in the possession of the other party, and a summary of the evidence ~~that which~~ they plan to present at the hearing. If the grievance pertains to the conduct of a customer of the adult residential training program for persons with visual disabilities, ~~the-such~~ information must be shared within 1 working day prior to the hearing.
- e) All parties involved in the hearing must avoid repetitive continuances so that the subject matter of the grievance may be resolved expeditiously. A hearing may for good cause shown ~~(e.g., illness of the grievant, representative or DHS-ORS employee involved in the action or severe weather)~~ be continued by the Impartial Hearing Officer. "Good cause" means death in the family, personal injury or illness that reasonably prohibits the grievant from attending the hearing, or sudden and unexpected emergency, or other circumstances beyond the grievant's control that reasonably prevents the grievant from attending the hearing. In the absence of an emergency, notice of the request must be given in writing to the other party and the Impartial Hearing Officer no later than 3 working days prior to the original hearing date. In the absence of an emergency, if the grievance pertains to the conduct of a

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customer of the adult residential training program for persons with visual disabilities, the notice must be provided to the other party and the Impartial Hearing Officer no less than 1 working day prior to the original hearing date. The granting of continuances for hearings arising from HSP shall be governed by DPA.

- f) The grievant shall have the responsibility to prove by the preponderance of the evidence that the action or inaction by DHS-ORS was not in accordance with federal or State laws or regulations ~~unlawful~~, against DHS-ORS policy, not in accordance with the grievant's IPE (89 Ill. Adm. Code 572) or HSP Service Plan (89 Ill. Adm. Code 684), or inappropriate for the customer. The Impartial Hearing Officer shall inform the grievant of this requirement at the beginning of the hearing.
- g) Evidence
- 1) The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed except that any relevant evidence not admissible under those rules of evidence ~~that~~ ~~which~~ is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs, has probative value, and is relevant and material to the facts and issues may be admissible.
 - 2) DHS-ORS employees directly involved in the contested action will be present to testify and can be questioned by the grievant. However, if the person is no longer employed by DHS-ORS and declines to attend ~~the~~ ~~such~~ hearing after DHS-ORS has made a reasonable attempt to secure his/her attendance, the person most knowledgeable about the case will attend.
 - 3) Only information bearing directly on the issue under review, pursuant to ~~per~~ Section 510.20, may be introduced from the grievant's case file. The Impartial Hearing Officer may not consider any information that has not been made available to the other party.
 - 4) Either party may present information and evidence in addition to the case file ~~that~~ ~~which~~ must also be made available to the other party at least 3 working days prior to the hearing or by stipulation at the hearing.
 - 5) The grievant and DHS-ORS may call any person as a witness and conduct examination and cross-examination.
 - 6) The grievant and DHS-ORS may, by stipulation, agree upon any facts

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involved in the proceeding. The facts stipulated must be considered as evidence in the proceedings.

- h) The following is the order of the proceedings:
- 1) presentation, arguments, and disposition of all preliminary motions and matters;
 - 2) opening statements;
 - 3) evidence presented by the grievant;
 - 4) evidence presented by DHS-ORS;
 - 5) rebuttal by either or both sides;
 - 6) closing statements by the grievant;
 - 7) closing statements by DHS-ORS; and
 - 8) rebuttal by grievant.
- i) A hearing will not be adjourned until the Impartial Hearing Officer has received all information agreed upon within the time the parties have agreed to provide it.
- j) The Impartial Hearing Officer may take one of several courses of action in making a decision, which include, but are not limited to the following:
- 1) find in favor of the grievant;
 - 2) uphold the determination or action of DHS-ORS;
 - 3) accept a withdrawal of the appeal confirmed in writing signed by the grievant, or as appropriate, a parent, family member, guardian, advocate or duly authorized representative of the grievant ~~that~~ ~~which~~ must be filed with the Hearings Coordinator;
 - 4) accept a settlement of the issues agreed to by the grievant and DHS-ORS which must include a written withdrawal of the appeal ~~that~~ ~~which~~ must be filed with the Hearings Coordinator.

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

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Section 510.115 Associate Director's Decision for Hearings Regarding a Blind Vendor

- a) For hearings related to the grievance of a blind vendor covered under Section 510.20(~~(h)~~), the Impartial Hearing Officer shall provide a recommended findings and decision to the Associate Director of DHS-ORS. The recommended findings and decision of the Impartial Hearing Officer shall be based upon the record of the hearing and shall set forth the principal issues and relevant facts adduced at the hearing, the applicable provision of law and regulation, and a recommended action. It shall also contain findings of fact and conclusions with respect to each of the issues and basis therefore.
- b) Within 15 days after receipt of the recommended findings and decision, the Associate Director shall make a decision. The Associate Director's decision shall state the principal issues and relevant facts pertinent provisions of law, regulation and program procedures, the reasoning that led to the decision, and the vendor's right to appeal to the U.S. Department of Education pursuant to ~~per~~ 34 CFR 395.13. A copy of the Impartial Hearing Officer's recommended findings and decision shall be attached to the Associate Director's letter. Copies of the final decision shall be sent to the vendor and his/her personal representative and to the Administrator, [Business Enterprise Vending Facility](#) Program for the Blind.

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

Section 510.120 Exhaustion of Administrative Remedies

- a) If the grievance pertains to the VR program, DHS-ORS administrative action becomes final:
 - 1) at any time when a mutually agreed upon resolution is reached between DHS-ORS and the grievant; or
 - 2) [upon issuance](#) ~~no more than 20 calendar days after the date~~ of the hearing decision.
- b) If the grievance pertains to the conduct of a customer at the adult residential training program for persons with visual disabilities, DHS-ORS administrative action becomes final:
 - 1) 7 working days after the ~~date~~ [dates](#) of the hearing decision, if no Associate Director's Review is performed; or

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- 2) if an Associate Director's Review is performed, upon the decision of the Associate Director.
- c) Any further appeal (other than by a vendor in the [Business Enterprise Vending Facility](#) Program for the Blind or by a grievant appealing sex equity or school records in DHS-ORS schools) must be made to the courts by common law writ of certiorari. A vendor in the [Business Enterprise Vending Facility](#) Program for the Blind must first file an appeal with the U.S. Department of Education in accordance with the Randolph-Sheppard Act (20 USC 107 et seq.). A grievance based on sex equity or school records must be filed with the State Board of Education.
- d) [Any decision under this Part shall be implemented when issued within the applicable time set out in Section 510.80. An appeal to a court shall not delay implementation.](#)

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)

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- 1) Heading of the Part: Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993
- 2) Code Citation: 68 Ill. Adm. Code 1240
- 3) Section Numbers: Adopted Action:
1240.16 Amendment
1240.40 Amendment
1240.45 Amendment
1240.46 Amendment
1240.130 Amendment
1240.150 Amendment
- 4) Statutory Authority: Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 [225 ILCS 446].
- 5) Effective Date of Amendments: June 13, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: January 24, 2003, at 27 Ill. Reg. 1112.
- 10) Has JCAR issued a Statement of Objections to these Rules? No
- 11) Difference(s) between proposal and final version: No substantive differences; various technical changes have been made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect? Yes, at 27 Ill. Reg. 1308, effective January 13, 2003.
- 14) Are there any Amendments pending on this Part? No

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- 15) Summary and Purpose of Amendments: PA 92-833 made numerous revisions in the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993, including requiring that an agency licensed under this Act may not put a new employee without a permanent employee registration card (PERC) to work until the person's fingerprints have been cleared by the Department of State Police as showing no criminal history in Illinois. This temporary authority to work may still be revoked upon receipt of fingerprint data from the FBI indicating a criminal conviction. It also exempts peace officers from PERC and firearm card requirements.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813 Fax: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1240

PRIVATE DETECTIVE, PRIVATE ALARM,
PRIVATE SECURITY AND LOCKSMITH ACT OF 1993

SUBPART A: PRIVATE DETECTIVE, PRIVATE ALARM AND PRIVATE SECURITY

Section	
1240.5	Licensure Under Section 6 of the Act (Repealed)
1240.7	Exemptions Under Section 30 of the Act
1240.10	Application for Examination and Licensure – Private Detective and Private Security Contractor
1240.15	Application for Examination and Licensure – Private Alarm Contractor
1240.16	Registration of Proprietary Security Force
1240.20	20-Hour Basic Training Course – General
1240.25	20-Hour Basic Training Course – Security Guards and Alarm Runners
1240.30	Firearm Training Course
1240.35	Approval of Training Programs and Instructors
1240.40	Permanent Employee Registration Cards
1240.41	Refusal to Issue Employee Registration Card or Firearm Authorization Card Due to Criminal History Record Information
1240.45	Firearm Authorization Cards
1240.46	Recordkeeping Requirements
1240.47	Reporting Requirements
1240.48	Uniforms
1240.50	Renewals
1240.51	Requests for Duplicate Certificates (Renumbered)
1240.55	Endorsement
1240.60	Restoration
1240.65	Conduct of Hearings (Renumbered)
1240.66	Investigation by the Department (Renumbered)
1240.70	Granting Variances (Renumbered)

SUBPART B: LOCKSMITH

Section	
1240.100	Application for Licensure without Examination – Grandfather (Repealed)
1240.110	Application for Examination and Licensure – Locksmith

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1240.120	20 Hour Basic Training Course – Locksmith
1240.130	Permanent Employee Registration Cards
1240.140	Refusal to Issue Employee Registration Card
1240.150	Recordkeeping Requirements
1240.160	Reporting Requirements
1240.170	Renewals
1240.180	Endorsement
1240.190	Restoration

SUBPART C: GENERAL

Section

1240.200	Requests for Duplicate Certificates
1240.205	Fees
1240.210	Conduct of Hearings
1240.220	Investigation by the Department
1240.230	Granting Variances

AUTHORITY: Implementing the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 [225 ILCS 446] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Detective Act, effective October 7, 1975; amended at 4 Ill. Reg. 22, p. 251, effective May 15, 1980; codified at 5 Ill. Reg. 11032; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8208, effective July 15, 1982; emergency amendment at 8 Ill. Reg. 903, effective January 6, 1984, for a maximum of 150 days; Part repealed and new Part adopted at 9 Ill. Reg. 18512, effective November 15, 1985; transferred from Chapter I, 68 Ill. Adm. Code 240 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1240 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2967; amended at 12 Ill. Reg. 20143, effective November 18, 1988; amended at 15 Ill. Reg. 3051, effective February 11, 1991; amended at 17 Ill. Reg. 1579, effective January 26, 1993; amended at 19 Ill. Reg. 954, effective January 17, 1995; amended at 19 Ill. Reg. 11473, effective July 28, 1995; emergency amendment at 19 Ill. Reg. 13460, effective September 8, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 3191, effective February 2, 1996; emergency amendment at 20 Ill. Reg. 14924, effective October 31, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3135, effective March 4, 1997; amended at 24 Ill. Reg. 587, effective December 31, 1999; emergency amendment at 27 Ill. Reg. 1307, effective January 13, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 9598, effective June 13, 2003.

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SUBPART A: PRIVATE DETECTIVE, PRIVATE ALARM AND PRIVATE SECURITY

Section 1240.16 Registration of Proprietary Security Force

- a) Pursuant to Section 24-2 of the Criminal Code of 1961, all commercial or industrial operations who employ 5 or more persons as armed security guards in accordance with subsection (a)(6) and all financial institutions who employ armed security guards in accordance with subsection (a)(8) shall register their security forces with the Department, on forms provided by the Department, which include the following:
 - 1) Business name and address of the proprietary security force;
 - 2) Any doing business as (d/b/a) names of the proprietary security force;
 - 3) The type of business (sole proprietorship, partnership, corporation):
 - A) If a partnership, a listing of all partners and addresses;
 - B) If a corporation, a copy of Articles of Incorporation. If the corporation is a foreign corporation, a copy of the authorization to conduct business in Illinois;
 - 4) The number of armed employees; and
 - 5) The name and title of the security director who will be registering armed employees and who is responsible for the daily activities of the force.
- b) All armed security guard employees of the registered proprietary force in subsection (a) above shall be required to complete a 20-hour basic training course in accordance with Section 1240.25 and a 20-hour firearm training course in accordance with Section 1240.30.
- c) Each proprietary force shall be required to apply to the Department, on forms supplied by the Department, for the issuance of a firearm authorization card, in accordance with Section 1240.45(b) and (c), for each armed employee of the security force. Each application shall include:
 - 1) One of the following: ~~Either:~~

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- A) Verification of [electronic](#) fingerprint processing from the Illinois Department of State Police, or its [approved vendor designated agent](#). ~~Applicants Effective October 1, 1995, applicants shall contact the [approved vendor Illinois Department of State Police, or its designated agent](#), for fingerprint processing;~~
- B) Out-of-state residents unable to utilize the State Police [electronic](#) fingerprint process may submit to the [approved vendor one fingerprint card issued by the Federal Bureau of Investigation, accompanied by the fee specified by the vendor;](#) or ~~Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205. If the employee has State and federal fingerprints on file with the Department, additional fingerprints are not required; or~~
- ~~CB)~~ Verification, on forms, provided by the Department, of [proof of retirement](#) ~~full-time employment~~ as a peace officer [as defined in subsection \(j\) within 12 months prior to application](#) in lieu of the fingerprint cards. Such verification shall be signed by his/her employer. ~~A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, and has completed the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws and individuals holding a Class I or Class II Occupational License issued by the Illinois Gaming Board shall be considered peace officers.;~~

[If the employee has State and federal fingerprints on file with the Department, additional fingerprints are not required;](#)

- 2) Verification that the employee has completed the training required in subsection (b) ~~above~~. If the employee's firearm training was completed more than two years before the request for a firearm authorization card, the employer shall submit evidence that the employee has requalified on

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the firing range within the one year preceding the request; and

- 3) The fee required in Section 1240.205.
- d) The firearm authorization card shall be retained by the employee for the term of employment. Upon termination of employment, the card shall be returned to the Department by the employer. In the event an employee fails to return a firearm authorization card to the employer, the employer shall notify the Department in writing why the card was not returned.
- e) No employee shall carry a firearm until the requirements of this Section have been satisfied.
- f) If an employee is employed by more than one proprietary security force, that employee must possess a separate firearm authorization card for each force ~~that~~[which](#) issues him/her a weapon.
- g) The Department may conduct an inspection to verify the information on the application prior to the proprietary security force being registered with the Department.
- h) All armored car companies registered as proprietary security forces pursuant to this Section shall have all employees who are required to carry a firearm authorization card ~~to~~ complete classroom and range training in weapons on an annual basis and shall maintain a current criminal background check in each employee's file as well as a training certificate. The armored car company shall make these documents available to the Department upon request.
- i) Individuals who are currently employed as peace officers in good standing are not required to obtain firearm authorization cards. If the individual ceases to be employed as a peace officer, then the individual is required to obtain a firearm authorization card in accordance with this Section. For active peace officers, the proprietary security force shall maintain on file a copy of the current police identification card and a signed letter from the peace officer's chief of police or his/her designee indicating current status as a peace officer. The proprietary security force shall have a continuing duty to verify and maintain proof of the employee's qualifications for the peace officer exemption.
- j) A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to

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specific offenses; officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers. (Section 80 of the Act)

(Source: Amended at 27 Ill. Reg. 9598, effective June 13, 2003)

Section 1240.40 Permanent Employee Registration Cards

- a) Any person seeking employee registration under Section 80 of the Act shall file an application with the Department, on forms provided by the Department, along with the following:
- 1) One of the following: ~~Either:~~
 - A) Verification of electronic fingerprint processing from the Illinois Department of State Police, or its approved vendor designated agent. Applicants Effective October 1, 1995, applicants shall contact the approved vendor Illinois Department of State Police, or its designated agent for fingerprint processing;:
 - B) Out-of-state residents unable to utilize the State Police fingerprint process may submit to the approved vendor one fingerprint card issued by the Federal Bureau of Investigation, accompanied by the fee specified by the vendor; or Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205; or
 - CB) Verification, on forms provided by the Department, of proof of retirement full-time employment as a peace officer as defined in subsection (g) within 12 months prior to application in lieu of fingerprints. Such verification shall be signed by the employer. ~~A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses and has satisfied the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal~~

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~~statute to make arrests for violations of federal criminal laws shall be considered peace officers;~~

- 2) One 1" x 1" photograph taken within the 3 months preceding application; and
 - 3) The required registration fee specified in Section 1240.205, made payable to the Department of Professional Regulation.
- b) An agency may employ an applicant in a temporary capacity in accordance with Section 80(k-5) by: ~~The application, verification of fingerprint processing and the registration fee shall be submitted to the Department prior to the applicant being scheduled to work.~~
- 1) submitting the required application in accordance with subsection (a) on behalf of the person or verifying with the Department that an application has been submitted for the individual;
 - 2) verifying on the Department's website (www.ildpr.com) that the applicant has no criminal conviction pursuant to the Department of State Police criminal history check;
 - 3) maintaining a separate roster of the names of all employees whose applications are pending; and
 - 4) meeting any other requirements set forth in this Part or the Act.
- c) If no record is found affecting the prints, the Department shall issue, to the applicant, a permanent employee registration card, which shall be valid for the period specified on the face of the card, and shall be renewable upon the conditions set forth in Section 1240.50 of this Part.
- d) The employee registration card shall serve as proof to an employer that the bearer ~~thereof~~ is eligible for employment.
- e) Persons who have no access to confidential or security information and who do not provide security services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of ushers, ticket takers, elevator operators and reception personnel who have no access to confidential or security information. Confidential or security information is that which pertains to employee files, scheduling contracts or

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technical data.

- f) Individuals who are currently employed as peace officers in good standing are not required to obtain permanent employee registration cards. If the individual ceases to be employed as a peace officer, then the agency is required to obtain a permanent employee registration card in accordance with this Section.
- g) A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers. (Section 80 of the Act)

(Source: Amended at 27 Ill. Reg. 9598, effective June 13, 2003)

Section 1240.45 Firearm Authorization Cards

- a) Each employer shall make a request to the Department, on forms supplied by the Department, for the issuance of a firearm authorization card for each employee whose duties include the use, carrying or possession of a firearm. Each employee shall have an active permanent employee registration card issued in accordance with Section 1240.40 prior to applying for a firearm authorization card.
- b) Upon verification by the Department that the individual employees have completed the required firearm training course within the 2 years preceding the request for a firearm authorization card, and meet all the requirements of the Act for issuance of a firearm authorization card, the Department shall issue such card to the employer for each employee. If the employee's firearm training was completed more than 2 years before the request for a firearm authorization card, the employer shall submit evidence that the employee has requalified on the firing range within one year preceding the request.
- c) The firearm authorization card shall be retained by the employee for the term of employment. Upon termination of employment the card shall be returned to the Department by the employer. In the event an employee fails to return a firearm authorization card to the employer, the employer shall notify the Department in writing of such and the reason why the card was not returned.
- d) No employee may carry a firearm until the requirements of this Section have been satisfied.

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- e) If an employee is employed by more than one agency, regardless of whether the agencies are owned or operated by the same or different person or persons, that employee must possess a separate firearm authorization card for each agency.
- f) Individuals who are currently employed as peace officers in good standing are not required to obtain firearm authorization cards. If the individual ceases to be employed as a peace officer, then the individual is required to obtain a firearm authorization card in accordance with this Section.
- g) A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers. (Section 80 of the Act)

(Source: Amended at 27 Ill. Reg. 9598, effective June 13, 2003)

Section 1240.46 Recordkeeping Requirements

- a) Each employer licensed under the Act shall maintain a file on each employee pursuant to Section 80 of the Act. The employee file shall be maintained by the agency for 2 years after termination of the employee, shall be accessible to duly authorized representatives of the Department with 24 hours prior notice, and shall contain the following information:
 - 1) A photograph of the employee taken within 10 days of the date the employee commences employment. The photo shall be replaced each 3 calendar years;
 - 2) The employee's statement required in Section 80(b) of the Act;
 - 3) All correspondence or documents related to the character and integrity of the employee received by the employer from an official source or law enforcement;
 - 4) The employee identification card of a terminated employee pursuant to Section 80(h);
 - 5) A copy of the weapons discharge report, if applicable, during the course of the employee's duties or activities;

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- 6) Application for employment;
 - 7) Certification of Completion of Basic Training as provided in Sections 1240.20 and 1240.25 of this Part;
 - 8) Certificate of Firearm Training, if applicable (or notarized copy as provided in Section 1240.30 of this Part) verified by the licensee in charge;
 - 9) Copy of employee's Permanent Employee Registration Card and Firearm Authorization Card and active Firearm Owner's Identification Card (FOID), if applicable;
 - 10) Certification or certified copy of requalification (Section 1240.30); ~~and~~
 - 11) Copy of the verification of fingerprint processing from the Illinois Department of State Police or its designated agent~~;~~
 - 12) [A copy of the Department's webpage \(www.ildpr.com\) showing that an applicant has no criminal conviction pursuant to the Department of State Police criminal history check for individuals employed prior to issuance of the Permanent Employee Registration Card; and](#)
 - 13) [For active peace officers, the agency employee file shall include a copy of the current police identification card and a signed letter from the peace officer's chief of police or his/her designee indicating current status as a peace officer, as well as items set forth in subsections \(1\), \(4\), \(5\) and \(6\) above. The agency shall have a continuing duty to verify and maintain proof of the employee's qualifications for the peace officer exemption.](#)
- b) Private alarm contractors who provide monitoring services shall maintain a separate roster of the names of all licensed agencies and/or individuals, including license number, from whom they accept monitoring contracts or assignments. The roster shall be made available to the Department upon 24 hour's notice. It shall be considered unprofessional conduct, subject to discipline by the Department, for a licensed alarm contractor or agency to accept monitoring contracts or assignments from an unlicensed entity.

(Source: Amended at 27 Ill. Reg. 9598, effective June 13, 2003)

SUBPART B: LOCKSMITH

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Section 1240.130 Permanent Employee Registration Cards

- a) Any person seeking employee registration under Section 80 of the Act shall file an application with the Department, on forms provided by the Department, along with the following:
- 1) One of the following: ~~Either:~~
 - A) Verification of electronic fingerprint processing from the Illinois Department of State Police or its approved vendor~~designated agent~~. Applicants ~~Effective October 1, 1995, applicants~~ shall contact the approved vendor ~~Illinois Department of State Police or its designated agent~~ for fingerprint processing.
 - B) ~~Out-of-state~~ residents unable to utilize the State Police fingerprint process may submit to the approved vendor one fingerprint card issued by the Federal Bureau of Investigation, accompanied by the fee specified by the vendor; or ~~Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205; or~~
 - CB) Verification, on forms provided by the Department, of proof of retirement ~~full-time employment~~ as a peace officer as defined in subsection (g) within 12 months prior to application in lieu of fingerprints. Such verification shall be signed by the employer. ~~A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses and has satisfied the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers;~~
 - 2) One 1" x 1" photograph taken within the 3 months preceding application; and

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- 3) The required registration fee specified in Section 1240.205, made payable to the Department of Professional Regulation.
- b) An agency may employ an applicant in a temporary capacity in accordance with Section 80(k-5) by: ~~The application, verification of fingerprint processing and the registration fee shall be submitted to the Department prior to the applicant being scheduled to work.~~
 - 1) submitting the required application in accordance with subsection (a) on behalf of the person or verifying with the Department that an application has been submitted for the individual;
 - 2) verifying on the Department's website (www.ildpr.com) that the applicant has no criminal conviction pursuant to the Department of State Police criminal history check;
 - 3) maintaining a separate roster of the names of all employees whose applications are pending; and
 - 4) meeting any other requirements set forth in this Part or the Act.
- c) If no record is found affecting the prints, the Department shall issue to the applicant a permanent employee registration card, which shall be valid for the period specified on the face of the card and shall be renewable upon the conditions set forth in Section 1240.50 of this Part.
- d) The employee registration card shall serve as proof to an employer that the bearer ~~thereof~~ is eligible for employment.
- e) Persons who have no access to confidential or security information and who do not provide locksmith services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of reception personnel who have no access to confidential or security information. Confidential or security information is that which pertains to employee files, key records, customer access codes or combinations or technical data.
- f) Individuals who are currently employed as peace officers in good standing are not required to obtain permanent employee registration cards. If the individual ceases to be employed as a peace officer, then the agency is required to obtain a permanent employee registration card in accordance with this Section.

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- g) *A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers. (Section 80 of the Act)*

(Source: Amended at 27 Ill. Reg. 9598, effective June 13, 2003)

Section 1240.150 Recordkeeping Requirements

- a) Each employer licensed under the Act shall maintain a file on each employee pursuant to Section 80 of the Act. The employee file shall be maintained by the agency for 2 years after termination of the employee, shall be accessible to duly authorized representatives of the Department with 24 hours prior notice, and shall contain the following information:
- 1) A photograph of the employee taken within 10 days ~~prior to~~ the date the employee commences employment. The photo shall be replaced each 3 calendar years;
 - 2) The employee's statement required in Section 80(b) of the Act;
 - 3) All correspondence or documents related to the character and integrity of the employee received by the employer from an official source or law enforcement;
 - 4) The employee identification card of a terminated employee pursuant to Section 80(h) of the Act;
 - 5) Application for employment;
 - 6) Certification of Completion of Basic Training as provided in Section 1240.120 of this Part;
 - 7) Copy of employee's Permanent Employee Registration Card; and
 - 8) Copy of the verification of fingerprint processing from the Illinois Department of State Police or its designated agent.
- b) *A locksmith who opens a residence or commercial establishment or safe, vault,*

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safe deposit box, automatic teller machine, or other device for safeguarding areas where access is meant to be limited for another, whether or not for compensation, shall document the street address where the work was performed on a work order form. The locksmith shall also document the name, address, telephone number, date of birth, and driver's license number or other identification number of the person requesting the work be done and obtain the signature of that person on the work order form. A copy of each work order form shall be kept by the licensed locksmith for a period of 2 years and shall also include the name and license number of the locksmith or the name and employee identification number of the registered employee who performed the services. Work order forms required to be kept under this subsection shall be available for inspection upon written request made 3 days in advance by any law enforcement agency.

- c) *A locksmith who opens a motor vehicle for another, whether or not for compensation, shall document on a work order form the name, address, telephone number, date of birth, and driver's license number or other identification number of the person requesting entry and obtain the signature of that person. A copy of each work order form shall be kept by the licensed locksmith for a period of 2 years and shall also include the name and license number of the locksmith or the name and employee identification number of the registered employee who performed the services. Work order forms required to be kept under this Section shall be available for inspection upon written request made 3 days in advance by any law enforcement agency. (Section 82 of the Act)*
- d) A copy of the Department's webpage (www.ildpr.com) showing that an applicant has no criminal conviction pursuant to the Department of State Police criminal history check for individuals employed prior to issuance of the Permanent Employee Registration Card; and
- e) For active peace officers, the agency employee file shall include a copy of the current police identification card and a signed letter from the peace officer's chief of police or his/her designee indicating current status as a peace officer, as well as items set forth in subsections (a)(1), (4) and (5). The agency shall have a continuing duty to verify and maintain proof of the employee's qualifications for the peace officer exemption.

(Source: Amended at 27 Ill. Reg. 9598, effective June 13, 2003)

ILLINOIS DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Telecommunications Excise Tax
- 2) Code Citation: 86 Ill. Adm. Code 495
- 3) Section Numbers: Adopted Action:
495.100 Amendment
- 4) Statutory Authority: 35 ILCS 630/17
- 5) Effective Date of Amendment(s): June 13, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:
October 11, 2002, 26 Ill. Reg. 14757
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: See Second Notice Changes, attached. The only other changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): This rulemaking amends Section 495.100 to explain the taxation of charges for private lines under the Telecommunications Excise Tax Act ("Act"). The amendments explain that under the Act, there are three methods that can be used to determine what portion of the total charge for a private line is subject to tax. The third method under the Act is to tax "charges for that portion of the interstate inter-office channel provided within Illinois." The regulation is intended to provide

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guidance regarding acceptable methods of calculating the Illinois portion of an interstate inter-office channel. The regulation discusses several specific methods that could be used to calculate the portion of the interstate inter-office channel that is provided within Illinois. The ideal method, it states, is to determine a fraction, the numerator of which is the actual measured Illinois miles of a channel and the denominator of which is the actual measured route miles of the entire channel. In situations in which it is impossible for a telecommunications provider to measure actual route miles, the regulation states that accurate approximations can be used. One method of approximation, the regulation states, is to use straight-line air miles. Additionally, the regulation specifies that the use of a percentage to determine the Illinois portion of the interstate inter-office channel is appropriate if the telecommunications provider can demonstrate that the percentage used is a reasonable approximation of the Illinois portion of the channel. The regulation provides that a method of approximation will be accepted by the Department unless the Department demonstrates that the method distorts the Illinois portion of the interstate inter-office channel by more than 10 percent. A telecommunication provider's reliance upon this tolerance is conditioned upon its maintenance of complete books and records and provision of those records to the Department upon request.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Jerilynn Troxell Gorden
Sr. Counsel, Sales & Excise Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844

The full text of the Adopted Amendment begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 495
TELECOMMUNICATIONS EXCISE TAX

Section	
495.100	Meaning of "Gross Charges"
495.105	Exemptions
495.110	Retailers
495.115	Interstate
495.120	Mobile Operations Reporting Option
495.125	Responsibility for Accounting and Payment of Tax
495.130	Credits
495.135	Tax Returns--When Due--Contents
495.140	Imposition of Telecommunications Excise Tax

AUTHORITY: Implementing the Telecommunications Excise Tax Act [35 ILCS 630] and authorized by Section 17 of the Telecommunications Excise Tax Act [35 ILCS 630/17].

SOURCE: Adopted at 14 Ill. Reg. 11321, effective July 1, 1990; amended at 21 Ill. Reg. 13658, effective September 29, 1997; amended at 22 Ill. Reg. 11886, effective June 29, 1998; amended at 24 Ill. Reg. 12082, effective July 28, 2000; amended at 25 Ill. Reg. 197, effective December 26, 2000; amended at 25 Ill. Reg. 5034, effective March 19, 2001; amended at 26 Ill. Reg. 9614, effective June 13, 2003.

Section 495.100 Meaning of "Gross Charges"

- a) "*Gross ~~charge~~ Charge*" means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer, valued in money, whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of materials used, labor or service cost or any other expense whatsoever. (Section 2(a) of the Telecommunications Excise Tax Act (the Act) [35 ILCS 630/2(a)]- A retailer may provide services to customers ~~that~~ ~~which~~ are not provided in connection with originating or receiving telecommunications. If such services are not necessary for or directly related to the retailer's provision of telecommunications to customers and the charges for such services are disaggregated and separately identified from other charges, the charges need not be included in "Gross ~~charges~~ Charges". Without limitation, examples of

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such services not included in "Gross ~~charges~~ ~~Charges~~" are directory advertising; specialized designing and/or engineering services; specialized security measures; and consulting services.

- b) *Gross ~~charges~~ ~~Charges~~ shall not include charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges (Section 2(a)(4) of the Act). Customer equipment includes, but is not limited to, all items generally classified as customer equipment or terminal equipment, such as telephone instruments and station sets, dialers, modems, private branch exchanges (PBXs), inside wiring, facsimile machines, pagers and non-electronic associated items such as documentation, manuals and furniture. Such items of customer equipment, including maintenance and miscellaneous services, may be leased, rented or sold to one customer or a group of customers without being included in the gross charges, but will be subject to Retailers' Occupation or Use Taxes. To be exempt, the charges for customer equipment must be disaggregated and separately identified from other charges in the books and records of the retailer.*
- c) *Gross charges does not include charges for the storage of data or information for subsequent retrieval or charges for the processing of data or information intended to change its form or content (Section 2(a)(3) of the Act). Charges for answering services, for example, whether provided electronically or by live operators, represent charges for the storage of information or data for subsequent retrieval, and are not subject to tax, provided that these charges, if provided in connection with taxable telecommunications, are disaggregated and separately identified in the books and records of the retailer. Charges for automated data storage, retrieval and processing services or for the use of computer time or other equipment are not included in gross charges. Automated information retrieval or data processing charges are not included in gross charges. For example, a customer who accesses an on-line computer data base would not be subject to tax on the charge for the data processing or inquiry, but would be subject to tax on the charge for the transmission of the data. If a telecommunications retailer provides both transmission and data processing services, the charges for each must be disaggregated and separately identified in the books and records of the retailer.*
- d) *Value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission are exempt (Section 2(c) of the Act). For example, the charges for computer data, protocol conversions ~~that~~ ~~which~~ permit computers to exchange data,*

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no matter which languages or protocols a computer's out-put may be in, and packet-switching, which groups data into packets for efficiency of transmission, would be exempt.

- e) Advertising revenue either from directory sales (yellow pages) or from message additions to telecommunications service are not included in gross charges. For example, revenues from an advertising message preceding a time/weather call are not included in gross charges.
- f) Contributions to a telethon fund-raising campaign are not included in gross charges.
- g) Gross charges shall include, but are not limited to, charges for unlisted or unpublished numbers, operator assistance, directory information, call-waiting, call-forwarding, and burglar alarm services provided by telecommunications retailers.
- h) A caller located in Illinois who calls a 900 number and receives a billing for that call at his service address, will have made a call subject to Telecommunications Excise Tax. The invoice to the caller for a 900 number call need not separately state the line charge and tax thereon specifically. However, the telecommunications retailer is responsible for remitting the tax due on the line charge.
- i) Gross charges shall include the transmission charges for premium services. Time/weather, gab line/party line and other public announcement services of information and entertainment, and charges for the message content or information of such services, are not included in gross charges.

Example: A call to a 900 code number is made to register an opinion in a poll. The caller is billed \$1.00. \$.80 is the transmission charge. \$.80 is included in gross charges.

- j) Charges for billing and collection received by telecommunications retailers from persons selling services or products to the telecommunications retailer's customers, which are billed and collected by the telecommunications retailer, are not included in gross charges.

Example: A call to a 900 code number to sell a product is billed by the telecommunications retailer as follows:

\$25.00 service charge to caller for product or service

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- \$.30 call charge (15¢ call, 15¢ billing and collection)
- \$.15 billing and collection charge is not included in gross charges
- \$25.00 is not included in gross charges
- \$.15 is included in gross charge

- k) Billing and collections charges paid by persons selling services or products to telecommunications retailer's customers or billing and collections charges paid by telecommunications retailers to credit card companies whose holders have charged calls are not includable in gross charges.
- l) Taxes imposed on consumers for community 911 service, [lifeline](#) ~~life-line~~ service or other services required by regulatory authorities or government are not includable in gross charges.
- m) Generally, persons that provide customers access to the Internet ("Internet Service Providers" or "ISPs") and who do not, as part of that service, charge customers for the line or other transmission charges that are used to obtain access to the ISP's server or other point of access, are not considered to be telecommunications retailers from these activities. This is the case so long as such ISPs do not, as part of their billing, charge customers for such line charges and instead pay their telecommunications suppliers all transmission costs that they incur in providing the Internet service. In this situation, an ISP's customer pays his telecommunications supplier for all transmission costs incurred while using the service. The single monthly fee charged by the ISP, which often represents a flat charge for a package of items including Internet access, e-mail, and electronic newsletters, would generally not be subject to tax. If, however, the ISP charges customers for line or other transmission charges, it should provide its telecommunications suppliers with Certificates of Resale and should collect and remit the tax. For example, if an ISP provides customers with Internet access, as described [in this subsection above](#), but also provides customers the use of a 1-800 service to access the ISP, and separately assesses customers per minute charges for the use of the 1-800 service, the ISP is considered a telecommunications retailer and incurs Telecommunications Excise Tax on the charges made for the 1-800 service. If the charges are not disaggregated as provided in subsection (c) [above](#), all charges are subject to the Telecommunications Excise Tax.

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- n) “Gross charges” for private line service shall include:
- 1) charges imposed at each channel point within this State;
 - 2) charges for the channel mileage between each channel point within this State; and
 - 3) charges for that portion of the interstate inter-office channel provided within Illinois. Charges for that portion of the interstate inter-office channel provided in Illinois shall be determined by the retailer as follows:
 - A) For interstate inter-office channels having 2 channel termination points, only one of which is in Illinois, tax may be imposed on 50% of the total charge imposed. For example, tax would be imposed on 50% of the total charge for a private line with one termination point in Chicago and one termination point in San Francisco.
 - B) For interstate inter-office channels having more than 2 channel termination points, one or more of which are in Illinois, tax may be imposed on an amount equal to the total charge multiplied by a fraction, the numerator of which is the number of channel termination points within Illinois and the denominator of which is the total number of channel termination points. For example, Illinois would receive tax on 60% of the total charge for a private line that had 3 termination points in Illinois, 1 termination point in New York and 1 termination point in Los Angeles. Using the same apportionment rule, New York and Los Angeles would each receive tax on 20% of the total charge.
 - C) Tax may be imposed using any other method that reasonably apportions the total charges for interstate inter-office channels among the states in which channel termination points are located. For instance, the Illinois mileage of the channel could be calculated by determining a fraction, the numerator of which is the actual measured Illinois miles of that channel and the denominator of which is the actual measured route miles of the entire channel. If it is impossible for a retailer to measure actual route miles, a method that accurately approximates the Illinois route miles of an interstate inter-office channel and accurately approximates the

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route miles of the entire channel can be used (e.g., the use of straight-line air miles). Any method of approximation used by a telecommunications provider shall be subject to verification by the Department.

- D) *Prior to June 1, 2003, any apportionment method consistent with subsection (n)(3)(A) of the Act shall be accepted as a reasonable method to determine the charges for that portion of the interstate inter-office channel provided within Illinois for that period (Section 2(a) of the Act).*

(Source: Amended at 27 Ill. Reg. 9614, effective June 13, 2003.)

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- 1) Heading of the Part: Uniform Penalty and Interest Act
- 2) Code Citation: 86 Ill. Adm. Code 700
- 3) Section Numbers: Adopted Action:
700.300 Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-795
- 5) Effective Date of Amendment(s): June 13, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:
January 3, 2003, 27 Ill. Reg. 127
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: See attachment. The only other changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): This amendment is promulgated in order to enact the provisions of Public Act 92-742. That act amended the Uniform Penalty and Interest Act with respect to penalties for late payment or nonpayment of admitted liabilities under the tiered penalty system. It provides that if notice and demand is made for payment of any tax due and if that amount is paid within 30 days after the date of the notice and demand the penalty on the amount so paid shall not accrue for the period after

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the date of the notice and demand. For instance, if a return due on January 20 was filed without payment, a 2% penalty would generally apply for taxes paid no later than 30 days after that due date. The penalty would be 5% for any amount paid later than 30 days but not later than 90 days after the due date. If the Department sent a notice and demand to the taxpayer on February 16 and the taxpayer paid the tax due on March 9, a 2% penalty would be applied under the new legislation.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Jerilynn Troxell Gorden
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844

The full text of the Adopted Amendment begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 700
UNIFORM PENALTY AND INTEREST ACT

SUBPART A: SCOPE AND APPLICATION OF THE ACT

Section

- 700.100 Scope of the Act and this Part
700.110 Application of the Provisions of the Act and this Part

SUBPART B: INTEREST

- 700.200 Interest Paid and Interest Charged
700.210 Interest Rate Calculation
700.220 Interest Charged Taxpayers
700.230 Interest Paid Taxpayers on Overpayments

SUBPART C: PENALTIES

- 700.300 Penalty for Late Filing or Failure to File and Penalty for Late Payment of Tax
700.310 Penalty for Failure to File Correct Information Returns
700.320 Penalty for Negligence
700.330 Penalty for Fraud
700.340 Personal Liability Penalty
700.350 Bad Check Penalty

SUBPART D: REASONABLE CAUSE

- 700.400 Reasonable Cause

SUBPART E: PAYMENT APPLICATION

- 700.500 Payment Application

AUTHORITY: Implementing the Uniform Penalty and Interest Act [35 ILCS 735], and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted at 18 Ill. Reg. 1561, effective January 13, 1994; amended at 19 Ill. Reg. 1909, effective February 6, 1995; amended at 20 Ill. Reg. 14632, effective October 29, 1996;

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amended at 25 Ill. Reg. 5038, effective March 19, 2001; amended at 27 Ill. Reg. 9622, effective June 13, 2003.

SUBPART C: PENALTIES

Section 700.300 Penalty for Late Filing or Failure to File and Penalty for Late Payment of Tax

- a) Late filing penalty for original returns due prior to January 1, 1996. *A penalty of 5% of the tax required to be shown due on a return shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing (penalty for late filing or nonfiling).*
- 1) *If any unprocessable return is corrected and filed within 21 days after notice by the Department the late filing or nonfiling penalty shall not apply.* (Section 3-3(a) of the Act) The unprocessable return must have been filed on or before the due date prescribed for filing of that return, with regard for any extension of filing. In other words, a taxpayer may not attempt to avoid the 5% penalty by the late filing of an unprocessable return ~~that which~~ is then corrected within 21 days ~~after of~~ notice by the Department.
 - 2) A return, for purposes of the imposition of this penalty, is any return required by a tax Act to be filed with the Department that is not an information return as that term is defined in Section 3-4(c) of the Act.

EXAMPLE 1: A withholding agent files Form IL-941 (Employer's Quarterly Illinois Withholding Tax Return) for third quarter 1994 on November 1, 1994. The total Illinois tax withheld is \$500,000. The form was due on October 31, 1994. A late payment filing penalty is imposed as follows: Total Illinois tax withheld (\$500,000) times the 5% late filing penalty equals \$25,000.

EXAMPLE 2: A withholding agent files form IL-W-3 (Reconciliation of Illinois Income Tax Withheld and Transmittal of Income and Tax Statements) for tax year 1993 on March 1, 1994. The total Illinois tax withheld is \$1,000,000. The form was due on February 28, 1994. A late filing penalty is imposed as follows: Total Illinois tax withheld (\$1,000,000) times the 5% late filing penalty is \$50,000.

- 3) *If a penalty for late filing or nonfiling is imposed in addition to a penalty*

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for late payment, the total penalty due shall be the sum of the late filing penalty and the applicable late payment penalty (Section 3-3(a) of the Act).

- b) Late filing penalty for original returns due on and after January 1, 1996 and on or before December 31, 2000.
- 1) *A penalty equal to 2% of the tax required to be shown due on a return, up to a maximum amount of \$250, determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed, shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing. (Section 3-3(a-5) of the Act)*

EXAMPLE 1: Your Form ST-1 is due by April 20, but you file it on May 17. The tax shown due on your return is \$10,000. You timely paid the full \$10,000 in accelerated tax payments. We notify you that you owe a penalty of \$200 ($2\% \times \$10,000 = \200 ; \$200 is less than \$250, therefore you owe \$200) and interest because you did not file your return by the April 20 due date. If you do not pay the \$200 penalty and interest within 30 days after the date of our notice, additional interest will accrue on the \$200 penalty.

EXAMPLE 2: Your Form IL-1040 is due by April 15, but you file it on November 10 (after the extended due date). The tax shown due on your return is \$1,500. Your employer withheld \$1,200 for Illinois Income Tax, and you timely paid us \$400 in estimated tax payments. You have overpaid your tax by \$100 ($\$1,500 - \$1,200 - \$400 = -\100). We notify you that you owe a penalty of \$30 ($2\% \times \$1,500 = \30 ; \$30 is less than \$250, therefore you owe \$30) because you did not file your return by the due date. We reduce your refund by the \$30 penalty and issue you a check for \$70.

EXAMPLE 3: Your Form RHM-1 is due by September 30, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 25 days after our notice and pay the total tax due of \$18,500. We notify you that you owe a penalty of \$250 ($2\% \times \$18,500 = \370 ; \$370 is greater than \$250, therefore you owe \$250) and interest because you did not file your return by the September 30 due date.

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EXAMPLE 4: Your Form IL-1120 is due by March 15 but you file it on December 20 (after the extended due date). The income tax shown on the return is \$6,000 and the replacement tax shown on the return is \$3,125. An Enterprise Zone Investment Credit of \$2,000 is claimed against your income tax liability. You have timely paid \$7,500 in estimated payments. You have overpaid your tax liability by \$375 ($(\$2,000 + \$7,500) - (\$6,000 + \$3,125) = \375). We notify you that you owe a penalty of \$182.50 ($\$9,125 \times 2\% = \182.50 ; \$182.50 is less than \$250, therefore you owe \$182.50) because you did not file your return by the due date. We reduce your refund by \$182.50 and issue you a check for \$192.50.

- 2) *If any return is not filed within 30 days after notice of nonfiling mailed by the Department to the last known address of the taxpayer contained in Department records, an additional penalty amount shall be imposed equal to the greater of \$250 or 2% of the tax shown on the return. However, the additional penalty amount may not exceed \$5,000 and is determined without regard to any part of the tax that is paid on the date the return was required to be filed (penalty for late filing or nonfiling) (Section 3-3(a-5) of the Act).*

EXAMPLE: Your Form RHM-1 is due by September 30, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 45 days after our notice and pay the total tax due of \$18,500. You owe a penalty of \$250 ($2\% \times \$18,500 = \370 ; \$370 is greater than \$250, therefore you owe \$250) and interest because you did not file your return by the September 30 due date. You also owe an additional penalty of \$370 ($2\% \times \$18,500 = \370 ; \$370 is greater than \$250 and less than \$5,000, therefore you owe \$370) and interest because you did not respond within 30 days after our notice. Your total penalties for late filing are \$620 ($\$250 + \$370 = \620). You will also owe a late payment penalty for not paying your tax by the due date. Interest will continue to accrue on unpaid tax and penalties until you fully pay the total amount you owe.

- 3) *If any unprocessable return is corrected and filed within 30 days after notice by the Department, the late filing or nonfiling penalty shall not apply. The unprocessable return must have been filed on or before the due date prescribed for filing of that return, with regard for any extension of filing. In other words, a taxpayer may not attempt to avoid the penalty by the late filing of an unprocessable return which is then corrected within 30*

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days after notice by the Department.

- 4) In the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and no other failure to file has occurred in the two years immediately preceding the failure to file on the prescribed due date, the penalty imposed by Section 3-3(a-5) shall be abated. This two year "good filing" history abatement is effective for returns due on and after August 18, 1995 (the effective date of P.A. 89-379).
- c) Late filing penalty for original returns due on and after January 1, 2001.
- 1) *A penalty equal to 2% of the tax required to be shown due on a return, up to a maximum amount of \$250, reduced by any tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed, shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing. (Section 3-3(a-10) of the Act)*

EXAMPLE 1: Your Form ST-1 is due by April 20, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 20 days after our notice. The tax required to be shown due on your return is \$20,000. You timely paid the full \$20,000 in accelerated tax payments. A penalty of 2% of the tax required to be shown due on the return is applicable for the late filing of your return but no penalty is assessed because after taking into account the tax paid on time your tax liability is zero.

EXAMPLE 2: Your Form IL-1040 is due by April 15, but you file it on November 10 (after the extended due date). The tax required to be shown due on your return is \$2,000. Your employer withheld \$1,250 for Illinois Income Tax, and you timely paid us \$150 in estimated tax payments. Tax owed with the return is \$600 ($\$2,000 - \$1,250 - \$150 = \600). We notify you that you owe a penalty of \$12 ($2\% \times \$600 = \12 ; \$12 is less than \$250, therefore you owe \$12) because you did not file your return on time.

EXAMPLE 3: Your Form IL-1120 is due by March 15, but you file it on December 20 (after the extended due date). The income tax required to be shown due on the return is \$20,000 and the replacement tax required to be

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shown due on the return is \$12,500. An Enterprise Zone Investment Credit of \$2,000 is claimed against your income tax liability. You have timely paid \$17,000 in estimated payments. Taxed owed with the return is \$13,500 $((\$20,000 + \$12,500) - (\$2,000 + \$17,000) = \$13,500)$. We notify you that you owe a penalty of \$250 $(\$13,500 \times 2\% = \$270; \$270$ is more than \$250, therefore you owe \$250) because you did not file your return on time.

- 2) *If any return is not filed within 30 days after notice of nonfiling mailed by the Department to the last known address of the taxpayer contained in Department records, an additional penalty amount shall be imposed equal to the greater of \$250 or 2% of the tax shown on the return. However, the additional penalty amount may not exceed \$5,000 and is determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed (penalty for late filing or nonfiling). (Section 3-3(a-10) of the Act)*

EXAMPLE: Your Form ST-1 is due by April 20, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 45 days after our notice. The tax shown on your return is \$18,000. You timely paid the full \$18,000 in accelerated tax payments. Although you did not file your return by the due date, no first tier late filing penalty is assessed because after taking into account the tax paid on time your tax liability is zero. You do, however, owe an additional second tier late filing penalty of \$360 $(2\% \text{ of } \$18,000 = \$360; \$360$ is greater than \$250, therefore you owe \$360) because you did not respond within 30 days after our notice.

- 3) *If any unprocessable return is corrected and filed within 30 days after notice by the Department, the late filing or nonfiling penalty shall not apply (Section 3-3(a-10) of the Act). The unprocessable return must have been filed on or before the due date prescribed for filing of that return, with regard for any extension for filing. In other words, a taxpayer may not attempt to avoid the penalty by the late filing of an unprocessable return that is then corrected within 30 days after notice by the Department.*
- 4) *In the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and has not occurred in the 2 years immediately preceding*

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the failure to file on the prescribed due date, the penalty imposed by Section 3-3(a-10) shall be abated (Section 3-3(a-10) of the Act). This two year “good filing” history abatement is effective for returns due on and after August 18, 1995 (the effective date of P.A. 89-379).

d) *For returns due before January 1, 1998, a penalty of 15% of the tax shown on the return or the tax required to be shown due on the return shall be imposed for failure to pay:*

- 1) *the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability); or*

EXAMPLE 1: Your Form IL-1120 is due by March 15. You timely file your return on March 15, but you only made your first estimated payment of \$337.50; you were required to make ~~4~~ ~~four~~ estimated payments. The total tax shown due on your return is \$1,500. You pay the remaining \$1,162.50 you owe with your return. We notify you that you owe a penalty of \$151.88 ($\$1,500 \text{ tax} \times 90\% \text{ required to be paid timely} = \$1,350$ to be made in ~~4~~ ~~four~~ equal installments. $\$1,350 \text{ divided by } 4 \text{ estimated payments} = \$337.50 \text{ per payment}$. $\$337.50 \times 3 \text{ unpaid quarters} = \$1,012.50$ estimated tax that was due. $\$1,012.50 \times 15\% \text{ penalty} = \151.88 late payment penalty) and interest because you did not pay the required amount due for each estimated payment. If you do not pay the \$151.88 penalty and interest within 30 days after our notice, additional interest will accrue on the penalty.

EXAMPLE 2: Same facts as in Example 1 above except that your return was timely filed between March 16 and October 15 and you paid the remaining \$150 tax you owed with your return. In this situation, your return was timely filed by virtue of the automatic extension for filing, but you owe a late payment penalty on the \$150 paid with the return because that amount of tax was not paid on or before the original due date of the return. There would be an additional penalty as prescribed by UPIA Section 3-3(b)(1) of \$22.50 ($\$1,500 - \$1,350 = \$150 \times 15\% = \22.50) for failure to pay the total tax by March 15.

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- 2) *the full amount of any tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this Section shall be imposed at the expiration of the period provided for the filing of a protest. (Section 3-3(b) of the Act) The 30-day period for providing payment in response to Department notices and final assessments is effective for notices and assessments issued on or after January 1, 1996. Taxpayers must respond to notices and assessments issued prior to January 1, 1996 within 21 days.*

EXAMPLE: Your Form ST-1 is due by August 20. You timely file your return but do not pay the \$10,750 tax shown due until September 27. We notify you that you owe a penalty of \$1,612.50 ($15\% \times \$10,750 = \$1,612.50$) and interest. If you do not pay the \$1,612.50 penalty and interest within 30 days after the date of our notice, additional interest will accrue on the penalty.

- e) *For returns due on and after January 1, 1998 and on or before December 31, 2000, a penalty of 20% of the tax shown on the return or the tax required to be shown due on the return shall be imposed for failure to pay:*

- 1) *the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of the underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as a requirement of subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability); or*

EXAMPLE: Your Form IL-1040 is due by April 15, but you file your return on October 15 (by the extended filing date) with tax due of \$1,000. You were required to make timely quarterly estimated income tax payments but you only made your first quarter estimated payment of \$225. You paid the remaining balance you owe of \$775 with the return. We notify you that you owe late payment penalties for late payment of

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estimated tax and late payment of total tax due by April 15 in the total amount of \$155.

The penalty for late payment of estimated tax is calculated as follows: \$1,000 tax x 90% required to be paid timely = \$900 to be made in ~~4~~ **four** equal installments. \$900 divided by 4 = \$225 per quarterly payment. \$225 x 3 unpaid quarters = \$675 estimated paid late. \$675 x 20% penalty = \$135 late payment penalty for failure to pay estimated taxes.

The penalty for late payment of total tax due by April 15 is calculated as follows: \$1,000 - \$900 = \$100 tax due with the return and paid late. \$100 x 20% = \$20 late payment penalty for failure to pay tax due by April 15.

- 2) *the full amount of the tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this subsection (e)(2) shall be imposed at the expiration of the period provided for the filing of a protest. (Section 3-3(b-5) of the Act).*

EXAMPLE: Corporate Taxpayer timely files its IL-1120 for tax year 1997 by the March 15, 1998 due date for calendar year filers. Corporate Taxpayer properly made all estimated tax payments and paid the remainder of its tax liability with the return. In 2000, the Department completes an audit of Corporate Taxpayer's 1997 return and an additional liability of \$5,000 is proposed. Corporate Taxpayer agrees to the audit findings but does not pay the additional liability until 60 days after ~~notice~~ **Notice** and ~~demand~~ **Demand** for payment is issued. A penalty of \$1,000 (\$5,000 x 20% = \$1,000) is assessed against Corporate Taxpayer for late payment of additional liability.

- f) *For returns due on and after January 1, 2001, a penalty shall be imposed for failure to pay:*
- 1) *the tax shown due on a return on or before the due date prescribed for*

ILLINOIS DEPARTMENT OF REVENUE

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payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability). The amount of the penalty imposed shall be:

- A) *2% of any amount that is paid no later than 30 days after the due date,*
- B) *5% of any amount that is paid later than 30 days after the due date and not later than 90 days after the due date,*
- C) *10% of any amount that is paid later than 90 days after the due date and not later than 180 days after the due date, and*
- D) *15% of any amount that is paid later than 180 days after the due date.*

Effective July 25, 2002, if notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of the notice and demand, then the penalty for late payment or nonpayment of admitted liability under this subsection (f)(1)(A) through (D) on the amount so paid shall not accrue for the period after the date of the notice and demand (Section 3-3(b-10)(1) of the Act).

EXAMPLE 1: Your Form IL-1040 is due by April 15, but you file your return on May 15 (within the extension for time to file) showing total tax due of \$1,000. You were required to make quarterly estimated income tax payments but you only made your first quarter estimated payment of \$225. You paid the remaining balance you owe of \$775 with the return. We notify you that you owe interest on the late tax, plus late payment penalties for late payment of estimated tax and late payment of total tax due by April 15 in the amount of \$92.

The penalty for late payment of estimated tax and late payment of tax due with the return is based on the number of days the payment is late. Your second quarter payment was made more than 180 days late, your third quarter payment was made more than 180 days late, and your fourth quarter payment was made more than 90 days but less than 180 days late. Your payment due with your return was paid 30 days late.

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The late payment of estimated tax penalty is calculated as follows: \$1,000 tax x 90% required to be paid timely = \$900 to be made in 4 ~~four~~ equal installments. \$900 divided by 4 = \$225 per quarterly payment. Second quarter penalty (\$225 x 15% = \$33.75) + Third quarter penalty (\$225 x 15% = \$33.75) + Fourth quarter penalty (\$225 x 10% = \$22.50) = \$90 late payment penalty for failure to pay estimated taxes.

The penalty for late payment of total tax due by April 15 is calculated as follows: \$1,000 - \$900 = \$100 tax due with the return and paid late. \$100 x 2% = \$2 late payment penalty for failure to pay tax due by April 15.

EXAMPLE 2: Your Form ST-1 is due on June 20th. You were required to make quarter-monthly accelerated tax payments of the Retailers' Occupation Tax on the 7th, 15th, 22nd, and 31st of May. Each payment should have been \$4,500. You did not make any accelerated payments and instead paid the total tax due when you timely filed your return on June 20th. We notify you that you owe a late payment penalty for failing to make timely accelerated tax payments.

The May 7 and May 15 payments are more than 30 days but less than 90 days late, therefore subject to the 5% penalty. The May 22 and May 31 payments are no more than 30 days late, and therefore subject to the 2% penalty. Your late payment penalty is \$630 ($(\$4,500 \times 5\% = \$225) + (\$4,500 \times 5\% = \$225) + (\$4,500 \times 2\% = \$90) + (\$4,500 \times 2\% = \$90) = \630).

EXAMPLE 3: Your ST-1 form, due on January 20, was filed but no payment was made. The Department issues you a notice and demand dated February 16. You pay the tax due on March 9. Although the payment was made more than 30 days after the due date, you incur a 2% penalty because the amount was paid within 30 days after the date of the Department's notice and demand. See subsection (f)(1)(E), above.

- 2) the full amount of any tax required to be shown due on a return and that is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has

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expired without proceedings for a review having been instituted. The amount of penalty imposed shall be 20% of any amount that is not paid within the 30-day period. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty imposed under subsection (b-10)(2) of Section 3-3 of the Act shall be imposed at the expiration of the period provided for the filing of a protest. (Section 3-3(b-10) of the Act)

EXAMPLE: Corporate Taxpayer timely files its IL-1120 for tax year 2000 by the March 15, 2001 due date for calendar year filers. Corporate Taxpayer properly made all estimated tax payments and paid the remainder of its tax liability with the return. In 2003, the Department completes an audit of Corporate Taxpayer's 2000 return and an additional liability of \$5,000 is proposed. Corporate Taxpayer agrees to the audit findings but does not pay the additional liability until 60 days after ~~notice~~ **Notice** and ~~demand~~ **Demand** for payment is issued. A penalty of \$1,000 ($\$5,000 \times 20\% = \$1,000$) is assessed against Corporate Taxpayer for late payment of additional liability.

- g) *For purposes of the late payment penalties, the basis of the penalty shall be the tax shown or required to be shown on the return, whichever is applicable, reduced by any part of the tax which is paid on time and by any credit which was properly allowable on the date the return was required to be filed.* (Section 3-3(c) of the Act) The amount of the late payment penalty, unlike some late payment penalties that were imposed prior to the adoption of the Uniform Penalty and Interest Act, does not change over time for returns due on or before December 31, 2000. The late payment penalty is the same whether payment is one day late or one year late. For returns due on and after January 1, 2001, however, the late payment penalty is a graduated penalty that increases as the time period during which the tax liability remains unpaid increases. It is only after the tax liability has remained unpaid for more than 180 days that the late payment penalty caps at 15% and remains at ~~that~~ **such** rate until the tax liability is paid.
- h) *A penalty shall be applied to the tax required to be shown even if that amount is less than the tax shown on the return.* (Section 3-3(d) of the Act)

EXAMPLE: A rentor of automobiles for periods of one year or less has tax due under the Automobile Renting Occupation and Use Tax for the rental receipts received during the month of June 1994 on July 20, 1994. The tax shown on the return filed on July 20, 1994 is \$500, but the

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taxpayer remits no payment of the tax when the return is filed. On August 1, 1994 the taxpayer files an amended return reducing tax liability to \$400 and also remits \$400. Assuming that the \$400 amount shown on the amended return is correct, the taxpayer owes a late payment penalty on \$400, the amount required to be shown on the original return, not the \$500 amount that was shown on the original return.

- i) *If both a subsection (b)(1) or (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty are assessed against the same return, the subsection (b)(2) or (b-5)(2) penalty shall be assessed against only the additional tax found to be due. (Section 3-3(e) of the Act) For returns due on and after January 1, 2001, if a subsection (b-10)(1) penalty and a subsection (b-10)(2) penalty are assessed against the same return, the subsection (b-10)(2) penalty shall be assessed against only the additional tax found to be due. (Section 3-3(e-5) of the Act)*

EXAMPLE 1: A withholding tax agent has tax due for the third quarter of 1994. The return is filed timely, with tax withheld of \$20,000, but on time payments only equal \$15,000, leaving a tax balance due of \$5,000. The late payment penalty applicable on November 1, 1994 is \$750. Full payment of tax is made on March 15, 1995. On October 1, 1997, an audit is completed increasing tax to \$30,000. The withholding agent agrees to the audit finding. An additional late payment penalty of \$1,500 (\$30,000 - the original \$20,000 = \$10,000 tax due times 15% = \$1,500 late payment penalty) will be assessed if the withholding agent does not pay the additional tax liability within 30 days after ~~notice~~ **Notice** and ~~demand~~ **Demand** for payment of the additional liability.

EXAMPLE 2: Corporate Taxpayer timely files its IL-1120 for the 2000 tax year on March 15, 2001 showing total tax due of \$30,000. Corporate Taxpayer properly made all estimated tax payments but fails to pay the \$3,000 tax balance due with the return. Corporate Taxpayer pays the \$3,000 tax due on June 15, 2001, later than 90 days but no later than 180 days after the due date. The penalty for late payment of tax due is \$300 (\$3,000 x 10%). In 2003, the Department completes an audit of Corporate Taxpayer's 2000 return increasing the tax due to \$36,000. Corporate Taxpayer agrees to the audit finding but does not pay the additional liability until 45 days after ~~notice~~ **Notice** and ~~demand~~ **Demand** is issued. Corporate Taxpayer is assessed an additional late payment penalty of \$1,200 (\$36,000 - \$30,000 original liability = \$6,000 additional tax due x 20% = \$1,200).

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- j) *If the taxpayer has failed to file the return, the Department shall determine the correct tax according to its best judgment and information, which amount shall be prima facie evidence of the correctness of the tax due. (Section 3-3(f) of the Act)*
- k) *The time within which to file a return or pay an amount of tax due without imposition of a penalty does not extend the time within which to file a protest to a notice of tax liability or a notice of deficiency. (Section 3-3(g) of the Act)*

(Source: Amended at 27 Ill. Reg. 9622, effective June 13, 2003)

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of Part: Diseased Animals
- 2) Code Citation: 8 Ill. Adm. Code 85
- 3) Section Number: Emergency Action:
85.12 Amend
- 4) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50]
- 5) Effective Date of Amendment: June 10, 2003
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date Filed with the Index Department: June 10, 2003
- 8) Reason for Emergency: There has been a recent outbreak of monkeypox virus in Illinois residents who have had close contact with infected prairie dogs or other infected animals, including Gambian rats. This is the first evidence of monkeypox virus infection in the United States. Monkeypox is a rare smallpox-like disease that occurs primarily in the rain forest countries of central and west Africa. The emergency rule is being adopted to designate the monkeypox virus (orthopoxvirus) as a contagious or infectious disease.
- 9) A Complete Description of the Subjects and Issues Involved: Monkeypox is caused by monkeypox virus, which belongs to the orthopoxvirus group of viruses. Monkeypox is a rare smallpox-like disease that occurs primarily in the rain forest countries of central and west Africa. In June 2003, monkeypox was reported in prairie dogs and humans in Illinois. This is the first evidence of monkeypox virus infection in the United States. The emergency rule is being adopted to designate the monkeypox virus (orthopoxvirus) as a contagious or infectious disease.
- 10) Are there any proposed amendments to this Part pending? No
- 11) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local governments.
- 12) Information and questions regarding this amendment shall be directed to:

Name: Dr. Richard Hull
Address: Illinois Department of Agriculture

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS

State Fairgrounds, P.O. Box 19281
Springfield, Illinois 62794-9281

Telephone: 217/785-4735
Facsimile: 217/558-6033

The full text of the emergency amendment begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)PART 85
DISEASED ANIMALS

Section

85.5	Definitions
85.7	Incorporation by Reference
85.10	Reportable Diseases
85.12	Contagious or Infectious Diseases
EMERGENCY	
85.15	Truck Cleaning and Disinfection
85.20	Disposal of Sick, Diseased, or Crippled Animals at Stockyards, Auction Markets, or Marketing Centers
85.25	Sale of Livestock Quarantined Because of Disease
85.30	Identification Ear Tags for Livestock
85.35	Identification Tags Not to be Removed
85.40	Livestock for Immediate Slaughter Not to be Diverted En Route
85.45	Anthrax
85.50	Goats
85.55	Scrapie in Sheep and Goats
85.60	Bluetongue
85.65	Sheep Foot Rot (Repealed)
85.70	Cattle Scabies
85.75	Cattle Scabies -- Additional Requirements on Cattle from Certain Designated Areas
85.80	Sheep and Goats
85.85	Diseased Animals
85.90	Copy of Health Certificate Shall be Furnished
85.95	Requests for Permits
85.100	Consignments to Stockyards, Auction Markets, Recognized Slaughtering Centers, or Marketing Centers
85.105	Obligation of Transportation Company and Truck Operators
85.110	Additional Requirements on Cattle From Designated States
85.115	Salmonella enteritidis serotype enteritidis
85.120	Cervidae
85.125	Ratites

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS

- 85.130 Vesicular Stomatitis
85.135 Requirements for Establishing and Maintaining a Herd or Flock Under the Voluntary Paratuberculosis (Johne's disease) Certification Program
85.140 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Risk Management Program
85.145 Johne's Disease Positive Cattle or Bison

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65].

SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 12, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective August 17, 1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5925, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 18411, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 1919, effective January 19, 1990; amended at 14 Ill. Reg. 15313, effective September 10, 1990; amended at 16 Ill. Reg. 11756, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 14052, effective August 16, 1993 for a maximum of 150 days; amended at 18 Ill. Reg. 1850, effective January 24, 1994; emergency amendment at 19 Ill. Reg. 10734, effective July 10, 1995, for a maximum of 150 days; emergency expired December 17, 1995; amended at 20 Ill. Reg. 276, effective January 1, 1996; emergency amendment at 20 Ill. Reg. 6581, effective April 30, 1996 for a maximum of 150 days; amended at 20 Ill. Reg. 13039, effective September 25, 1996; amended at 21 Ill. Reg. 17049, effective January 1, 1998; amended at 23 Ill. Reg. 411, effective January 1, 1999; amended at 23 Ill. Reg. 7862, effective July 1, 1999; amended at 24 Ill. Reg. 997, effective January 10, 2000; amended at 24 Ill. Reg. 16612, effective November 1, 2000; amended at 26 Ill. Reg. 76, effective January 1, 2002; emergency amendment at 26 Ill. Reg. 6846, effective April 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 18245, effective December 13, 2002; emergency amendment at 27 Ill. Reg. 9638, effective June 10, 2003, for a maximum of 150 days.

Section 85.12 Contagious or Infectious Diseases

EMERGENCY

- a) The Department will designate a disease as contagious or infectious when it is

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS

determined that the disease is a threat to the animal industry. A disease will be considered a threat to the animal industry for any of the following reasons:

- 1) is of unknown cause or previously not a recognized disease;
- 2) can cause interstate or international trade restrictions;
- 3) is highly communicable to other animals or species;
- 4) has the potential to produce uncontrollable death loss; or
- 5) is not endemic in the animal industry.

b) The following diseases are considered to be contagious or infectious:

African horse sickness
African swine fever
akabane
anthrax
avian influenza
bluetongue
Borna disease
bovine petechial fever
brucellosis
chronic wasting disease – (CWD) - cervids
contagious bovine pleuropneumonia
contagious equine metritis (CEM)
dourine
ephemeral fever
equine infectious anemia (EIA)
equine viral encephalitides
epizootic lymphangitis
foot and mouth disease
fowl typhoid
glanders
heartwater
hemorrhagic septicemia
hog cholera
horse pox
infectious encephalomyelitis--avian
infectious laryngotracheitis
Japanese B encephalitis
Jembrana disease
louping-ill

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lumpy skin disease
[monkeypox virus \(orthopoxvirus\)](#)
Mycoplasma gallisepticum--turkeys
Mycoplasma synoviae--turkeys
Nairobi sheep disease
Newcastle disease
peste des petits--ruminants
paramyxovirus infection-avian
paratuberculosis (Johne's disease)
piroplasmiasis
pseudorabies (Aujeszky's disease)
psittacosis (ornithosis)
pullorum disease
Q fever
rabies
Rift Valley fever
rinderpest
salmonella enteritidis--poultry
salmonella typhimurium--poultry
scabies--cattle and sheep
scrapie
sheep and goat pox
swine vesicular disease
transmissible spongiform encephalopathy (TSE)
trichinellosis
tuberculosis
vesicular conditions of any type
vesicular exanthema of swine
Wesselsbron disease
West Nile Virus

(Source: Emergency amendment at 27 Ill. Reg. 9638, effective June 10, 2003, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 9, 2003 through June 16, 2003 and have been scheduled for review by the Committee at its July 8, 2003 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
7/23/03	<u>Department of Human Services</u> , Application (89 Ill. Adm. Code 557)	4/18/03 27 Ill. Reg. 6514	7/8/03
7/23/03	<u>Department of Human Services</u> , Customer Financial Participation (89 Ill. Adm. Code 562)	4/18/03 27 Ill. Reg 6520	7/8/03
7/23/03	<u>Department of Human Services</u> , Comparable Benefits (89 Ill. Adm. Code 567)	4/18/03 27 Ill. Reg. 6529	7/8/03
7/23/03	<u>Department of Human Services</u> , Services (89 Ill. Adm. Code 590)	4/18/03 27 Ill. Reg. 6533	7/8/03
7/23/03	<u>Department of Human Services</u> , Closure of a Rehabilitation Case (89 Ill. Adm. Code 595)	4/18/03 27 Ill. Reg. 6548	7/8/03
7/23/03	<u>Department of Human Services</u> , Closure (Repeal) (89 Ill. Adm. Code 617)	4/18/03 27 Ill. Reg. 6554	7/8/03
7/24/03	<u>Department of Human Services</u> , Compulsive Gambling (77 Ill. Adm. Code 2059)	11/22/02 26 Ill. Reg. 16899	7/8/03

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

7/24/03	<u>Department of Human Services</u> , Subacute Alcoholism and Substance Abuse Treatment Services (77 Ill. Adm. Code 2090)	2/21/03 27 Ill. Reg. 2829	7/8/03
7/25/03	<u>Department of Natural Resources</u> , Conservation Reserve Enhancement Program (CREP) (17 Ill. Adm. Code 1515)	4/25/03 27 Ill. Reg. 7358	7/8/03
7/26/03	<u>Office of Banks and Real Estate</u> , Home Inspector License Act (68 Ill. Adm. Code 1410)	4/4/03 27 Ill. Reg. 5574	7/8/03
7/26/03	<u>Secretary of State</u> , Procedures and Standards (92 Ill. Adm. Code 1001)	3/28/03 27 Ill. Reg. 5326	7/8/03

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

2003-159

June 22-28, 2003, as Quebec Week

WHEREAS, the links between Illinois and Quebec are numerous and stretch back centuries to the French-speaking missionaries and voyageurs who left Quebec City and Montreal to explore le pays des Illinois and eventually to settle here; and

WHEREAS, in 1969, Quebec established its delegation in the city of Chicago, due to the business and cultural preeminence of the city; and

WHEREAS, Quebec is active, along with Illinois, in both the Council of Great Lakes Governors and the Great Lakes Commission as an associate member; and

WHEREAS, trade between Illinois and Quebec exceeded \$3 billion Canadian in 2002; and

WHEREAS, the staff of the Quebec delegation in Chicago has established commercial links between Illinois and Quebec companies, and has brought Quebec performing artists, intellectuals, and writers to the theaters and universities of the state; and

WHEREAS, the Quebec delegation in Chicago seeks to broaden the economic, cultural and tourism links between Quebec and the Midwest; and

WHEREAS, on June 24, 2003, Quebec celebrates its National Holiday, La Saint-Jean, which is the feast day of St. John the Baptist;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim June 22-28, 2003, as QUEBEC WEEK in Illinois.

Issued by the Governor June 10, 2003

Filed by the Secretary of State June 16, 2003

2003-160

October 2003 as Operation Snowball Month

WHEREAS, Operation Snowball is a prevention program that offers the opportunity for youth to help themselves, their peers, and their communities in the prevention of substance abuse through a group of chapter process; and

WHEREAS, Operation Snowball is a program of the Illinois Alcoholism and Drug Dependence Association (IADDA). Today, the program involves 130 active chapters in Illinois made up of some 50,000 high school age youth; and

WHEREAS, Operation Snowball has evolved into the creation of the Snowflake program for students in grades six through eight and the Snowflurry program for students in grades three through five, providing them with the vital information at a time in their lives when they need it the most; and

WHEREAS, Operation Snowball is also a peer leadership program that produces responsible young adults;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

October 2003 as OPERATION SNOWBALL MONTH in Illinois.

Issued by the Governor June 11, 2003

Filed by the Secretary of State June 16, 2003

2003-161

August 5-8, 2003, as Rural Letter Carriers' Week

WHEREAS, the National Rural Letter Carriers' Association was organized in 1903 to serve a growing rural population with a "Post Office on Wheels" and "Service with a Smile;" and

WHEREAS, the group represents a membership of over 100,000 regular rural carriers, substitutes, auxiliary, RCAs and retired carriers who drive 3 million miles on 75,000 rural routes daily to deliver mail to nearly 30 million customers; and

WHEREAS, the Illinois Rural Letter Carriers' Association which consists of nearly 5,000 members, is proud to host its convention in the State of Illinois; and

WHEREAS, the birthplace of National Rural Letter Carriers' Association is Illinois; and

WHEREAS, the first convention was held in Chicago, Illinois, in 1903 at the Sherman House and is now returning to the Hyatt Regency in Chicago to mark this Centennial Year of history for this Association; and

WHEREAS, the National Rural Letter Carriers' Association will hold its 100th Anniversary and 99th Convention in Chicago on August 5-8, 2003;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim August 5-8, 2003, as RURAL LETTER CARRIERS' WEEK in Illinois.

Issued by the Governor June 13, 2003

Filed by the Secretary of State June 16, 2003

2003-162

June 27-29, 2003, as National Underground Railroad Family Reunion Festival Days

WHEREAS, the Underground Railroad represents the pinnacle of selflessness, sacrifice, bravery, and freedom; and

WHEREAS, William H. Still was a leading abolitionist, writer, and businessman, who assisted fugitive slaves by providing them with room and board and eventually wrote one of the most comprehensive books documenting the families of the Underground Railroad with the hope of one day reuniting them together; and

WHEREAS, the descendants of William H. Still continue to preserve the Still family's legacy by gathering annually to celebrate a rich and proud heritage; and

WHEREAS, the State of Illinois contained numerous Underground Railroad sites to aid fugitive slaves in their quest for freedom; and

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WHEREAS, the William Still Underground Railroad Foundation is sponsoring the National Underground Railroad Family Reunion Festival from June 27-29 in Philadelphia, Pennsylvania, and Camden, New Jersey; and

WHEREAS, the National Underground Railroad Family Reunion Festival will reunite the descendants of the Underground Railroad under one forum to allow them to network, share their legacy of the Underground Railroad with each other, and to educate the public through the various venues; and

WHEREAS, the National Underground Railroad Family Reunion Festival will be a multicultural event highlighting the diversity, cooperation, racial harmony, and healing needed to promote greater understanding;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim June 27-29, 2003, as NATIONAL UNDERGROUND RAILROAD FAMILY REUNION FESTIVAL DAYS in Illinois.

Issued by the Governor June 13, 2003

Filed by the Secretary of State June 16, 2003

2003-163

June 2003 Amateur Radio Awareness Month

WHEREAS, the State of Illinois has more than 23,000 licensed Amateur Radio operators, also known as Hams, and 63 radio clubs; and

WHEREAS, Amateur Radio provides opportunities for people of all ages to communicate with one another and explore a diverse world of interests; and

WHEREAS, Amateur Radio operators have demonstrated their value to the public by providing emergency radio communications networks; and

WHEREAS, Amateur Radio operators played a significant role in aiding emergency workers on September 11, 2002, and were recognized by President George W. Bush; and

WHEREAS, Amateur Radio has offered important technological contributions by developing early mobile gear for automobiles and aircraft, developing the use of frequencies beyond the High Frequency bands, developing early packet radio networks, building the first civilian communications satellite, pioneering the use of inexpensive "microsats," experimenting with the use of the Single Sideband mode and experimenting in digital signal processing circuitry and software; and

WHEREAS, this year's Amateur Radio Field Day will take place on June 28-29, 2003;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 2003 AMATEUR RADIO AWARENESS MONTH in Illinois.

Issued by the Governor June 09, 2003

Filed by the Secretary of State June 16, 2003

EXECUTIVE ORDERS AND PROCLAMATIONS

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2003-164

June 5, 2003, as Latino Health Research Day

WHEREAS, the Hispanic/Latino population is rapidly growing in the State of Illinois, but despite this growth, many communities do not have the comprehensive services to address the social and health needs of Hispanics/Latinos; and

WHEREAS, the Midwest Latino Health Research, Training, and Policy Center at the Jane Addams College of Social Work at the University of Illinois at Chicago was founded 10 years ago for the purpose of studying the health and social disparities of Hispanics/Latinos and other minorities; and

WHEREAS, the Midwest Latino Health Research, Training, and Policy Center promotes community participatory action research models, trains new minority investigators, and engages in community education and policy support to promote the development of health and human services for the Latino community of Illinois; and

WHEREAS, in collaboration with local, state, regional, and federal government, and professional and local community-based organizations, the Midwest Latino Health Research, Training and Policy Center is having a two-day conference and a 10th year anniversary celebration; and

WHEREAS, the purpose of the conference is to promote an awareness of health, mental health and human services issues, in an effort to address the needs of Hispanics/Latinos in research and surveillance, training, policy, and service delivery;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 5, 2003, as LATINO HEALTH RESEARCH DAY in Illinois.

Issued by the Governor June 09, 2003

Filed by the Secretary of State June 16, 2003

2003-165

July 2003 as Illinois Teen Institute Month

WHEREAS, the Illinois Teen Institute is a substance abuse prevention program that empowers and provides youth with the resources to make healthy decisions, to be advocates for their peers and to make a difference in their homes, schools, and communities; and

WHEREAS, the Illinois Teen Institute, founded in 1974, is a program of the Illinois Alcoholism and Drug Dependence Association (IADDA), is a charter member of the National Association of Teen Institutes (NATI), and has impacted the lives of more than 20,000 Illinois youth and adults; and

WHEREAS, the Illinois Teen Institute has inspired the creation of Operation Snowball, a community-based prevention program for youth of all ages which provides them with vital information at a time in their lives when they need it the most; and

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WHEREAS, the Illinois Teen Institute is also a peer leadership program that produces responsible young adults;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 2003 as ILLINOIS TEEN INSTITUTE MONTH in Illinois.

Issued by the Governor June 09, 2003

Filed by the Secretary of State June 16, 2003

2003-166

June 11, 2003, as Access Living Day

WHEREAS, the quality of life of millions of citizens of the State of Illinois is directly influenced by physical or mental disability; and

WHEREAS, this year, Access Living continues its third decade as Chicago's leading Center for Independent Living; and

WHEREAS, Access Living serves Chicago's more than 500,000 people with disabilities, while advocating for policies that support its services and programs; and

WHEREAS, this year's event will feature former U.S. Attorney General Janet Reno; and

WHEREAS, Access Living enhances the lives of those with disabilities by fostering dignity, pride, and self-esteem and by creating a variety of options for living with a disability;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 11, 2003, as ACCESS LIVING DAY in Illinois.

Issued by the Governor June 09, 2003

Filed by the Secretary of State June 16, 2003

2003-167

July 13-19, 2003, as Aquatic Week

WHEREAS, organized recreation and the creative use of free time are vital to the happy lives of all our citizens; and

WHEREAS, educational, athletic and recreational programs throughout the State of Illinois encompass the potential for personal accomplishment, self-satisfaction and family unity for all citizens, regardless of their background, ability level or age; and

WHEREAS, citizens of Illinois should recognize the significance of swimming and aquatic-related activities which promote good physical and mental health and enhance the quality of life for all people; and

WHEREAS, the State of Illinois is extremely proud of its swimming facilities and its other aquatic programs for effectively providing all ages with a healthy place to recreate, learn, swim, and build self-esteem, confidence and a sense of self-worth which

EXECUTIVE ORDERS AND PROCLAMATIONS

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contributes to the quality of life in our community;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim July 13-19, 2003, as AQUATIC WEEK and do urge all those in the State of Illinois to support and promote this observance.

Issued by the Governor June 09, 2003

Filed by the Secretary of State June 16, 2003

2003-168

June 22-28, 2003, as Illinois Association of Medical Staff Services Week

WHEREAS, the State of Illinois recognizes the importance of medical staff service professionals who ensure quality care and provide organization to the health care industry; and

WHEREAS, medical staff service professionals work to establish efficient infrastructure in health care organizations; and

WHEREAS, the Illinois Association of Medical Staff Services provides professional and personal development, networking opportunities, career advancement and education for medical staff services professionals;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim June 22-28, 2003, as ILLINOIS ASSOCIATION OF MEDICAL STAFF SERVICES WEEK in Illinois.

Issued by the Governor June 09, 2003

Filed by the Secretary of State June 16, 2003

2003-169

September 12-13, 2003, as Carbondale Main Street Pig Out

WHEREAS, Carbondale Main Street will host the 7th Annual Carbondale Main Street Pig Out on September 12-13, 2003; and

WHEREAS, this festival is centered on a Kansas City Barbecue Society sanctioned barbecue contest; and

WHEREAS, the event consists of live music, various barbecue and food vendors and numerous children's activities; and

WHEREAS, children's activities include storytelling, a petting zoo, moonwalk, face painting, chalk drawing, jugglers, clowns and magicians; and

WHEREAS, this event is a great experience for the citizens of Carbondale;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim September 12-13, 2003, as CARBONDALE MAIN STREET PIG OUT in Illinois.

Issued by the Governor June 09, 2003

Filed by the Secretary of State June 16, 2003

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2003-170

June 20, 2003, as Jack Alan Oremus Day

WHEREAS, Alan Oremus is President and Chief Executive Officer of Prairie Material Sales, Incorporated, which is one of the nation's largest producers of ready mix concrete, and also operates 11 aggregate quarries, 12 brick companies and a Portland cement plant; and

WHEREAS, Alan Oremus is a graduate of Notre Dame University where he remains a supporter of the Sorin Society; and

WHEREAS, Alan Oremus inherited leadership of Prairie Material Sales in 1997 and continued the family tradition of returning profits to the constant growth of the company; and

WHEREAS, within three years of his leadership, Prairie Material Sales, Incorporated, doubled in revenues; and

WHEREAS, Alan Oremus has provided steadfast leadership and has significantly contributed to the minority construction community; and

WHEREAS, Alan Oremus is receiving the Man of the Year Award at the Coalition for United Community Action's 31st Annual Unity Testimonial Awards Banquet on June 20, 2003;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 20, 2003, as JACK ALAN OREMUS DAY in Illinois.

Issued by the Governor June 09, 2003

Filed by the Secretary of State June 16, 2003

TEACHER'S RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

JULY 2003 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): The Administration and Operation of the Teachers' Retirement System, 80 Ill. Adm. Code 1650
- 1) Rulemaking:
- A) Description: The Teachers' Retirement System ("System") anticipates the following rulemakings:
- i) Amendment of TRS trustee election rule to no longer require social security number to verify voter eligibility.
- ii) Various formatting and typographical corrections.
- B) Statutory Authority: Implementing and authorized by Article 1 and Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].
- C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.
- D) Date agency anticipates First Notice: Unknown.
- E) Affect on small businesses, small municipalities or not for profit corporations: None.
- F) Agency contact person for information:
- Name: Thomas Gray, General Counsel
Address: Teachers' Retirement System
2815 West Washington, P.O. Box 19253
Springfield, Illinois 62794-9253
Telephone: (217) 753-0375
- G) Related rulemakings and other pertinent information: The System is not currently involved in any rulemaking.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 ("the Act") and 205 ILCS 635/4-5 (H), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of \$500 against Comprehensive Mortgage, Inc., License No. #5429 of Matteson, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective May 23, 2003.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 ("the Act") and 205 ILCS 635/4-5 (H), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of \$500 against OSI Financial Services, Inc., License No. #5434 of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective May 23, 2003.

ILLINOIS ADMINISTRATIVE CODE

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