

# 2004

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Background Checks and Mercury Compliance
- 2) Code Citation: 83 Ill. Adm. Code 535
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
535.10	New Section
535.20	New Section
535.100	New Section
535.200	New Section
535.210	New Section
535.220	New Section
535.230	New Section
535.240	New Section
- 4) Statutory Authority: Implementing and authorized by Sections ~~8-101, 8-501, 8-501.5, 8-505,~~ and 8-505.5 of the Public Utilities Act [220 ILCS 5/8~~-101, 8-501, 8-501.5, 8-505,~~8-505.5].
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 92-0071 added Sections 8-501.5 and 8-505.5 to the Public Utilities Act. Section 8-501.5 requires the Commission to adopt rules establishing certification requirements that utilities must obtain for past safety or environmental violations from proposed employees or independent contractors that perform work on facilities involving the distribution of natural gas. Section 8-505.5 requires the Commission to set forth rules that require public utilities to test for mercury before and after work is performed on regulators or manometers that contain mercury. These proposed rules implement these provisions. Subpart B sets out the requirements for the background checks. Subpart C sets out the procedures to be followed by the utilities, including the technical specifications to be used.
- 6) Will these proposed rules replace any emergency rules 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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts, or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 04-0263, with:
- Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701  
(217)782-7434
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: These rules will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. These rules will not affect any small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: Reporting and recordkeeping
- C) Types of professional skills necessary for compliance: Managerial skills; engineering skills.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for this Part at that time.

The full text of the Proposed Rules begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER d: GAS UTILITIES

PART 535  
BACKGROUND CHECKS AND MERCURY COMPLIANCE

SUBPART A: GENERAL

- Section
- 535.10 Definitions
- 535.20 Application

SUBPART B: BACKGROUND CHECKS

- Section
- 535.100 Background Checks

SUBPART C: MERCURY COMPLIANCE

- Section
- 535.200 Work Performed on Regulators and Manometers
- 535.210 Reporting Mercury Tests
- 535.220 Mercury Reports to the Commission
- 535.230 Mercury Vapor Air Sample Test Result in Excess of Allowed Levels
- 535.240 Certification of Equipment

AUTHORITY: Implementing and authorized by Sections 8-501.5 and 8-505.5 of the Public Utilities Act [220 ILCS 5/8-501.5, 8-505.5].

SOURCE: Adopted at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL

**Section 535.10 Definitions**

“Act” means the Public Utilities Act [220 ILCS 5].

“Commission” means the Illinois Commerce Commission.

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“Confirmed reading” means a mercury vapor sample test result that was obtained in the absence of any interference or one that was obtained by an alternative mercury vapor analyzer in those cases where an interference exists.

“Independent contractor” means any sole proprietor, partnership, or corporation.

“Pertinent safety law” means any applicable local, State and federal safety law.

“Pertinent environmental law” means any applicable local, State, or federal environmental law.

“Public utility” means the same as that term is defined in Section 3-105 of the Act [220 ILCS 5/3-105].

“Violation” means any final order issued by any federal or State court or agency of competent jurisdiction or written stipulation, admission, agreed settlement, or consent order containing an admission of liability for the violation, entered into within the last five years prior to the hiring, promoting, or transfer date as set forth in Section 535.100.

“Work” means any maintenance, replacement, or inspection of public utility equipment by a public utility or by a contractor for a public utility. “Work” shall not include meter readings and inspections of public utility equipment that only involve observations or taking readings.

**Section 535.20 Application**

This Part establishes the procedures for completing certificates that a public utility shall require from employees or contractors before any work is performed by these employees or contractors on a facility used for the distribution of natural gas and the procedures for the conducting of mercury vapor tests and the use of mercury vapor testing equipment by the public utility, its agents, or its contractors.

## SUBPART B: BACKGROUND CHECKS

**Section 535.100 Background Checks**

- a) *Before hiring, promoting, or transferring an employee to perform work on facilities used for the distribution of natural gas to customers, a public utility shall require each employee or potential employee to complete a certificate*

## ILLINOIS COMMERCE COMMISSION

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*listing violations of pertinent safety or environmental laws* by the employee or *potential employee*. Exempt from this requirement are current employees of public utilities who were in positions with the public utilities that involved work on facilities used for the distribution of natural gas to customers of these public utilities on the effective date of this Part. Also exempt are employees who are being transferred or promoted from a position requiring a certificate to another position requiring a certificate. [220 ILCS 5/8-501.5]

- b) *Before hiring an independent contractor to perform work involving facilities used for the distribution of natural gas to customers, a public utility shall require an owner or officer of the independent contractor to provide certificates listing violations of pertinent safety or environmental laws by the independent contractor.* [220 ILCS 5/8-501.5]
- c) A certificate of violations of pertinent safety and environmental laws violations completed by a potential public utility employee or current public utility employees who receive a promotion or transfer to a position described in subsection (a) shall contain the following information:
- 1) The name of applicant or employee;
  - 2) The applicant or employee's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine assessed because of the violation;
  - 3) A verified statement that the applicant or employee is providing truthful information;
  - 4) Notice to the applicant or employee that willful omissions of information from this certificate are grounds for employment termination; and
  - 5) The applicant or employee's dated signature.
- d) A certificate of violations of pertinent safety and environmental laws completed by an owner or officer of the independent contractor shall contain the following information:
- 1) Identification of the specific public utility contract being sought by the independent contractor;

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- 2) The name and address of the independent contractor;
  - 3) The name and position held in the independent contractor by the person completing the certificate;
  - 4) The independent contractor's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine, if any, assessed because of the violation;
  - 5) A verified statement that the representative of the independent contractor is providing truthful information;
  - 6) Notice to the independent contractor that willful omissions of information from this certificate are grounds for contract termination; and
  - 7) The dated signature of the independent contractor owner or officer completing the certificate.
- e) A public utility shall retain completed certificates of violations of pertinent safety and environmental laws and shall make these records available for inspection by the Commission.
- 1) A public utility shall keep a certificate completed by an independent contractor hired by the public utility for five years after the creation of the certificate;
  - 2) A public utility shall keep certificates completed by its own employees for five years after employment termination.
- f) Information provided in the certificates referred to in subsections (c) and (d) shall be considered by these public utilities in making employment decisions regarding those individuals or entities furnishing these certificates to these public utilities.
- g) Independent contractors hired by the public utility shall provide new certificates annually.

## SUBPART C: MERCURY COMPLIANCE

**Section 535.200 Work Performed on Regulators and Manometers**

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- a) Prior to performing work at a customer location on a mercury-containing regulator or manometer used in providing natural gas service, a public utility shall test the air for mercury vapor in at least two locations: one location one foot above or away from the regulator or manometer and another location within three to five feet above the floor for indoor meters, or three to five feet above ground level for outdoor meters, immediately adjacent to the regulator or manometer.
- b) After performing the work on a mercury-containing regulator or manometer used to provide natural gas service, a public utility shall test the air for mercury vapor at the same locations used for air sampling prior to performing the work on the regulator or manometer.
- c) A public utility shall consider a confirmed reading at, or in excess, of the following levels as a positive indication of mercury.
  - 1) 0.003 milligrams (3 micrograms) per cubic meter of air for mercury vapor air sample tests conducted inside of a residential customer location.
  - 2) 0.010 milligrams (10 micrograms) per cubic meter of air for mercury vapor air sample tests conducted at non-residential locations and outside of a residential customer location.
- d) When testing for mercury vapor, a public utility shall use mercury vapor testing equipment capable of detecting the presence of mercury at the levels required by subsection (c).
- e) A public utility shall use mercury vapor testing equipment in accordance with the guidelines set forth by the manufacturer of the equipment.
- f) A public utility shall not perform any mercury vapor air sample tests under conditions that would counter the manufacturer's recommendations for use of the mercury vapor test equipment except for the following reasons:
  - 1) A public utility may perform work on mercury contained regulators or manometers located outdoors without conducting the required mercury vapor test if conditions are not suitable for accurate readings from its mercury vapor test equipment, but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment; or

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- 2) A public utility may perform emergency work on mercury-containing regulators or manometers without conducting the required mercury vapor test, if conditions are not suitable for accurate readings from its mercury vapor test equipment, but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment.

**Section 535.210 Reporting Mercury Tests**

- a) A public utility performing a mercury vapor air sample test required by Section 535.200 shall record the following information:
  - 1) The name of the public utility providing natural gas service to the property;
  - 2) The address where the mercury-containing regulator or manometer is or was located;
  - 3) An indication of whether the regulator or manometer was located inside or outside of customer's location;
  - 4) An indication of whether a regulator or manometer is at the specified location;
  - 5) An indication of whether the regulator or manometer remained at the specified location or was removed;
  - 6) The name of the person conducting the test;
  - 7) The date and time of the test;
  - 8) The level of mercury vapor found at each test location;
  - 9) A general description of each air sample test location;
  - 10) The name and model number of the device used to conduct the test;
  - 11) The date of original work and explanation of testing delay if testing was postponed due to circumstances covered in Section 535.200(f)(2); and

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- 12) The dated signature of the person completing the mercury vapor test report.
- b) After performing mercury vapor air sample tests required by Section 535.200, a public utility shall, if requested by the occupant or owner of the property, provide a copy of the mercury vapor air sample test results to the occupant or owner of the property where the public utility performed the tests. If requested, the public utility shall mail a copy of the mercury vapor air sample test results in a first class envelope addressed to the occupant or owner within 10 working days after the date of the request.
- c) A public utility shall retain the information required in subsection (a) for five years. A public utility shall make these records available for inspection by the Commission staff upon request.

**Section 535.220 Mercury Reports to the Commission**

- a) No later than April 1 of each year, a public utility offering natural gas service shall file an annual mercury compliance report with the Chief Clerk of the Commission. The report shall contain the following information for the previous calendar year:
  - 1) The number of locations that required a mercury vapor air sample test; and
  - 2) An identification of the number of locations that contained confirmed readings in excess of the allowed levels and the concentration of mercury vapor detected by the public utility at each location as set forth in Section 535.200(c).
- b) If a public utility reports no activity regarding the removal of mercury-containing regulators or manometers used in providing natural gas service for a period of three consecutive years and certifies by verified statement with the Chief Clerk of the Commission that there are no known locations with mercury-containing regulators or manometers used in providing natural gas service, then the utility is exempted from the reporting requirement.
- c) A public utility's exemption from the reporting requirements in this Section ends in the event that:

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- 1) The public utility discovers a mercury-containing regulator or manometer used in providing natural gas service within its system; or
- 2) The public utility merges with another Illinois natural gas utility or acquires Illinois service territory from another public utility that has not met the requirements of subsection (b).

**Section 535.230 Mercury Vapor Air Sample Test Result in Excess of Allowed Levels**

- a) For each confirmed mercury vapor air sample test result in excess of the levels set forth in Section 535.200(c), a public utility shall immediately notify all State and federal authorities with jurisdiction of its findings and implement the appropriate mercury contamination clean-up procedure with those authorities, to the extent such notification and clean-up is required under pertinent environmental laws or pertinent safety laws and to the extent that the utility has not previously developed protocols for notification and cleanup with State or federal authorities. Notifying all State and federal authorities with jurisdiction is not required should a public utility's existing protocol with those authorities not require it.
- b) If a public utility is required, as discussed under subsection (a), to conduct a clean-up, the public utility shall maintain a file of all correspondence regarding each location where it obtained a confirmed mercury vapor air sample test result in excess of the limits set forth in Section 535.200(c) for a period of five years after it receives confirmation from the appropriate State or federal authorities that its mercury clean-up activities are completed and no further work in this regard is needed.

**Section 535.240 Certification of Equipment**

A public utility, independent contractor, or their agents shall follow the manufacturer's testing, maintenance, and certification recommendations for all mercury vapor testing equipment used to test for the presence of mercury vapor and shall keep the records of such testing, maintenance and certifications for five years after its last mercury vapor test required by Section 535.200.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Solid Waste Disposal: General Provisions
- 2) Code citation: 35 Ill. Adm. Code 810
- 3) Section numbers: 810.103      Proposed Action: Amend
- 4) Statutory authority: 415 ILCS 5/7.2, 22.40, and 27
- 5) A complete description of the subjects and issues involved: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of March 18, 2004, proposing amendments in consolidated docket R04-5/R04-15 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

The following briefly describes the subjects and issues involved in the larger rulemaking of which the amendments to Part 810 are a single segment. Also affected is 35 Ill. Adm. Code 811, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of March 18, 2004, proposing amendments in docket R04-5/R04-15 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

This proceeding would update the Illinois RCRA Subtitle D municipal solid waste landfill (MSWLF) rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the *Federal Register* during a single update period. The docket and time period that is involved in this proceeding is the following:

R04-5	Federal RCRA Subtitle D amendments that occurred during the period January 1, 2003 through June 30, 2003.
R04-15	Federal RCRA Subtitle D amendments that occurred during the period July 1, 2003 through December 31, 2003.

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The R04-5/R04-15 docket amends rules in Parts 810 and 811. The following table briefly summarizes the federal actions in the update period:

June 18, 2003 (68 Fed. Reg. 36487)	USEPA amended key definitions to allow disposal of residential lead-based paint waste that is not hazardous waste in a construction and demolition landfill that does not accept other household waste.
October 15, 2003 (68 Fed. Reg. 59333)	USEPA amended the rules to add a note referencing the adoption of the Wendell H. Ford Aviation Investment Act prohibiting location of a new landfill within six miles of certain public airports.

Specifically, the amendments to Part 810 implement segments of the federal June 18, 2003 amendments relating to disposal for lead-based paint waste.

Tables appear in the Board's opinion and order of March 18, 2004 in consolidated docket R04-5/R04-15 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the March 18, 2004 opinion and order in consolidated docket R04-5/R04-15.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 10) Statement of statewide policy objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2002)].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R04-5/R04-15 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R04-5/R04-15:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601  
Phone: 312-814-6924  
E-mail: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us)

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that own or operate a municipal solid waste landfill.
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, and maintenance of operating records.

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- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.
- 13) Regulatory agenda on which this rulemaking was summarized: July 2003 and January 2004

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

## POLLUTION CONTROL BOARD

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TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 810  
 SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section	
810.101	Scope and Applicability
810.102	Severability
810.103	Definitions
810.104	Incorporations by Reference

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17, and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

### Section 810.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part ~~will be~~ shall be the same as that applied to the same words or terms in the Environmental Protection Act (Act) [415 ILCS 5]:

"Act" means the Environmental Protection Act, [415 ILCS 5].

"Admixtures" are chemicals added to earth materials to improve for a specific application the physical or chemical properties of the earth materials. Admixtures include, but are not limited to: lime, cement, bentonite, and sodium silicate.

"Agency" is the Environmental Protection Agency established by the Environmental Protection Act. (Section 3.08 of the Act)

"Applicant" means the person submitting an application to the Agency for a

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

permit for a solid waste disposal facility.

*"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients and whose boundaries can be identified and mapped from hydrogeologic data. (Section 3 of the Illinois Groundwater Protection Act [415 ILCS 55/3]-)*

"Bedrock" means the solid rock formation immediately underlying any loose superficial material such as soil, alluvium, or glacial drift.

"Beneficially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents ~~which that~~ exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

*"Board" is the Pollution Control Board established by the Act. (Section 3.04 of the Act-)*

"Borrow area" means an area from which earthen material is excavated for the purpose of constructing daily cover, final cover, a liner, a gas venting system, roadways, or berms.

"Chemical waste" means a non-putrescible solid whose characteristics are such that any contaminated leachate is expected to be formed through chemical or physical processes, rather than biological processes, and no gas is expected to be formed as a result.

"Coal combustion power generating facilities" means establishments ~~thatwhich~~ generate electricity by combusting coal and which utilize a lime or limestone scrubber system.

"Construction and demolition landfill" or "C&D landfill" means a solid waste disposal facility subject to the requirements in Subpart A or B of 40 CFR 257 that receives construction and demolition waste and does not receive hazardous waste (defined in 35 Ill. Adm. Code 721.103) or industrial solid waste (defined in this Section). Only a C&D landfill that meets the requirements of Subpart B of 40 CFR 257 may receive conditionally exempt small quantity generator waste (defined in 35 Ill. Adm. Code 721.105). A C&D landfill typically receives any one or more of the following types of solid wastes: roadwork material, excavated

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material, demolition waste, construction and renovation waste, and site clearance waste.

"Contaminated leachate" means any leachate whose constituent violate the standards of 35 Ill. Adm. Code 811.202.

"Dead animal disposal site" means an on-the-farm disposal site at which the burial of dead animals is done in accordance with the Illinois Dead Animal Disposal Act; [225 ILCS 610;] and regulations adopted pursuant thereto; (8 Ill. Adm. Code 90).

"Design Period" means that length of time determined by the sum of the operating life of the solid waste landfill facility plus the postclosure care period necessary to stabilize the waste in the units.

*"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. (Section 3.08 of the Act.) If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation willshall constitute disposal.*

"Disturbed areas" means those areas within a facility that have been physically altered during waste disposal operations or during the construction of any part of the facility.

"Documentation" means items, in any tangible form, whether directly legible or legible with the aid of any machine or device, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds, and financial records, that are used to support facts or hypotheses.

"Earth liners" means structures constructed from naturally occurring soil material that has been compacted to achieve a low permeability.

"Existing facility" or "Existing unit" means a facility or unit thatwhich is not

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defined in this Section as a new facility or a new unit.

*"Existing MSWLF unit" means any municipal solid waste landfill unit that has received household waste before October 9, 1993. (Section 3.87 of the Act)*

"Facility" means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage or disposal operation. All structures used in connection with or to facilitate the waste disposal operation ~~will be~~ ~~shall be~~ considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

"Field capacity" means that maximum moisture content of a waste, under field conditions of temperature and pressure, above which moisture is released by gravity drainage.

"Foundry sand" means pure sand or a mixture of sand and any additives necessary for use of the sand in the foundry process, but does not include such foundry process by-products as air pollution control dust or refractories.

"Gas collection system" means a system of wells, trenches, pipes and other related ancillary structures such as manholes, compressor housing, and monitoring installations that collects and transports the gas produced in a putrescible waste disposal unit to one or more gas processing points. The flow of gas through such a system may be produced by naturally occurring gas pressure gradients or may be aided by an induced draft generated by mechanical means.

"Gas condensate" means the liquid formed as a landfill gas is cooled or compressed.

"Gas venting system" means a system of wells, trenches, pipes and other related structures that vents the gas produced in a putrescible waste disposal unit to the atmosphere.

"Geomembranes" means manufactured membrane liners and barriers of low permeability used to control the migration of fluids or gases.

"Geotextiles" are permeable manufactured materials used for purposes ~~that~~ ~~which~~ include, but are not limited to, strengthening soil, providing a filter to prevent

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clogging of drains, and collecting and draining liquids and gases beneath the ground surface.

*"Groundwater" means underground water which occurs within the saturated zone and within geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3 of the Illinois Groundwater Protection Act)*

*"Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). (Section 3.89 of the Act)*

"Hydraulic barriers" means structures designed to prevent or control the seepage of water. Hydraulic barriers include, but are not limited to, cutoff walls, slurry walls, grout curtains and liners.

"Inert waste" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes ~~will~~shall include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry, and concrete (cured for 60 days or more).

"Iron slag" means slag.

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a land application unit is not a landfill; however, other Parts of 35 Ill. Adm. Code: Chapter I may apply, and may include the permitting requirements of 35 Ill. Adm. Code 309.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

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*"Lateral expansion" means a horizontal expansion of the actual waste boundaries of an existing MSWLF unit occurring on or after October 9, 1993. A horizontal expansion is any area where solid waste is placed for the first time directly upon the bottom liner of the unit, excluding side slopes on or after October 9, 1993. (Section 3.88 of the Act)*

"Leachate" means liquid that has been or is in direct contact with a solid waste.

"Lift" means an accumulation of waste ~~that~~<sup>which</sup> is compacted into a unit and over which cover is placed.

"Low risk waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Malodor" means an odor caused by *one or more contaminant emissions into the atmosphere from a facility that is in sufficient quantities and of such characteristics and duration as to be described as malodorous and which may be injurious to human, plant, or animal life, to health, or to property, or may unreasonably interfere with the enjoyment of life or property.* (Section 3.02 of the Act (defining "air pollution"))

*"Municipal Solid Waste Landfill Unit" or "MSWLF Unit" means a contiguous area of land or an excavation that receives household waste, and that is not a land application, surface impoundment, injection well, or any pile of noncontainerized accumulations of solid, nonflowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned or operated. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF if it receives household waste. (Section 3.85 of the Act) A construction and demolition landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF unit.*

"National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing pretreatment requirements

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under the Clean Water Act (33 ~~USC~~U.S.C. 1251 et seq.), Section 12(f) of the ~~Environmental Protection Act, and Subpart A of~~ 35 Ill. Adm. Code 309, ~~Subpart A and~~ 35 Ill. Adm. Code 310.

"NPDES permit" means a permit issued under the NPDES program.

"New facility" or "New unit" means a solid waste landfill facility or a unit at a facility, if one or more of the following conditions apply:

It is a landfill or unit exempt from permit requirements pursuant to Section 21(d) of the Act that has not yet accepted any waste as of September 18, 1990;

It is a landfill or unit not exempt from permit requirements pursuant to Section 21(d) of the Act that has no development or operating permit issued by the Agency pursuant to 35 Ill. Adm. Code 807 as of September 18, 1990; or

It is a landfill with a unit whose maximum design capacity or lateral extent is increased after September 18, 1990.

BOARD NOTE: A new unit located in an existing facility ~~will be~~shall be considered a unit subject to 35 Ill. Adm. Code 814, which references applicable requirements of 35 Ill. Adm. Code 811.

*"New MSWLF Unit" means any municipal solid waste landfill unit that has received household waste on or after October 9, 1993 for the first time. (Section 3.86 of the Act)*

"One hundred-~~year(100)-year~~ flood plain" means any land area ~~that~~which is subject to a one percent or greater chance of flooding in a given year from any source.

"One hundred-~~year(100)-year, 24-hour~~24 hour precipitation event" means a precipitation event of a ~~24-hour~~24 hour duration with a probable recurrence interval of once in 100 years.

"Operator" means the person responsible for the operation and maintenance of a solid waste disposal facility.

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"Owner" means a person who has an interest, directly or indirectly, in land, including a leasehold interest, on which a person operates and maintains a solid waste disposal facility. The "owner" is the "operator" if there is no other person who is operating and maintaining a solid waste disposal facility.

"Perched watertable" means an elevated watertable above a discontinuous saturated lens, resting on a low permeability (such as clay) layer within a high permeability (such as sand) formation.

"Permit area" means the entire horizontal and vertical region occupied by a permitted solid waste disposal facility.

*"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent or assigns. (Section 3.26 of the Act)*

"Potentially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Poz-O-Tec materials" means materials produced by a stabilization process patented by Conversion Systems, Inc. utilizing flue gas desulfurization (FGD) sludges and ash produced by coal combustion power generation facilities as raw materials.

"Poz-O-Tec monofill" means a landfill in which solely Poz-O-Tec materials are placed for disposal.

"Professional engineer" means a person who has registered and obtained a seal pursuant to ~~the "The Illinois~~ Professional Engineering Practice Act of 1989" [225 ILCS 325].

"Professional land surveyor" means a person who has received a certificate of registration and a seal pursuant to the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330].

"Putrescible waste" means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other

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offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes ~~that which~~ do not meet the ~~definition~~definitions of inert or chemical wastes ~~will be~~shall be considered putrescible wastes.

"Publicly owned treatment works" or "POTW" means a treatment works that is owned by the State of Illinois or a unit of local government. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the unit of local government ~~that which~~ has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"Recharge zone" means an area through which water can enter an aquifer.

"Residential lead-based paint waste" means waste containing lead-based paint that is generated as a result of activities such as abatement, rehabilitation, renovation, and remodeling in homes and other residences. The term residential lead-based paint waste includes, but is not limited to, lead-based paint debris, chips, dust, and sludges.

*"Resource Conservation and Recovery Act" or "RCRA" means the Resource Conservation and Recovery Act of 1976 (P.L. 94-580 Codified as 42 USC. §6901 et seq.) as amended. (Section 3.90 of the Act)*

"Responsible charge," when used to refer to a person, means that the person is normally present at a waste disposal site; directs the day-to-day overall operation at the site; and either is the owner or operator or is employed by or under contract with the owner or operator to assure that the day-to-day operations at the site are carried out in compliance with any Part of 35 Ill. Adm. Code: Chapter I governing operations at waste disposal sites.

"Runoff" means water resulting from precipitation that flows overland before it enters a defined stream channel, any portion of such overland flow that infiltrates into the ground before it reaches the stream channel, and any precipitation that falls directly into a stream channel.

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"Salvaging" means the return of waste materials to use, under the supervision of the landfill operator, so long as the activity is confined to an area remote from the operating face of the landfill, it does not interfere with or otherwise delay the operations of the landfill, and it results in the removal of all materials for salvaging from the landfill site daily or separates them by type and stores them in a manner that does not create a nuisance, harbor vectors, or cause an unsightly appearance.

"Scavenging" means the removal of materials from a solid waste management facility or unit ~~that~~ which is not salvaging.

"Seismic Slope Safety Factor" means the ratio between the resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure during an earthquake or other seismic event such as an explosion.

"Settlement" means subsidence caused by waste loading, changes in groundwater level, chemical changes within the soil, and adjacent operations involving excavation.

"Shredding" means the mechanical reduction in particle sizes of solid waste. Putrescible waste is considered shredded if 90 percent of the waste by dry weight passes a ~~three-inch~~ 3-inch sieve.

"Significant Modification" means a modification to an approved permit issued by the Agency in accordance with Section 39 of the Act and 35 Ill. Adm. Code 813 that is required when one or more of the following changes (considered significant when that change is measured by one or more parameters whose values lie outside the expected operating range of values as specified in the permit) are planned, occur, or will occur:

An increase in the capacity of the waste disposal unit over the permitted capacity;

Any change in the placement of daily, intermediate, or final cover;

A decrease in performance, efficiency, or longevity of the liner system;

A decrease in efficiency or performance of the leachate collection system;

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A change in configuration, performance, or efficiency of the leachate management system;

A change in the final disposition of treated effluent or in the quality of the discharge from the leachate treatment or pretreatment system;

Installation of a gas management system, or a decrease in the efficiency or performance of an existing gas management system;

A change in the performance or operation of the surface water control system;

A decrease in the quality or quantity of data from any environmental monitoring system;

A change in the applicable background concentrations or the maximum allowable predicted concentrations;

A change in the design or configuration of the regraded area after development or after final closure;

A change in the amount or type of postclosure financial assurance;

Any change in the permit boundary;

A change in the postclosure land use of the property;

A remedial action necessary to protect groundwater;

Transfer of the permit to a new operator;

Operating authorization is being sought to place into service a structure constructed pursuant to a construction quality assurance program; or

A change in any requirement set forth as a special condition in the permit.

"Slag" means the fused agglomerate ~~that~~<sup>which</sup> separates in the iron and steel production and floats on the surface of the molten metal.

"Sole source aquifer" means those aquifers designated pursuant to Section

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1424(e) of the Safe Drinking Water Act of 1974, (42 ~~USCU.S.C~~ 300h-3).

"Solid Waste" means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

*"Special waste" means any industrial process waste, pollution control waste or hazardous waste, except as determined pursuant to Section 22.9 of the Act and 35 Ill. Adm. Code 808. (Section 3.45 of the Act.)*

"Static Safety Factor" means the ratio between resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure.

"Steel slag" means slag.

"Surface impoundment" means a natural topographic depression, a man-made excavation, or a diked area into which flowing wastes, such as liquid wastes or wastes containing free liquids, are placed. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a surface impoundment is not a landfill. Other Parts of 35 Ill. Adm. Code: Chapter I may apply, including the permitting requirements of 35 Ill. Adm. Code 309.

"Twenty-five-~~year~~(25)-~~year~~, ~~24-hour~~~~24-hour~~ precipitation event" means a precipitation event of ~~24-hour~~~~24-hour~~ duration with a probable recurrence interval of once in 25 years.

"Uppermost aquifer" means the first geologic formation above and below the bottom elevation of a constructed liner or wastes, where no liner is present, ~~that~~~~which~~ is an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility's permit area.

"Unit" means a contiguous area used for solid waste disposal.

"Unit of local government" means a unit of local government, as defined by Article 7, Section 1 of the Illinois Constitution. A unit of local government may include, but is not limited to, a municipality, a county, or a sanitary district.

"Waste pile" means an area on which noncontainerized masses of solid, nonflowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can

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demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration ~~must~~<sup>shall</sup> include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposal elsewhere.

"Waste stabilization" means any chemical, physical, or thermal treatment of waste, either alone or in combination with biological processes, ~~that~~<sup>which</sup> results in a reduction of microorganisms, including viruses, and the potential for putrefaction.

"Working face" means any part of a landfill where waste is being disposed of.

"Zone of attenuation" ~~means~~<sup>is</sup> the three dimensional region formed by excluding the volume occupied by the waste placement from the smaller of the volumes resulting from vertical planes drawn to the bottom of the uppermost aquifer at the property boundary or 100 feet from the edge of one or more adjacent units.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Standards for New Solid Waste Landfills
- 2) Code citation: 35 Ill. Adm. Code 811
- 3) 

<u>Section number:</u>	<u>Proposed Action:</u>
811.302	Amend
- 4) Statutory authority: 415 ILCS 5/7.2, 22.40, and 27
- 5) A complete description of the subjects and issues involved: The amendments to Part 811 are a single segment of a larger rulemaking that also affects 35 Ill. Adm. Code 810, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the larger rulemaking in this *Illinois Register* only in the answer to question 5 in the Notice of Proposed Amendments for 35 Ill. Adm. Code 810. A comprehensive description is contained in the Board's opinion and order of March 18, 2004, proposing amendments in consolidated docket R04-5/R04-15 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

Specifically, the amendments to Part 811 implement segments of the federal October 15, 2003 amendments relating to location of a new landfill near public airports.

Tables appear in the Board's opinion and order of March 18, 2004 in consolidated docket R04-5/R04-15 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the March 18, 2004 opinion and order in consolidated docket R04-5/R04-15.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Will this rulemaking replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date?: No

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- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No.
- 10) Statement of statewide policy objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2002)].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R04-5/R04-15 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

Please direct inquiries to the following person and reference consolidated docket R04-5/R04-15:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
Phone: 312-814-6924  
E-mail: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us)

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses,

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small municipalities, and not-for-profit corporations that own or operate a municipal solid waste landfill.

- B) Reporting, bookkeeping or other procedures required for compliance:  
The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, and maintenance of operating records.
- C) Types of professional skills necessary for compliance:  
Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.
- 13) Regulatory agenda on which this rulemaking was summarized: January 2004

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

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811  
STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section

- 811.101 Scope and Applicability
- 811.102 Location Standards
- 811.103 Surface Water Drainage
- 811.104 Survey Controls
- 811.105 Compaction
- 811.106 Daily Cover
- 811.107 Operating Standards
- 811.108 Salvaging
- 811.109 Boundary Control
- 811.110 Closure and Written Closure Plan
- 811.111 Postclosure Maintenance

811.112 Recordkeeping Requirements for MSWLF Units

SUBPART B: INERT WASTE LANDFILLS

Section

- 811.201 Scope and Applicability
- 811.202 Determination of Contaminated Leachate
- 811.203 Design Period
- 811.204 Final Cover
- 811.205 Final Slope and Stabilization
- 811.206 Leachate Sampling
- 811.207 Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section

- 811.301 Scope and Applicability
- 811.302 Facility Location
- 811.303 Design Period

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811.304	Foundation and Mass Stability Analysis
811.305	Foundation Construction
811.306	Liner Systems
811.307	Leachate Drainage System
811.308	Leachate Collection System
811.309	Leachate Treatment and Disposal System
811.310	Landfill Gas Monitoring
811.311	Landfill Gas Management System
811.312	Landfill Gas Processing and Disposal System
811.313	Intermediate Cover
811.314	Final Cover System
811.315	Hydrogeological Site Investigations
811.316	Plugging and Sealing of Drill Holes
811.317	Groundwater Impact Assessment
811.318	Design, Construction, and Operation of Groundwater Monitoring Systems
811.319	Groundwater Monitoring Programs
811.320	Groundwater Quality Standards
811.321	Waste Placement
811.322	Final Slope and Stabilization
811.323	Load Checking Program
811.324	Corrective Action Measures for MSWLF Units
811.325	Selection of remedy for MSWLF Units
811.326	Implementation of the corrective action program at MSWLF Units

## SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section	
811.401	Scope and Applicability
811.402	Notice to Generators and Transporters
811.403	Special Waste Manifests
811.404	Identification Record
811.405	Recordkeeping Requirements
811.406	Procedures for Excluding Regulated Hazardous Wastes

## SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section	
811.501	Scope and Applicability
811.502	Duties and Qualifications of Key Personnel
811.503	Inspection Activities
811.504	Sampling Requirements

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811.505	Documentation
811.506	Foundations and Subbases
811.507	Compacted Earth Liners
811.508	Geomembranes
811.509	Leachate Collection Systems

## SUBPART G: FINANCIAL ASSURANCE

## Section

811.700	Scope, Applicability and Definitions
811.701	Upgrading Financial Assurance
811.702	Release of Financial Institution
811.703	Application of Proceeds and Appeals
811.704	Closure and Postclosure Care Cost Estimates
811.705	Revision of Cost Estimate
811.706	Mechanisms for Financial Assurance
811.707	Use of Multiple Financial Mechanisms
811.708	Use of a Financial Mechanism for Multiple Sites
811.709	Trust Fund for Unrelated Sites
811.710	Trust Fund
811.711	Surety Bond Guaranteeing Payment
811.712	Surety Bond Guaranteeing Performance
811.713	Letter of Credit
811.714	Closure Insurance
811.715	Self-Insurance for Non-commercial Sites
811.716	Local Government Financial Test
811.717	Local Government Guarantee
811.718	Discounting
811.719	Corporate Financial Test
811.720	Corporate Guarantee

## 811.APPENDIX A Financial Assurance Forms

811.ILLUSTRATION A	Trust Agreement
811.ILLUSTRATION B	Certificate of Acknowledgment
811.ILLUSTRATION C	Forfeiture Bond
811.ILLUSTRATION D	Performance Bond
811.ILLUSTRATION E	Irrevocable Standby Letter of Credit
811.ILLUSTRATION F	Certificate of Insurance for Closure and/or Postclosure Care
811.ILLUSTRATION G	Operator's Bond Without Surety
811.ILLUSTRATION H	Operator's Bond With Parent Surety

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- 811.ILLUSTRATION I Letter from Chief Financial Officer
- 811.APPENDIX B Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. 6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

**Section 811.302 Facility Location**

- a) No part of a unit ~~may~~ shall be located within a setback zone established pursuant to Section 14.2 or 14.3 of the Act;
- b) No part of a unit ~~may~~ shall be located within the recharge zone or within 366 meters (1200 feet), vertically or horizontally, of a sole-source aquifer designated by the United States Environmental Protection Agency pursuant to Section 1424(e) of the Safe Drinking Water Act (42 ~~USC~~ ~~U.S.C.~~ 300f et seq.), unless there is a stratum between the bottom of the waste disposal unit and the top of the aquifer that meets the following minimum requirements:
  - 1) The stratum has a minimum thickness of 15.2 meters (50 feet);
  - 2) The maximum hydraulic conductivity in both the horizontal and vertical directions is no greater than  $1 \times 10^{-7}$  centimeters per second, as determined by in situ borehole or equivalent tests;
  - 3) There is no indication of continuous sand or silt seams, faults, fractures, or cracks within the stratum that may provide paths for migration; and

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- 4) Age dating of extracted water samples from both the aquifer and the stratum indicates that the time of travel for water percolating downward through the relatively impermeable stratum is no faster than 15.2 meters (50 feet) in 100 years.
- c) A facility located within 152 meters (500 feet) of the right of way of a township or county road or state or interstate highway ~~must~~ have its operations screened from view by a barrier of natural objects, fences, barricades, or plants no less than 2.44 meters (~~eight~~ feet) in height.
- d) No part of a unit ~~may~~ be located closer than 152 meters (500 feet) from an occupied dwelling, school, or hospital that was occupied on the date when the operator first applied for a permit to develop the unit or the facility containing the unit, unless the owner of such dwelling, school, or hospital provides permission to the operator, in writing, for a closer distance.
- e) The facility ~~may~~ not be located closer than 1525 meters (5000 feet) of any runway used by piston type aircraft or within 3050 meters (10,000 feet) of any runway used by turbojet aircraft unless the Federal Aviation Administration (~~FAA~~) provides the operator with written permission, including technical justification, for a closer distance.
- f) An owner or operator proposing to locate a new MSWLF unit within a five-mile radius of any airport runway used by turbojet or piston-type aircraft ~~must~~ notify the affected airport and the ~~Federal Aviation Administration~~ (~~FAA~~) within ~~seven~~ days ~~after~~ filing a permit application with Agency in accordance with 35 Ill. Adm. Code 813 for developing a new landfill.

BOARD NOTE: Subsection (f) ~~of this Section~~ is derived from 40 CFR 258.10 (2003), as amended at 68 Fed. Reg. 59333 (October 15, 2003)(1992). A prohibition on locating a new MSWLF near certain airports was enacted in Section 503 of the federal Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (Ford Act) (49 USC 44718(d)). Section 503 prohibits the "construction or establishment" of a new MSWLF after April 5, 2000 within six miles of certain smaller public airports. FAA administers the Ford Act and has issued guidance in FAA Advisory Circular 150/5200-34, dated August 26, 2000. For further information, please contact the FAA.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Support Responsibility of Relatives
- 2) Code Citation: 89 Ill. Adm. Code 103
- 3) Section Numbers: 103.10      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: Under this proposed amendment, the Department will not seek to obtain support payments from spouses of residents of long term care facilities. The purpose of this change is to ensure that determinations of medical assistance eligibility reflect the principles of the Medicaid Program.  
  
Related amendments are being proposed at 89 Ill. Adm. Code 120 that address the transfer and treatment of assets and the treatment of annuities with respect to determinations on medical assistance eligibility.
- 6) Will this proposed amendment replace any emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? Yes
- 8) Does this proposed amendment 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

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

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: 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 Amendment begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER a: GENERAL PROVISIONSPART 103  
SUPPORT RESPONSIBILITY OF RELATIVES

## Section

103.1	Incorporation by Reference
103.10	Support from Responsible Relatives
103.20	Determination of Ability To Support
103.25	Establishment of Support Obligations
103.30	Redetermination of Ability to Support
103.35	Enforcement of Administrative Support Orders
103.40	Failure or Refusal to Provide Information Regarding Ability to Support
103.50	Modification or Release from Support Order
103.TABLE A	Standard for Determining Responsible Relative Liability

AUTHORITY: Implementing and authorized by Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X].

SOURCE: Filed and effective December 30, 1977; amended at 3 Ill. Reg. 41, p. 171, effective October 1, 1979; amended at 6 Ill. Reg. 7441, effective June 16, 1982; codified at 7 Ill. Reg. 6493; amended at 10 Ill. Reg. 21898, effective December 12, 1986; amended at 11 Ill. Reg. 6493, effective March 27, 1987; amended at 12 Ill. Reg. 14681, effective August 31, 1988; amended at 13 Ill. Reg. 2496, effective February 14, 1989; amended at 13 Ill. Reg. 3954, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 16180, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 6395, effective April 16, 1990; amended at 14 Ill. Reg. 13288, effective August 6, 1990; amended at 14 Ill. Reg. 19348, effective November 30, 1990; amended at 17 Ill. Reg. 655, effective December 31, 1992; amended at 22 Ill. Reg. 16318, effective August 28, 1998; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 103.10 Support from Responsible Relatives**

- a) The Department shall seek to obtain support for recipients from legally responsible individuals and shall seek the enforcement of support obligations with the following exception: the Department shall not seek to obtain support for institutionalized persons as defined at 89 Ill. Adm. Code 120.387(a). ~~residents of~~

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

~~long term care facilities if income of the spouse in the community is less than or equal to the Community Spouse Maintenance Needs Standard (as described at 89 Ill. Adm. Code 120.61).~~

- b) The following persons are "responsible relatives" who are legally responsible for the financial support and maintenance of recipients:
  - 1) Spouse for spouse.
  - 2) Parents for children under 18 years of age.
- c) Responsible relatives who are receiving public assistance and/or Supplemental Security Income (SSI) benefits shall be considered unable to support.
- d) A parent is not legally responsible for the financial support and maintenance of a child of any age who has married (regardless of current marital status) and is not living with the parent or parents.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
120.378	New Section
120.379	Amendment
120.387	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 concerning the Department's administrative rules on medical assistance eligibility add several policy changes on the transfer of assets between spouses, the treatment of assets at initial eligibility and the treatment of annuities. The purpose of the proposed changes is to align the Department's rules with current federal law and ensure that determinations of medical assistance eligibility reflect the principles of the Medicaid Program.

Proposed changes at Section 120.387 allow for the unlimited transfer of assets from an institutionalized spouse to a community spouse at initial determination of eligibility. The Department currently allows an institutionalized spouse to transfer up to \$92,760 in assets to his or her community spouse.

Proposed changes at Section 120.387 also provide that the purchase of a non-assignable annuity shall be treated as an asset transfer. Such a transfer would be allowable if the individual could show that it was not made to establish eligibility for medical benefits. New Section 120.378 provides that all other annuities will be treated as available assets. Currently, Department rules are silent on how the principal of an annuity is treated. These new policies concerning annuities will only apply to annuities purchased on or after the effective date of this rulemaking.

Proposed changes at 120.379 provide that for initial eligibility determinations, assets of both an institutionalized spouse and community spouse will be treated as available to the institutionalized spouse, minus the maximum amount permitted as the Community Spouse Asset Allowance (\$92,760 for 2004). Combining the assets of married couples at initial determinations of eligibility is required under federal law.

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Related amendments are being proposed at 89 Ill. Adm. Code 103.10 concerning support payments from community spouses to spouses who are residents of long term care facilities.

- 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

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.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 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: January 2004

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 PROGRAMS

PART 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  
120.40 Exceptions To Use Of MANG Income Standard  
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section  
120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children  
120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD –  
MANG(AABD) and All Other Licensed Medical Facilities  
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)  
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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## SUBPART D: MEDICARE PREMIUMS

Section	
120.70	Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72	Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73	Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
120.74	Qualified Medicare Beneficiary (QMB) Income Standard
120.75	Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
120.76	Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section	
120.80	Recipient Restriction Program

## SUBPART F: MIGRANT MEDICAL PROGRAM

Section	
120.90	Migrant Medical Program (Repealed)
120.91	Income Standards (Repealed)

## SUBPART G: AID TO THE MEDICALLY INDIGENT

Section	
120.200	Elimination Of Aid To The Medically Indigent
120.208	Client Cooperation (Repealed)
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)
120.225	Social Security Numbers (Repealed)
120.230	Unearned Income (Repealed)
120.235	Exempt Unearned Income (Repealed)
120.236	Education Benefits (Repealed)
120.240	Unearned Income In-Kind (Repealed)

## DEPARTMENT OF PUBLIC AID

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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)
120.271	Income From Work/Study/Training Program (Repealed)
120.272	Earned Income From Self-Employment (Repealed)
120.273	Earned Income From Roomer and Boarder (Repealed)
120.275	Earned Income In-Kind (Repealed)
120.276	Payments from the Illinois Department of Children and Family Services (Repealed)
120.280	Assets (Repealed)
120.281	Exempt Assets (Repealed)
120.282	Asset Disregards (Repealed)
120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

## SUBPART H: MEDICAL ASSISTANCE – NO GRANT

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age
120.313	Blind
120.314	Disabled
120.315	Relationship
120.316	Living Arrangements
120.317	Supplemental Payments
120.318	Institutional Status
120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support
120.321	Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
- 120.323 Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
- 120.324 Health Insurance Premium Payment (HIPP) Program
- 120.325 Health Insurance Premium Payment (HIPP) Pilot Program
- 120.326 Foster Care Program
- 120.327 Social Security Numbers
- 120.330 Unearned Income
- 120.332 Budgeting Unearned Income
- 120.335 Exempt Unearned Income
- 120.336 Education Benefits
- 120.338 Incentive Allowance
- 120.340 Unearned Income In-Kind
- 120.342 Child Support and Spousal Maintenance Payments
- 120.345 Earmarked Income
- 120.346 Medicaid Qualifying Trusts
- 120.347 Treatment of Trusts
- 120.350 Lump Sum Payments and Income Tax Refunds
- 120.355 Protected Income
- 120.360 Earned Income
- 120.361 Budgeting Earned Income
- 120.362 Exempt Earned Income
- 120.363 Earned Income Disregard – MANG(C)
- 120.364 Earned Income Exemption
- 120.366 Exclusion From Earned Income Exemption
- 120.370 Recognized Employment Expenses
- 120.371 Income From Work/Study/Training Programs
- 120.372 Earned Income From Self-Employment
- 120.373 Earned Income From Roomer and Boarder
- 120.375 Earned Income In Kind
- 120.376 Payments from the Illinois Department of Children and Family Services
- 120.378 Annuities
- 120.379 Provisions for the Prevention of Spousal Impoverishment
- 120.380 Assets
- 120.381 Exempt Assets
- 120.382 Asset Disregard
- 120.383 Deferral of Consideration of Assets
- 120.384 Spend-down of Assets (AABD MANG)
- 120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 120.386 Property Transfers Occurring On or Before August 10, 1993  
120.387 Property Transfers Occurring On or After August 11, 1993  
120.390 Persons Who May Be Included In the Assistance Unit  
120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later  
120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy  
120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project  
120.395 Payment Levels for MANG (Repealed)  
120.399 Redetermination of Eligibility  
120.400 Twelve Month Eligibility for Persons under Age 19

## SUBPART I: SPECIAL PROGRAMS

## Section

- 120.500 Health Benefits for Persons with Breast or Cervical Cancer  
120.510 Health Benefits for Workers with Disabilities  
120.520 SeniorCare

- 120.TABLE A Value of a Life Estate and Remainder Interest  
120.TABLE B Life Expectancy

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

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

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 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.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

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 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. Reg. 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

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

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; 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; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART H: MEDICAL ASSISTANCE – NO GRANT

## DEPARTMENT OF PUBLIC AID

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**Section 120.378 Annuities**

- a) An assignable annuity purchased on or after the effective date of this Section shall be treated as an available nonexempt asset.
- b) If payments from the annuity have not yet started, the principal shall be treated as an available asset.
- c) If payments from the assignable annuity have started, the principal, less any disbursements already made, shall be treated as an available asset.

(Source: Added at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.379 Provisions for the Prevention of Spousal Impoverishment**

- a) The provisions for the prevention of spousal impoverishment apply only to an institutionalized person ~~resident of a long term care facility~~ whose spouse resides in the community ~~and to a person who but for the provision of home and community-based services under Section 4.02 of the Illinois Act on the Aging would require the level of care provided in a long term care facility and whose spouse resides in the community.~~ For purposes of this Section, an institutionalized person shall be defined as set forth in Section 120.387(a).
- b) At application, a determination shall be made of~~An assessment is completed to determine~~ the total combined amount of nonexempt assets of the institutionalized person~~individual~~ and his or her community spouse.∴
  - 1) ~~when residence begins in a long term care facility or when home and community-based services begin; and~~
  - 2) ~~when requested by either spouse or a representative acting on behalf of either spouse, even if an application for assistance has not been filed.~~
- c) ~~A re-assessment is not required if:~~
  - 1) ~~a resident of a long term care facility is discharged for a period of less than 30 days and then reenters the facility;~~
  - 2) ~~a resident of a long term care facility enters a hospital and then returns to the facility from the hospital;~~

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- ~~3) an individual discontinues receiving home and community based services for a period of less than 30 days; or~~
- ~~4) an individual discontinues receiving home and community based services due to hospitalization and then is discharged and begins to receive home and community based services.~~
- c) For initial eligibility, all assets counted in subsection (b) of this Section shall be treated as available to the institutionalized person, but only to the extent that the value exceeds the maximum amount permitted as the Community Spouse Asset Allowance (CSAA). As of January 1, 2004, the maximum amount permitted as the CSAA is \$92,760. For calendar years after 2004, the maximum amount permitted for the CSAA shall be an amount as established by the U.S. Department of Health and Human Services.
- d) An institutionalized person shall not be ineligible by reason of assets treated as available under subsection (c) of this Section if the Department determines that the denial of eligibility would work an undue hardship on the institutionalized person. For purposes of this Section, an undue hardship shall be defined as set forth in Section 120.387(e)(9).
- e) For months following the month in which the amount determined available in subsection (c) of this Section is less than or equal to the maximum amount permitted as the CSAA, no assets of the spouse living in the community shall be treated as available to the institutionalized person.
- ~~f) Upon meeting the requirements of subsection (e) of this Section, the institutionalized person may The transfer of property is allowed, as determined in subsection (b) of this Section, by the client to, or for the sole benefit of, the community spouse (see Section 120.387(j)) or to another individual for the sole benefit of the community spouse in an amount that does not exceed the maximum amount permitted as the Community Spouse Asset Allowance (CSAA) minus any nonexempt assets of the community spouse. The CSAA, as of October 1, 1989, is an amount up to but not greater than \$60,000 that the individual may transfer, without affecting eligibility, to the community spouse or to another individual for the sole benefit of the community spouse. As of October 1, 1989, the amount of assets an individual may transfer to his or her community spouse is \$60,000 minus any nonexempt assets of the community spouse. The amount established as the CSAA shall be provided for calendar years after 1989 by the Department~~

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~~of Health and Human Services. The CSAA may exceed the standard annual figure established by the U.S. Department of Health and Human Services only in one of the following circumstances:~~

- g) If the institutionalized person intends to transfer assets as permitted under subsection (f) of this Section, the amount the institutionalized person intends to transfer shall not be counted as an available asset. The transfer shall be made as soon as possible but no later than the first regularly scheduled redetermination of eligibility. The time period may be extended, as needed, if a court order is required to effect the transfer.
- h) Assets that are not transferred in accordance with subsection (g) of this Section shall be considered available to the institutionalized person.
- i) The CSAA may exceed the maximum annual figure established by the U.S. Department of Health and Human Services only in one of the following circumstances:
- 1) in a legal proceeding, a court approves the transfer of income-producing assets to the community spouse in an amount greater than the ~~maximum standard~~ CSAA; or
  - 2) as the result of an appeal hearing (described in 89 Ill. Adm. Code 104.1), the Department determines that the transfer of income-producing assets to the community spouse in an amount greater than the ~~maximum standard~~ CSAA is necessary to raise the community spouse's income to, but not more than, the Community Spouse Maintenance Needs ~~maximum amount Allowance~~ (described in subsection ~~(k)(f)~~ of this Section).
- A) The Department will measure the amount of an allowable increase in the CSAA by the cost to purchase an actuarially sound single premium life annuity producing monthly payments that, when added to the community spouse's income, will be sufficient to raise the community spouse's income to, but not more than, the Community Spouse Maintenance Needs ~~maximum amount Allowance~~. If assets are insufficient to purchase such an annuity, the Department will measure the amount of an allowable increase in the CSAA by the cost to purchase an actuarially sound single premium life annuity producing monthly payments using available assets.

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- B) It is the appellant's responsibility to provide the Department with an estimate from a reputable company of the cost to purchase the annuity.
- C) The Department may compare the estimate with available information on the cost of other single premium life annuities.
- D) In calculating the amount of the community spouse's income after approval of an increased CSAA, the Department shall deem the amount of the annuity payments as being available to the community spouse, although it will not require the actual purchase of an annuity.
- ~~j)e)~~ The appeal hearing, described in subsection ~~(i)(2)(d)(2)~~ of this Section, shall be held within 30 days after the date the appeal is filed.
- ~~k)f)~~ Deductions are allowed from the ~~institutionalized person's~~~~MANG-client's~~ non-SSI income for ~~a~~Community Spouse Maintenance Needs Allowance and ~~a~~Family Maintenance Needs Allowance for each dependent family member who is living with the community spouse and who does not have enough income to meet his or her needs. Family members include dependent children under ~~age~~21 years of age, dependent adult children, dependent parents or dependent siblings of either spouse. ~~The amount of the deduction is determined as follows:~~
- 1) The maximum deduction for ~~the~~ Community Spouse Maintenance Needs shall be the maximum amount established annually by the U.S. Department of Health and Human Services. For the calendar year beginning January 1, 2004, the Community Spouse Maintenance Needs maximum amount is \$2,319 per month. Allowance, as of October 1, 1989, is equal to the community spouse maintenance needs standard (\$1,500) less any nonexempt monthly income of the community spouse. The amount established as the community spouse maintenance needs standard shall be provided for calendar years after 1989 by the Department of Health and Human Services.
- A) The amount of the deduction for the Community Spouse Maintenance Needs is equal to the maximum amount minus any nonexempt monthly income of the community spouse.

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- B) The deduction is allowed only to the extent the income of the ~~institutionalized person~~ individual is contributed to the community spouse. However, the deduction for ~~the~~ Community Spouse Maintenance Needs ~~Allowance~~ shall not be less than the amount ordered by the court for support of the community spouse or the amount determined as the result of the fair hearing.
- 2) The maximum deduction for ~~the~~ Family Maintenance Needs ~~Allowance~~ for each dependent family member ~~shall be equal to~~ one-third of 150 percent of the Federal Poverty Level for two persons established annually by the U.S. Department of Health and Human Services ~~the difference between the family maintenance needs standard (122% of the Federal Poverty Level for two persons as of September 30, 1989, 133% as of July 1, 1991 and 150% as of July 1, 1992) and any nonexempt income of the family member.~~
- A) For the calendar year beginning January 1, 2004, the Family Maintenance Needs maximum amount is \$520.33 for each dependent family member per month.
- B) The amount of the deduction for the Family Maintenance Needs for each dependent family member is equal to one-third of the difference between 150 percent of the Federal Poverty Level for two persons and any nonexempt income of the family member.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.387 Property Transfers Occurring On or After August 11, 1993**

- a) The provisions for the transfer of property (for example, assets) listed below only apply to institutionalized persons when the transfer occurs on or after August 11, 1993. An institutionalized person is defined as a resident of a long term care facility, including a resident who was living in the community at the time of the transfer, and to individuals who but for the ~~provision~~ provisions of home and community-based services under Section 4.02 of the Illinois Act on the Aging would require the level of care in a long term care facility. An institutionalized person also includes an individual receiving home and community-based services under Section 4.02 of the Illinois Act on the Aging who was not receiving these services at the time of the transfer.

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- b) The provisions for the transfer of property (for example, assets) listed below apply to the transfer of property by the institutionalized person's spouse in the same manner as if the institutionalized person transferred the property.
- c) Transfers of property disregarded as a result of payments made by a Long Term Care Partnership Insurance Policy (as described in 50 Ill. Adm. Code 2018) are not subject to the provisions of this Section.
- d) A transfer of assets occurs when an institutionalized person or an institutionalized person's spouse buys, sells or gives away real or personal property or changes (for example, change from joint tenancy to tenancy in common) the way property is held. Changing ownership of property to a life estate interest is an asset transfer (the value of the life estate and remainder interest is determined as described at Section 120.380 ~~and 89 Ill. Adm. Code 113.140~~). For assets held in joint tenancy, tenancy in common or similar arrangement, a transfer occurs when an action by any person reduces or eliminates the person's ownership or control of the asset. A transfer occurs when an action or actions are taken which would cause an asset or assets not to be received (for example, waiving the right to receive an inheritance).
- e) A transfer is allowable if:
  - 1) depending on the property transferred, the transfer occurred more than either 60 or 36 months before the date of application, or more than either 60 or 36 months before entry into a long term care facility or more than either 60 or 36 months before receipt of services provided by the Illinois Department on Aging under the In-Home Care Program (as described in Section 140.643);
    - A) the 60 month period applies to payments from a revocable trust that are not treated as income (as described in Section 120.347) and to portions of an irrevocable trust from which no payments could be made (as described in Section 120.347);
    - B) the 36 month period applies to payments from an irrevocable trust that are not treated as income (as described in Section 120.347) and to any other property transfers not identified in this subsection (e);
  - 2) a fair market value was received. Fair market value is the price that an

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

article or piece of property might be expected to bring if offered for sale in a fair market. Fair market value is determined by statements obtained from institutions, community members, etc. (for example, bankers, jewelers, reputable realtors, etc.) recognized as having knowledge of property values;

- 3) homestead property was transferred to:
  - A) a spouse;
  - B) the person's child who is under age 21;
  - C) the person's child who is blind (as described in Section 120.313) or disabled (as described in Section 120.314);
  - D) the person's brother or sister who has an equity interest in the homestead property and who was residing in the home for at least one year immediately prior to the date the person became institutionalized; or
  - E) the person's child who provided care for the person and who was residing in the homestead property for two years immediately prior to the date the person became institutionalized;
- 4) the transfer by the institutionalized person was to the community spouse or to another person for the sole benefit of the community spouse ~~and the amount transferred does not exceed the Community Spouse Asset Allowance (as described in Section 120.379)~~;
- 5) the transfer from the community spouse was to another person for the sole benefit of the community spouse;
- 6) the transfer was to the person's child or to a trust established solely for the benefit of the person's child who is blind (as described in Section 120.313) or disabled (as described in Section 120.314) or to another person for the sole benefit of the person's child;
- 7) the transfer was to a trust established solely for the benefit of a person under age 65 who is disabled (as described in Section 120.314);

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- 8) the person intended to transfer the assets for fair market value;
- 9) it is determined that denial of assistance would create an undue hardship.
- A) Examples of undue hardship include, but are not limited to, situations ~~in~~ which:
- i)A) ~~would deprive the individual of medical care such that his or her health or his or her life would be endangeredthe individual is mentally unable to explain how the assets were transferred; or~~
- ii)B) ~~would deprive the individual of food, clothing, shelter, or other necessities of life.the denial of assistance would force the resident to move from the long term care facility; or~~
- B) A hardship that is created by an individual with the intent to qualify for medical assistance shall not be considered an undue hardship under this subsection (e)(9). Examples include, but are not limited to:
- i) hardships created as a result of the failure or refusal of the community spouse to apply available assets to the cost of the individual's care; or
- ii) hardships created as a result of a person with power of attorney or other legal authority over an individual's finances refusing or failing to apply available assets to the cost of the individual's care;
- C) ~~the individual would be prohibited from joining a spouse in a facility or would prohibit the individual from entering a facility that is within close proximity to his or her family;~~
- 10) the transfer was made exclusively for a reason other than to qualify for assistance. A transfer for less than fair market value is presumed to have been made to qualify for assistance unless a satisfactory showing is made to the Department that the client or spouse transferred the asset exclusively for a reason other than to qualify for assistance;

## DEPARTMENT OF PUBLIC AID

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- 11) the transfer by the client was to the community spouse and was the result of a court order;
  - 12) the assets transferred for less than fair market value have been returned to the person; or
  - 13) the transfer was to an annuity, the expected return on the annuity is commensurate with the estimated life expectancy of the person, and the annuity pays benefits in approximately equal periodic payments. In determining the estimated life expectancy of the person, the Department shall use the life expectancy table described in Section 120. Table B. A transfer to a non-assignable annuity does not meet the provisions of this subsection (e)(13).
- f) If a transfer or transfers do not meet the provisions of subsection (e), the client is subject to a period of ineligibility for long term care services and for services provided by the Illinois Department on Aging under the In-Home Care Program (as described in Section 140.643). The penalty period is determined in accordance with subsection (g) of this Section. If otherwise eligible, clients remain entitled to other covered medical services.
- g) A separate penalty period is determined for each month in which a transfer or transfers do not meet the provisions of subsection (e) of this Section. Each penalty period is the number of months equal to the total uncompensated amount of assets transferred during a month divided by the monthly cost of long term care at the private rate.
- h) The penalty period begins with the month of the transfer or transfers unless the transfer or transfers occurred during a previous penalty period. If so, the penalty period begins with the month following the month the previous penalty period ends.
- i) For transfers by the community spouse that result in a penalty period as described in subsection (g) of this Section and the community spouse becomes an institutionalized person and is otherwise eligible for assistance, the Department shall divide any remaining penalty period equally between the spouses.
- j) For purposes of this Part, a transfer is considered to be for the "sole benefit of" a spouse, blind or disabled child, or a disabled individual if the transfer is arranged in such a way that no individual or entity except the spouse, blind or disabled

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

child, or disabled individual can benefit from the assets transferred in any way, whether at the time of the transfer or at any time in the future.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: General Licensee Rules
- 2) Code Citation: 11 Ill. Adm. Code 1313
- 3) Section Number: 1313.70                      Proposed Action: Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking would repeal the current 4:00 p.m. deadline for harness horses shipping to the racetrack from off-site facilities on the day of the race. The 4:00 p.m. deadline will be replaced by a 4 to 6 hour deadline. The 4:00 p.m. deadline was inequitable because it penalized horses that were scheduled to race in later races and favored horses scheduled to race in the first few races. The proposed rulemaking will require that prior to their scheduled post time, as determined by the Board, harness horses must report to the paddock 4 to 6 hours in advance of their particular race.
- 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 incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:  
  
Mickey Ezzo  
Illinois Racing Board  
100 West Randolph  
Suite 11-100  
Chicago, Illinois 60601  
(312) 814-5017
- 12) Initial Regulatory Flexibility Analysis:

ILLINOIS RACING BOARD

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- A) Types of small business affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the most recent two regulatory agendas because it was not anticipated when they were submitted.

The full text of the Proposed Amendment is identical to the Emergency Amendment and can be found on page 5627 of the *Illinois Register*.

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1650.416	New
1650.1010	Amend
- 4) Statutory Authority: Implementing and authorized by Article 16 [40 ILCS 5/16] and Article 1, Section 119 [40 ILCS 5/1-119] of the Illinois Pension Code.
- 5) A Complete Description of the Subjects and Issues Involved: The Teachers' Retirement System (TRS) is proposing new Section 1650.416, Optional Increase in Retirement Annuity – 1% Contribution Reduction, which establishes a methodology for administering the contribution reduction or “3 for 1 forgiveness” provision [40 ILCS 5/16-129.1(b)] for members who elect to upgrade in one 5 year contribution window period, and subsequently upgrade additional optional service in a succeeding window period. TRS is also amending Section 1650.1010, Petitions, to delete the Social Security number identification requirement to verify eligibility to participate in the election of TRS Trustees. The option of voluntarily verifying voting eligibility by telephone number is being added to the Section as an alternative.  
  
In addition, Section 1650.1123 Suspension and Expiration of a QILDRO is being added to the Table of Contents. The content of the rule was previously added January 17, 2003.
- 6) Will these proposed amendments replace any 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: This rulemaking does not create or extend a State mandate.

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed amendment may be submitted in writing for a period of 45 days following publication of this Notice to:

Thomas S. Gray, General Counsel  
Teachers' Retirement System  
2815 West Washington, P. O. Box 19253  
Springfield, Illinois 62794-9253  
(217) 753-0375

- 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: July 2003

The full text of the Proposed Amendments begin on the next page:

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE D: RETIREMENT SYSTEMS  
CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF  
THE STATE OF ILLINOISPART 1650  
THE ADMINISTRATION AND OPERATION OF THE  
TEACHERS' RETIREMENT SYSTEM

## SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section  
1650.10 Annual Financial Report (Repealed)

## SUBPART B: BASIC RECORDS AND ACCOUNTS

Section  
1650.110 Membership Records  
1650.120 Claims Records (Repealed)  
1650.130 Individual Accounts (Repealed)  
1650.140 Ledger and Accounts Books (Repealed)  
1650.150 Statistics (Repealed)  
1650.160 Confidentiality of Records  
1650.180 Filing and Payment Requirements  
1650.181 Early Retirement Incentive Payment Requirements  
1650.182 Waiver of Additional Amounts Due  
1650.183 Definition of Employer's Normal Cost

## SUBPART C: FILING OF CLAIMS

Section  
1650.201 Disability Benefits – Application Procedure  
1650.202 Disability and Occupational Disability Benefits – Definitions  
1650.203 Disability Retirement Annuity – Definitions  
1650.204 Gainful Employment – Consequences  
1650.205 Medical Examinations and Investigation of Disability Claims  
1650.206 Physician Certificates  
1650.207 Disability Due to Pregnancy  
1650.208 Disability Payments  
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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## Rates

1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Impermissible Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

## SUBPART D: MEMBERSHIP AND SERVICE CREDITS

## Section

1650.310	Effective Date of Membership
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)
1650.380	Definition of Actuarial Equivalent
1650.390	Independent Contractors
1650.391	Optional 2.2 Upgrade of Earned and Credited Service
1650.392	2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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## SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

## Section

1650.410	Return of Contributions for Duplicate or Excess Service
1650.415	Return of Optional Increase in Retirement Annuity Contributions
<u>1650.416</u>	<u>Optional Increase in Retirement Annuity – 1% Contribution Reduction</u>
1650.420	Interest on Deficiencies (Repealed)
1650.430	Installment Payments (Repealed)
1650.440	Small Deficiencies, Credits or Death Benefit Payments
1650.450	Definition of Salary
1650.451	Reporting of Conditional Payments
1650.460	Calculation of Average Salary
1650.470	Rollover Distributions
1650.480	Rollovers to the System

## SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

## Section

1650.505	Beneficiary (Repealed)
1650.510	Re-entry Into Service
1650.520	Suspension of Benefits
1650.530	Power of Attorney
1650.540	Conservators/Guardians
1650.550	Presumption of Death
1650.560	Benefits Payable on Death
1650.570	Survivors' Benefits
1650.571	Payment of Monthly Survivor Benefits to a Trust
1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

## SUBPART G: ATTORNEY GENERALS' OPINION

## Section

1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)
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## SUBPART H: ADMINISTRATIVE REVIEW

## Section

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

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1650.710	Amendments

## SUBPART J: RULES OF ORDER

Section	
1650.810	Parliamentary Procedure

## SUBPART K: FREEDOM OF INFORMATION ACT REQUESTS

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1650.920	Definitions
1650.930	Submission of Requests
1650.940	Form and Content of FOIA Requests
1650.950	Appeal of a Denial
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1650.970	Response to FOIA Requests
1650.980	Inspection of Records at System Office
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## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- 1650.1030 Election Materials
- 1650.1040 Marking of Ballots
- 1650.1050 Return of Ballots
- 1650.1060 Observation of Ballot Counting
- 1650.1070 Certification of Ballot Counting
- 1650.1080 Challenges to Ballot Counting

## SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

## Section

- 1650.1110 Definitions
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- 1650.1112 Curing Minor Deficiencies
- 1650.1113 Required Form
- 1650.1114 Filing a QILDRO with the System
- 1650.1115 Benefits Affected by a QILDRO
- 1650.1116 Effect of a Valid QILDRO
- 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1650.1118 Alternate Payee's Address
- 1650.1119 Electing Form of Payment
- 1650.1120 Automatic Annual Increases
- 1650.1121 Reciprocal Systems QILDRO Policy Statement
- 1650.1122 Providing Benefit Information for Divorce Purposes

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## Section

- 1650.1200 Payroll Deduction Program Guidelines
- 1650.1201 Employer Responsibility Under the Payroll Deduction Program Upon Execution of a Payroll Deduction Agreement
- 1650.1202 Payroll Deduction Agreements – Suspensions and Terminations
- 1650.1203 Payroll Deduction Program – Full Time Employment Defined
- 1650.1204 Payroll Deduction Program – Disability Defined
- 1650.1205 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

## SUBPART O: RETIRMENT BENEFITS

## Section

- 1650.2900 Excess Benefit Arrangement

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

**AUTHORITY:** Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

**SOURCE:** Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART E: CONTRIBUTION CREDITS AND PAYMNETS

**Section 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction**

- a) If the member has more than one five-year contribution window for 2.2 upgrade cost utilizing more than one salary rate in determining a member's optional increase in retirement annuity calculation, the System will determine the total 1% contribution reduction in 40 ILCS 5/16-129.1(b) pursuant to the following formula: the number of 1% reduction years divided by the number of years of

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

upgraded service multiplied by the member's total upgrade cost.

- b) As used in this Section, the phrase "number of 1% reduction years" means the number of times that the member has achieved three full years of service credit earned after June 30, 1998.

(Source: Added at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART L: BOARD ELECTION PROCEDURES

**Section 1650.1010 Petitions**

- a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System, upon request of any individual or entity.
- b) A valid petition nominating a candidate for a vacant teacher position or a vacant annuitant position on the System's Board of Trustees shall meet the following requirements:
- 1) The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate pursuant to subsection (a) or (b) of Section 1650.1000. A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures thereon must be original signatures;
  - 2) Each signature of an eligible voter must be accompanied by the signing person's name (printed), ~~social security number~~, street address, city, and state and may, at the signing person's option, be accompanied by the signing person's area code and telephone number to assist the Board's secretary in verifying voter eligibility;
  - 3) The petition shall bear the notarized signature of the individual who circulated the petition for signatures, verifying that the signatures contained thereon were signed in that individual's presence, are genuine, and that to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so as provided in subsection (a) or (b) of Section 1650.1000;
  - 4) Petitions shall be filed with the Board's secretary not less than 90 nor more than 120 days prior to the election day;

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- 5) Petitions filed less than 90 days prior to the election day are invalid and will be returned to the party submitting such petition for filing; and
  - 6) Petitions filed more than 120 days prior to the election day will not be accepted and will be returned to the party submitting such petition for filing. Nothing in this subsection precludes the timely re-filing of petitions filed more than 120 days prior to the election day.
- c) The Board's secretary shall determine the validity of all petitions not less than 75 days prior to the election day.
- d) Any individual may, upon reasonable notice to the System, examine the petitions which have been filed with the System with respect to the election to take place that year; provided, however, that in order to protect the signing teachers' and annuitants' rights to privacy and confidentiality as to their names, addresses, and social security numbers, such examination shall only take place subject to the following limitations:
- 1) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board's secretary as provided ~~above~~ in subsection (c) of this Section;
  - 2) Petitions may not be removed from the System's offices, copied, or duplicated by any means; and
  - 3) Petitions, including any information thereon, shall not be subject to production or disclosure under the provisions of the Illinois Freedom of Information Act (FOIA) [5 ILCS 140].

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Restricted Call Registry
- 2) Code Citation: 14 Ill. Adm. Code 300
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
300.10	New Section
300.20	New Section
300.30	New Section
300.100	New Section
300.110	New Section
300.120	New Section
300.130	New Section
300.200	New Section
300.300	New Section
300.400	New Section
300.410	New Section
- 4) Statutory Authority: Implementing and authorized by the Restricted Call Registry Act [815 ILCS 402]
- 5) Effective Date of Rules: April 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 11/14/03; 27 Ill. Reg. 17142
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: None
- 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 rules replace any emergency rules currently in effect? No. Emergency rules that were adopted 1/1/03 expired on 5/30/03.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: These rules implement the Restricted Call Registry Act (Act), as amended by P.A. 93-0049. These rules repeat statutory language and direct the public to the federal rules on this subject. The rules also establish that hearings held to enforce the Act and these rules will be held pursuant to the Commission's Rules of Practice, 83 Ill. Adm. Code 200.
- 16) Information and questions regarding these adopted rules shall be directed to:

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701  
(217)785-3922

The full text of the adopted rules begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 14: COMMERCE  
SUBTITLE A: REGULATION OF BUSINESS  
CHAPTER III: ILLINOIS COMMERCE COMMISSION

PART 300  
RESTRICTED CALL REGISTRY

SUBPART A: GENERAL PROVISIONS

Section	
300.10	Procedures Governed
300.20	Definitions
300.30	Federal Rules

SUBPART B: RESTRICTED CALL REGISTRY

Section	
300.100	Establishment and Maintenance of the Registry
300.110	Use of the Registry
300.120	Obligations of Telephone Solicitors
300.130	Enrollment of Residential Subscribers

SUBPART C: PUBLIC NOTIFICATION

Section	
300.200	Public Notification

SUBPART D: COMPLAINT PROCEDURES

Section	
300.300	Complaint Procedures

SUBPART E: VIOLATIONS

Section	
300.400	Relief
300.410	Exemptions

AUTHORITY: Implementing and authorized by the Restricted Call Registry Act [815 ILCS 402].

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SOURCE: Emergency rules adopted at 27 Ill. Reg. 438, effective January 1, 2003, for a maximum of 150 days; emergency expired May 30, 2003; adopted at 28 Ill. Reg. 5639, effective April 1, 2004.

## SUBPART A: GENERAL PROVISIONS

**Section 300.10 Procedures Governed**

The Restricted Call Registry Act [815 ILCS 402] concerns telephone solicitations. This Part establishes procedures for a Restricted Call Registry, methods to obtain the Registry, subscriber enrollment, public notification, complaints procedures, violations and relief.

**Section 300.20 Definitions**

The following terms as used in this Part shall have the definitions shown:

"Act" means the Restricted Call Registry Act [815 ILCS 402].

"Commission" means the Illinois Commerce Commission.

*"Established business relationship" means the existence of an oral or written transaction, agreement, contract, or other legal state of affairs involving a person or entity and an existing customer under which both parties have a course of conduct or established pattern of activity for commercial or mercantile purposes and for the benefit or profit of both parties. A pattern of activity does not necessarily mean multiple previous contacts. The established business relationship must exist between the existing customer and the person or entity directly, and does not extend to any related business entity or other business organization of the person or entity or related to the person or entity or the person or entity's agent including but not limited to a parent corporation, subsidiary partnership, company or other corporation or affiliate. (Section 5 of the Act [815 ILCS 402/5])*

*"Existing customer" means an individual who has either entered into a transaction, agreement, contract, or other legal state of affairs between a person or entity and a residential subscriber under which the payment or exchange of consideration for any goods or services has taken place within the preceding 18 months or has been arranged to take place at a future time or opened or maintained a debit account, credit card account, or other credit or discount*

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

*program offered by or in conjunction with the person or entity and has not requested the person or entity to close such account or terminate such program. (Section 5 of the Act)*

"Local exchange telecommunications company" means a local exchange telecommunications carrier certificated by the Illinois Commerce Commission to provide intra-exchange and/or inter-exchange service within the same market service area pursuant to Sections 13-209 and 13-210 of the Public Utilities Act [220 ILCS 5/13-209 and 13-210].

"Registry" means the Restricted Call Registry established under the Act. (Section 5 of the Act)

"Residential subscriber" means a person or spouse who has subscribed to either residential telephone service from a local exchange company or public mobile services, as defined by Section 13-214 of the Public Utilities Act [220 ILCS 5/13-214], a guardian of the person or the person's spouse, or an individual who has power of attorney from or an authorized agent of the person or the person's spouse. (Section 5 of the Act)

"Telephone solicitation" means any voice communication over a telephone line from a live operator, through the use of an autodialer or autodialer system, as defined in Section 5 of the Automatic Telephone Dialers Act [815 ILCS 305/5], or by other means for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, or for the purposes of soliciting charitable contributions, but does not include communications:

*to any residential subscriber with that subscriber's prior express invitation or permission when a voluntary 2-way communication between a person or entity and a residential subscriber has occurred with or without an exchange of consideration. A telephone solicitation is presumed not to be made at the express request of a subscriber if one of the following occurs, as applicable:*

*The telephone solicitation is made 30 business days after the last date on which the subscriber contacted a business with the purpose of inquiring about the potential purchase of goods or services.*

*The telephone solicitation is made 30 business days after the last date on which the subscriber consented to be contacted.*

## ILLINOIS COMMERCE COMMISSION

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*The telephone solicitation is made 30 business days after a product or service becomes available where the subscriber has made a request to the business for that product or service that is not then available, and requests a call when the product or service becomes available;*

*by or on behalf of any person or entity with whom a residential subscriber has an established business relationship which has not been terminated in writing by either party and which is related to the nature of the established business relationship;*

*by or on behalf of any person or entity with whom a residential subscriber is an existing customer, unless the customer has stated to the person or entity or the person's or entity's agent that he or she no longer wishes to receive the telemarketing sales calls of the person or entity, or unless the nature of the call is unrelated to the established business relationship with the existing customer;*

*by or on behalf of an organization that is exempt from federal income taxation under section 501(c) of the Internal Revenue Code (26 USC 501(c)), but only if the person making the telephone solicitation immediately discloses all of the following information upon making contact with the consumer:*

*the caller's true first and last name; and*

*the name, address, and telephone number of the organization;*

*by or on behalf of an individual licensed under the Real Estate License Act of 2000 [225 ILCS 454] or as an insurance producer under the Illinois Insurance Code [215 ILCS 5] who either:*

*is setting or attempting to set a face to face appointment for actions relating to that individual's real estate or insurance business; or*

*is encouraging or attempting to encourage the purchase or rental of, or investment in, property, goods, or services, which cannot be completed, and for which payment or authorization of payment is*

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*not required, until after a written or electronic agreement is signed by the residential subscriber; or*

*until July 1, 2005, by or on behalf of any entity over which the Federal Communications Commission or the Illinois Commerce Commission has regulatory authority to the extent that, subject to that authority, the entity is required to maintain a license, permit, or certificate to sell or provide telecommunications service, as defined in Section 13-203 of the Public Utilities Act [220 ILCS 5/13-203], while the entity is engaged in telephone solicitation for inter-exchange telecommunications service, as defined in Section 13-205 of the Public Utilities Act [220 ILCS 5/13-205], or local exchange telecommunications service, as defined in Section 13-204 of the Public Utilities Act [220 ILCS 5/13-204] or to the extent, subject to the regulatory authority of the Federal Communications Commission, the entity is defined by Title 47, section 522(5) of the United States Code (47 USC 522(5)), or providers of information services as defined by Title 47, section 153(20) of the United States Code (47 USC 153(20)). (Section 5 of the Act)*

**Section 300.30 Federal Rules**

The federal rules for the restriction of telemarketing calls are found at 47 CFR 64.1200 for the Federal Communications Commission and at 16 CFR 310 for the Federal Trade Commission.

## SUBPART B: RESTRICTED CALL REGISTRY

**Section 300.100 Establishment and Maintenance of the Registry**

- a) *The Commission shall establish and provide for the operation of a Restricted Call Registry. The national "do-not-call" registry established and maintained by the Federal Trade Commission, pursuant to 16 CFR 310.4(b)(1)(iii)(B) shall serve as the Illinois Restricted Call Registry.*
- b) *The Registry shall contain a list of the telephone numbers of residential subscribers who do not wish to receive telephone solicitation calls. (Section 20 of the Act [815 ILCS 402/20])*

**Section 300.110 Use of the Registry**

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- a) *Information pertaining to residential subscribers in the Registry is confidential and shall be afforded reasonable privacy protection except as necessary for compliance to avoid making or causing to be made any telephone solicitation calls to any residential subscriber more than 45 days after the person or entity obtains the Registry or any update of the Registry on which the residential subscriber's telephone number or numbers first appear and in a proceeding under Subpart E. The information is not a public record under the Freedom of Information Act [5 ILCS 140]. (Sections 10 and 20 of the Act [815 ILCS 402/10 and 20])*
- b) *A person or entity that obtains the Registry shall not use the Registry for any purpose other than to comply with the Act. These unlawful purposes include, but are not limited to, causing a subscriber to participate in and be included in the Registry without the subscriber's knowledge or consent, selling or leasing the Registry to a person other than a telephone solicitor, selling or leasing by a telephone solicitor of the Registry, and a telephone solicitor, either directly or indirectly, persuading a subscriber with whom it has an established business relationship to place his or her telephone number in the Registry, if the solicitation has the effect of preventing competitors from contacting that solicitor's customers. (Section 20 of the Act)*
- c) *No person or entity that sells, leases, exchanges, or rents telephone solicitation lists, except for directory assistance and telephone directories sold by telephone companies or their affiliates, shall include in those lists those telephone numbers that appear in the current Registry. (Section 20 of the Act)*

**Section 300.120 Obligations of Telephone Solicitors**

- a) *Prohibited calls. Beginning October 1, 2003, it is a violation of the Act for any person or entity to make or cause to be made any telephone solicitation calls to any residential subscriber more than 45 days after the person or entity obtains the Registry or any update of the Registry on which the residential subscriber's telephone number or numbers first appear on the Registry. (Section 10 of the Act)*
- b) *Any person or entity conducting telephone solicitation calls within the State of Illinois shall purchase the Restricted Call Registry and updates no less frequently than every 3 months exclusively from the Federal Trade Commission. Failure to do so prior to conducting telephone solicitation calls is a violation subject to the penalties provided for in Subpart E. (Section 20 of the Act)*

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

**Section 300.130 Enrollment of Residential Subscribers**

Residential subscribers may enroll in the Registry using the methods prescribed by the Federal Trade Commission.

## SUBPART C: PUBLIC NOTIFICATION

**Section 300.200 Public Notification**

- a) *The Commission shall include, on its Internet web site, information to customers regarding their right to be included in the Registry and the various methods by which they may enroll. (Section 30 of the Act [815 ILCS 402/30])*
- b) At least once per year, local exchange telecommunications companies shall notify their customers about the availability from the Commission of, and instructions for requesting information pertaining to, the Registry. Local exchange telecommunications companies shall provide this notice, using language developed by the Commission's Consumer Services Division, through a message on the customer's bill, or a notice in the information section of all telephone directories distributed to customers and shall include on their website a link to the Commission's web page for the Registry.

## SUBPART D: COMPLAINT PROCEDURES

**Section 300.300 Complaint Procedures**

The Commission and the Federal Trade Commission shall receive complaints from residential subscribers regarding telephone solicitation calls.

## SUBPART E: VIOLATIONS

**Section 300.400 Relief**

- a) *The Commission may initiate administrative proceedings in accordance with this Part relating to a knowing and willful violation of Section 10 of the Act. (Section 35(a) of the Act [815 ILCS 402/35(a)])*
- b) Any enforcement proceedings for violation of the Act shall be conducted pursuant to 83 Ill. Adm. Code 200.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- c) *If it is determined after a hearing that a person has knowingly and willfully violated one or more provisions of Section 35 of the Act, the Commission may assess a fine not to exceed \$1,000 for the first violation and not to exceed \$2,500 for a second or subsequent violation. Each individual violation of Section 10 of the Act shall be a separate and distinct offense under this Section. In imposing a penalty under Section 35 of the Act, the Commission shall, at a minimum, consider the following factors:*
- 1) *Whether the offense was knowing or willful;*
  - 2) *Whether the entity committing the offense has a prior history of non-compliance with the Act;*
  - 3) *The offender's relative ability to pay a penalty;*
  - 4) *Whether the offender has or has not cooperated with the Commission in pursuing the investigation; and*
  - 5) *Such other special, mitigating or aggravating circumstances as the Commission may find to exist.*
- d) No action or proceeding may be brought under this Section:
- 1) *More than one year after the person bringing the action knew or should have known of the occurrence of the alleged violation; or*
  - 2) *More than one year after the termination of any proceeding or action arising out of the same violation or violations by the State of Illinois, whichever is later. (Section 35 of the Act)*

**Section 300.410 Exemptions**

- a) *A person or entity may not be held liable for violating the Act if:*
- 1) *The person or entity has obtained copies of the Registry and each updated Registry from the Federal Trade Commission and has established and implemented written policies and procedures related to the requirements of the Act;*

## ILLINOIS COMMERCE COMMISSION

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- 2) *The person or entity has trained its personnel in the requirements of the Act;*
  - 3) *The person or entity maintains records demonstrating compliance with Section 40(a)(1) and (a)(2) of the Act and the requirements of the Act; and*
  - 4) *Any subsequent telephone solicitation is the result of unintentional error.*
- b) *A person or entity that has entered into a contract with another person or entity to make telephone solicitations on its behalf is not liable for a violation of the Act by the person or entity making telephone solicitations under the contract if the person or entity on whose behalf the telephone solicitations were made has provided written notification to the person or entity making telephone solicitations under the contract that it is necessary to comply with the provisions of the Act when making telephone solicitations. (Section 40 of the Act [815 ILCS 402/40])*

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Administrative Provisions
- 2) Code Citation: 89 Ill. Adm. Code 10
- 3) Section Number: 10.220                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].
- 5) Effective date of amendment: March 22, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this adopted rulemaking contain any 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 Proposed Amendment was published in the Illinois Register: October 3, 2003; 27 Ill. Reg. 15221
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: No changes were made in the text of the proposed amendment.
- 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 this amendment replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendment: In accordance with provisions of PA 93-598 (HB 3023), this rulemaking adds marital status as a reason that an individual participating in any program or activity shall not be discriminated against.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762  
217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 10  
GENERAL ADMINISTRATIVE PROVISIONS

SUBPART A: APPLICABILITY AND DEFINITIONS

Section	
10.101	Incorporation by Reference
10.110	Applicability
10.120	Definitions
10.130	Assistance Programs
10.140	Assistance Program Restrictions

SUBPART B: RIGHTS AND RESPONSIBILITIES

Section	
10.210	Rights of Clients
10.220	Nondiscrimination
10.225	Grievance Rights of Clients
10.230	Confidentiality of Case Information
10.235	Case Records
10.250	Reporting Change of Circumstances
10.263	Reporting Child Abuse/Neglect
10.268	Reporting Elder Abuse/Neglect
10.270	Notice to Client
10.280	Right to Appeal
10.281	Continuation of Assistance Pending Appeal
10.282	Time Limit for Filing an Appeal
10.283	Examining Department Records
10.284	Child Care
10.290	Voluntary Repayment of Assistance
10.295	Correction of Underpayments
10.300	Recovery of Assistance
10.310	Estate Claims
10.320	Real Property Liens
10.330	Filing and Renewal of Liens
10.340	Foreclosure of Liens
10.350	Release of Liens

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 10.360 Personal Injury Claims
- 10.370 Convictions of Fraud – Eligibility
- 10.380 Single Conviction of Fraud – Administrative Review Board

## SUBPART C: APPLICATION PROCESS

## Section

- 10.410 Application for Assistance
- 10.415 Local Office Action on Application for Public Assistance
- 10.420 Time Limitations on the Disposition of an Application
- 10.430 Approval of an Application and Initial Authorization of Financial Assistance
- 10.438 General Assistance Approval Provisions
- 10.440 Denial of an Application

AUTHORITY: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9515, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 15515, effective November 26, 1997; amended at 22 Ill. Reg. 19816, effective November 1, 1998; amended at 23 Ill. Reg. 6944, effective June 1, 1999; amended at 24 Ill. Reg. 7856, effective May 16, 2000; amended at 24 Ill. Reg. 18153, effective November 30, 2000; amended at 25 Ill. Reg. 7170, effective May 24, 2001; amended at 28 Ill. Reg. 1083, effective December 31, 2003; amended at 28 Ill. Reg. 5650, effective March 22, 2004.

## SUBPART B: RIGHTS AND RESPONSIBILITIES

**Section 10.220 Nondiscrimination**

- a) No individual participating in any program or activity shall be discriminated against because of age, race, color, religious belief, political affiliation, sex, marital status, national origin or handicap.
- b) No direct payment for goods and services provided shall be made to any agency, institution, organization or individual vendor that initiates or continues prohibited discriminatory practices.
- c) Information regarding the Department's nondiscrimination policy shall be made available to all applicants at the time of application, all recipients upon request, all vendors receiving direct payment from the Department and all other interested parties as necessary.

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- d) Any aggrieved person may file a written complaint of alleged discriminatory conditions or practices encountered in the Department's programs and activities.
- e) No individual or household applying for or participating in the food stamp program administered by the Department shall be discriminated against because of age, race, color, sex, handicaps, religious creed, national origin, or political beliefs. The individual/household is not to be discriminated against in any aspect of program administration, including but not limited to the certification of household, the issuance of benefits, the conduct of fair or fraud hearings, or the conduct of any other program service.
  - 1) Individuals who believe that they have been subject to discrimination, as described in subsection (e) of this Section, may file a written complaint. When an individual expresses an interest in filing a discrimination complaint, the Department is to:
    - A) explain the United States Department of Agriculture (USDA) complaint procedures (the procedure is outlined in 7 CFR 272.6(c); and
    - B) explain the Department's complaint procedure; and
    - C) advise the individual of the right to file a complaint in either or both the USDA and/or Department complaint systems.
  - 2) Information regarding the Department's nondiscrimination policy is to be made available to all households at the time of application, to any household upon request, and to all other interested parties as necessary.

(Source: Amended at 28 Ill. Reg. 5650, effective March 22, 2004)

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- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
112.67	Amendment
112.74	Amendment
112.79	Amendment
112.80	Amendment
112.127	Amendment
112.251	Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].
- 5) Effective date of amendments: March 22, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this adopted rulemaking contain any 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 Proposed Amendments was published in the Illinois Register: October 3, 2003; 27 Ill. Reg. 15226
- 10) Has JCAR issued a statement of objection to these amendments? No
- 11) Difference between proposal and final version:

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

- “The Department and Teen Parent Services are to help the teen parent comply with the minor-live-at-home requirement or document an exception to it during the six-month period in which the teen parent does not meet the minor-live-at-home requirement” was added to Section 112.67(a).
- “on the Responsibility and Services Plan” was added at the end of Section 112.74(b)(1).
- Section 112.74(c) was revised as follows:

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“In the assessment process, the Department shall offer standard literacy testing and a determination of English language proficiency to determine appropriate work or training activities. The Department shall provide standard literacy testing and a determination of English language proficiency for those who accept the offer. Literacy level is defined as reading at a 9.0 grade level or above. Based on the completed assessment, the individual’s Responsibility and Services Plan activities will be determined.”

- “for the participant or his or her children” was added at the end of 112.80(a)(14).
- “The payment level cap will be eliminated for all affected assistance units by July 1, 2007.” was added at the end of Section 112.251(c).

No other substantive changes were made in the text of the proposed amendment.

- 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 any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendments:

Pursuant to provisions in PA 93-598 (HB 3023), as well as negotiations with client advocates over proposed law changes, this rulemaking makes changes to the TANF Program as follows:

- allowing a minor parent, who is not living with a parent or in a supervised living arrangement, six months of TANF eligibility while he or she finds an appropriate living arrangement;
- requiring completion of a Family Assessment prior to assigning a TANF client to a work or training activity;
- including in the Family Assessment an offer of standard literacy testing and providing the testing to those who accept the offer;
- not subjecting an exempt person, who volunteers for work and training activities, to sanction policy;

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- expanding the good cause reasons for failing to comply with work and training requirements and removing the requirement that the person provide documentation of non-receipt of the notice advising him or her of the participation requirement;
- revising how lump-sum payments are treated for TANF clients; and
- obsoleting Family Accountability “capped” assistance for children born on or after January 1, 2004.

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

Tracie Drew, Bureau Chief

Bureau of Administrative Rules and Procedures

Department of Human Services

100 South Grand Avenue East

Harris Building, 3<sup>rd</sup> Floor

Springfield, Illinois 62762

217/785-9772

17) Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

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TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 112  
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

## SUBPART A: GENERAL PROVISIONS

## Section

- 112.1 Description of the Assistance Program and Time Limit
- 112.2 Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
- 112.3 Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
- 112.5 Incorporation by Reference
- 112.6 The Family Violence Option

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

## Section

- 112.8 Caretaker Relative
- 112.9 Client Cooperation
- 112.10 Citizenship
- 112.20 Residence
- 112.30 Age
- 112.40 Relationship
- 112.50 Living Arrangement
- 112.52 Social Security Numbers
- 112.54 Assignment of Medical Support Rights
- 112.60 Basis of Eligibility
- 112.61 Death of a Parent (Repealed)
- 112.62 Incapacity of a Parent (Repealed)
- 112.63 Continued Absence of a Parent (Repealed)
- 112.64 Unemployment of the Parent (Repealed)
- 112.65 Responsibility and Services Plan
- 112.66 Alcohol and Substance Abuse Treatment
- 112.67 Restriction in Payment to Households Headed by a Minor Parent
- 112.68 School Attendance Initiative
- 112.69 Felons and Violators of Parole or Probation

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## SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

## Section

- 112.70 Employment and Work Activity Requirements
- 112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
- 112.72 Participation/Cooperation Requirements
- 112.73 Adolescent Parent Program (Repealed)
- 112.74 Responsibility and Services Plan
- 112.75 Teen Parent Personal Responsibility Plan (Repealed)
- 112.76 TANF Orientation
- 112.77 Reconciliation and Fair Hearings
- 112.78 TANF Employment and Work Activities
- 112.79 Sanctions
- 112.80 Good Cause for Failure to Comply with TANF Participation Requirements
- 112.81 Responsible Relative Eligibility for JOBS (Repealed)
- 112.82 Supportive Services
- 112.83 Teen Parent Services
- 112.84 Employment Retention and Advancement Project
- 112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

## SUBPART E: PROJECT ADVANCE

## Section

- 112.86 Project Advance (Repealed)
- 112.87 Project Advance Experimental and Control Groups (Repealed)
- 112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
- 112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
- 112.90 Project Advance Sanctions (Repealed)
- 112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
- 112.93 Individuals Exempt From Project Advance (Repealed)
- 112.95 Project Advance Supportive Services (Repealed)

## SUBPART F: EXCHANGE PROGRAM

## Section

- 112.98 Exchange Program (Repealed)

## SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

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## Section

112.100	Unearned Income
112.101	Unearned Income of Stepparent or Parent
112.105	Budgeting Unearned Income
112.106	Budgeting Unearned Income of Applicants
112.107	Initial Receipt of Unearned Income
112.108	Termination of Unearned Income
112.110	Exempt Unearned Income
112.115	Education Benefits
112.120	Incentive Allowances
112.125	Unearned Income In-Kind
112.126	Earmarked Income
112.127	Lump-Sum Payments
112.128	Protected Income (Repealed)
112.130	Earned Income
112.131	Earned Income Tax Credit
112.132	Budgeting Earned Income
112.133	Budgeting Earned Income of Employed Applicants
112.134	Initial Employment
112.135	Budgeting Earned Income For Contractual Employees
112.136	Budgeting Earned Income For Non-contractual School Employees
112.137	Termination of Employment
112.138	Transitional Payments (Repealed)
112.140	Exempt Earned Income
112.141	Earned Income Exemption
112.142	Exclusion from Earned Income Exemption
112.143	Recognized Employment Expenses
112.144	Income from Work-Study and Training Programs
112.145	Earned Income From Self-Employment
112.146	Earned Income From Roomer and Boarder
112.147	Income From Rental Property
112.148	Payments from the Illinois Department of Children and Family Services
112.149	Earned Income In-Kind
112.150	Assets
112.151	Exempt Assets
112.152	Asset Disregards
112.153	Deferral of Consideration of Assets
112.154	Property Transfers (Repealed)
112.155	Income Limit

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## SUBPART H: PAYMENT AMOUNTS

Section	
112.250	Grant Levels
112.251	Payment Levels
112.252	Payment Levels in Group I Counties
112.253	Payment Levels in Group II Counties
112.254	Payment Levels in Group III Counties
112.255	Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

## SUBPART I: OTHER PROVISIONS

Section	
112.300	Persons Who May Be Included in the Assistance Unit
112.301	Presumptive Eligibility
112.302	Reporting Requirements for Clients with Earnings
112.303	Budgeting
112.304	Budgeting Schedule
112.305	Strikers
112.306	Foster Care Program
112.307	Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
112.308	Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
112.309	Institutional Status
112.310	Child Care for Representative Payees
112.315	Young Parents Program (Renumbered)
112.320	Redetermination of Eligibility
112.330	Extension of Medical Assistance Due to Increased Income from Employment
112.331	Four Month Extension of Medical Assistance Due to Child Support Collections
112.332	Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
112.340	New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

## SUBPART J: CHILD CARE

Section	
112.350	Child Care (Repealed)

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- 112.352 Child Care Eligibility (Repealed)
- 112.354 Qualified Provider (Repealed)
- 112.356 Notification of Available Services (Repealed)
- 112.358 Participant Rights and Responsibilities (Repealed)
- 112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
- 112.364 Rates of Payment for Child Care (Repealed)
- 112.366 Method of Providing Child Care (Repealed)
- 112.370 Non-JOBS Education and Training Program (Repealed)

## SUBPART K: TRANSITIONAL CHILD CARE

## Section

- 112.400 Transitional Child Care Eligibility (Repealed)
- 112.404 Duration of Eligibility for Transitional Child Care (Repealed)
- 112.406 Loss of Eligibility for Transitional Child Care (Repealed)
- 112.408 Qualified Child Care Providers (Repealed)
- 112.410 Notification of Available Services (Repealed)
- 112.412 Participant Rights and Responsibilities (Repealed)
- 112.414 Child Care Overpayments and Recoveries (Repealed)
- 112.416 Fees for Service for Transitional Child Care (Repealed)
- 112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV 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; amendment 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

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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 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; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; preemptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency

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amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989;

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amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996;

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amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004.

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

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**Section 112.67 Restriction in Payment to Households Headed by a Minor Parent**

- a) A TANF cash payment shall be paid, for no more than six months, to a minor parent (including a pregnant woman) under age 18 who has never married and the dependent child in his or her care unless that person resides ~~must reside~~ in the household of his or her parent, legal guardian, or other adult relative, or in an adult-supervised supportive living arrangement. The Department and Teen Parent Services are to help the teen parent comply with the minor-live-at-home requirement or document an exception to it during the six-month period in which the teen parent does not meet the minor-live-at-home requirement. An exception shall be made in any of the following circumstances, in order to receive a TANF cash payment unless:
- 1) The minor parent has no living parent or legal guardian whose whereabouts are known;
  - 2) No living parent or legal guardian of the minor parent allows the minor parent to live in his or her home;
  - 3) The minor parent lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of the dependent child or the minor parent's having made application for TANF;
  - 4) The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if they resided in the same residence with the parent or legal guardian;
  - 5) There is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the parent, legal guardian, or other adult relative, or an adult-supervised supportive living arrangement. These reasons are:
    - A) The parent or guardian lives out-of-state;
    - B) The parent or guardian is in an institution;
    - C) The parent or guardian is a substance abuser;
    - D) The return of the minor parent and child to the parent or guardian's

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home would result in a lease violation or violation of local health or safety standards;

- E) The minor parent is placed by DCFS in independent living (see 89 Ill. Adm. Code 302.40(e)); or
  - F) The minor parent is in a licensed substance abuse program which would not be available if the minor returned to the parent or guardian's home.
- b) The minor shall have the right to choose among these approvable living arrangements. The Department shall not require the minor to explain why he or she chose one arrangement over another.
  - c) When a minor parent and his or her dependent child are required to live with the parent, legal guardian, or other adult relative, or in an adult-supervised supportive living arrangement, then, where possible, the TANF grant is paid to the adult who is responsible for supervising the minor. Otherwise, the minor receives the TANF grant.
  - d) Minor parents under age 20 with no child under the age of 12 weeks may receive assistance only if they have successfully completed high school, have a GED certificate, or are attending school, except 18 and 19 year olds may be assigned to work activities or training if it is determined by an individualized assessment that such educational activities are inappropriate. If these requirements are not met, they are subject to sanction (see Section 112.79).

(Source: Amended at 28 Ill. Reg. 5655, effective March 22, 2004)

## SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

**Section 112.74 Responsibility and Services Plan**

- a) Family Assessment to Develop a Responsibility and Services Plan
  - 1) All individuals shall undergo a Family Assessment to develop a Responsibility and Services Plan. This provision does not apply to individuals acting as Representative Payees for child-only cases.
  - 2) The Family Assessment shall include collection of information on the

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individual's and family's background, proficiencies, skills deficiencies, education level, work history, employment goals, interests, aptitudes and employment preferences, as well as factors affecting employability or ability to meet participation requirements (for example, eligibility for exemption, health, physical or mental limitations, child care, domestic violence, substance abuse, family circumstances and problems including the need of any child of the individual). As part of the assessment process, individuals and TANF staff shall work together to identify any supportive service needs required to enable them to participate in TANF employment or work activities and meet the objectives of their Responsibility and Services Plan (see Section 112.82). The Family Assessment may be conducted through various methods such as interviews, testing, counseling and self-assessment instruments.

- 3) The Family Assessment and Responsibility and Services Plan must:
  - A) contain an employment goal of the participant and the steps to achieve it;
  - B) describe the services to be provided by the agency including child care and other supportive services;
  - C) describe the activities such as activity assignment that will be undertaken by the participant to achieve the employment goal; and
  - D) describe any other needs of the family such as participation by a child in drug education or in life skills planning sessions.
- 4) The Responsibility and Services Plan shall take into account:
  - A) the participant's supportive service needs;
  - B) the participant's skills level and aptitudes;
  - C) local employment opportunities;
  - D) to the maximum extent possible, the preferences of the participant;
  - E) final approval of the plan rests with the DHS staff pursuant to TANF program requirements; and

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- F) the participant will sign and receive a copy of the Responsibility and Services Plan.
- b) Occurrence of the Family Assessment and Responsibility and Services Plan
- 1) The Family Assessment shall take place before a participant is assigned to any education, training or work activity on the Responsibility and Services Plan~~employment and work activities, except individuals may be assigned to up to four weeks of Job Search or sent to known job interviews prior to the Family Assessment.~~
  - 2) The participant will be notified, in writing, of the Family Assessment meeting.
- c) During the Family Assessment, the Responsibility and Services Plan will be completed to determine the individual's and family's level of preparation for employment and needed services. Upon initial screening, a determination for job readiness will be based on an individual having a high school diploma/GED, not requiring substance abuse treatment, and having worked more than three consecutive months in the last 12 calendar months. This determination needs to be considered in conjunction with other issues such as the individual's barriers, the local labor market, and the work place skill of the client. The preference of the individual will be taken into account in the development of the Responsibility and Services Plan to the maximum extent possible and appropriate. As part of the assessment process, individuals and TANF staff may work together to identify any supportive service needs required to enable them to participate in employment and work and meet the objectives of their Responsibility and Services Plan (see Section 112.82). In the assessment process, the Department shall offer ~~The assessment process shall include~~ standard literacy testing and a determination of English language proficiency to determine appropriate work or training activities~~or those who display a potential need for literacy or language services. The Department shall provide standard literacy testing and a determination of English language proficiency for those who accept the offer.~~ Literacy level is defined as reading at a 9.0 grade level or above. Based on the completed assessment, the individual's Responsibility and Services Plan activities will be determined~~Responsibility and Services Plan, the individual will be assigned to the appropriate activity.~~
- d) Review

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- 1) A review will be conducted to assess a participant's progress and to revise the Responsibility and Services Plan, if needed. The review shall occur at least at the following times:
    - A) upon completion of a program or activity and before assignment to an activity;
    - B) upon the request of the participant;
    - C) if the individual is not cooperating with the requirements of the program;
    - D) if the individual has failed to make satisfactory progress in an education or training program;
    - E) upon completion of an academic term;
    - F) upon referral from DES, IETC, or other entities;
    - G) every six months at a minimum; or
    - H) at any time deemed appropriate under the Plan.
  - 2) The review may be conducted through various methods such as interviews, testing, counseling and self-assessment instruments.
  - 3) The review will include an evaluation of the participant's progress towards the employment goal. If progress is lacking, the participant may be reassigned to a more appropriate activity.
- e) If an individual who is required to participate in the program fails to appear for the scheduled assessment interviews or comply with the assessment process, without good cause, the case is ineligible.
  - f) TANF employment and work activity participation shall not be required in the event that supportive services are needed for effective participation but are unavailable from the Department or from some reasonably available source (for example, child care for a child under age 13).

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- g) Teen parents have their own Responsibility and Services Plan defining the responsibilities the young parent must meet to receive TANF cash assistance and what services the Department agrees to provide. The plan outlines family needs, the required activities and necessary supportive services. The plan must be signed by both the young parent and the case manager. The plan sets the following goals for the young parent and describes how the Department will help the young parent meet these goals:
- 1) to attend school to complete a high school education;
  - 2) to establish paternity for the young parent's child or children and obtain child support;
  - 3) to improve the young parent's parenting skills; and
  - 4) to seek and obtain full-time employment when job ready.

(Source: Amended at 28 Ill. Reg. 5655, effective March 22, 2004)

**Section 112.79 Sanctions**

- a) Sanctions may be imposed against those nonexempt participants who fail to participate without good cause. Exempt individuals who volunteer to participate are not subject to sanctions. Sanctions shall be based on instances of non-cooperation which occur on or after July 1, 1997. The sanction penalty shall be as follows:
- 1) For the first instance of non-cooperation, the cash assistance payment is reduced by 50 percent of the family's payment level until the cooperation requirement is met. If the cooperation requirement is not met after three months of reduced payments, the entire cash payment is stopped.
  - 2) For the second instance of non-cooperation, the cash assistance payment is reduced by 50 percent of the family's payment level for three months. If the cooperation requirement is not met after three months of reduced payments, the entire cash payment is stopped.
  - 3) For the third instance and any subsequent instance of non-cooperation, the family's entire cash assistance payment is stopped for at least three months. Cash assistance will be reinstated for the fourth month if the cooperation requirement is met during the three-month sanction period.

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- 4) Sanction penalties accumulate by family, not by person, during any single period of continuous assistance. A loss of all cash assistance due to sanction shall not be considered a break in assistance. If a family member's non-cooperation occurs during a sanction period which was the result of another member's non-cooperation, the next progressive sanction shall apply.

b) Sanction Reasons

Sanctioning of a participant will result from one instance of any of the following without good cause unless reconciliation is successful:

- 1) failure to respond to a job referral;
- 2) failure to accept a bona fide offer of suitable employment (see Section 112.72(a)(3) and (4));
- 3) discontinuing part-time employment;
- 4) reducing employment;
- 5) failure to participate in the activity;
- 6) failure to respond to a written notice for a meeting. For the purpose of determining attendance at meetings, if participant arrives anytime within 30 minutes after the start of the scheduled meeting, the participant will be considered present and will be seen. If the participant has good cause (see Section 112.80) for being more than 30 minutes late the tardiness will be excused. The worker will include the participant in a scheduled group or other meeting or re-schedule the participant for another meeting;
- 7) failure to make the required number of acceptable employer contacts every 30 days when employer contact activity is required;
- 8) failure to accept transportation, family counseling or other social service or employment and training services such as testing or employment counseling, thereby precluding or interrupting participation in work or training activities; or

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- 9) failure to provide verification of education/training activities, employability status, etc.
- c) No sanction will be imposed until staff has sent the participant a written notice scheduling a good cause determination/reconciliation meeting to determine whether the participant had good cause for his or her failure to comply with requirements and the participant has either failed to attend the meeting or failed to show good cause. If the participant failed to show good cause, the reconciliation process will continue (see Section 112.77) to enable resolving disputes related to participation. The written notice shall explain the purpose of the appointment and the consequences for failure to attend or failure to show good cause. Failure of the participant to appear for the scheduled meeting is not considered an instance of noncooperation.
- d) A sanction against participants may be rescinded at any level of the sanction process up through and until the final agency decision, including any appeal hearing, if the participant establishes good cause (see Section 112.80 for good cause criteria).
- e) The notice of change form issued for a sanction shall include the following:
- 1) a description of the acts of noncooperation, including dates where applicable; and
  - 2) a statement that the participant's acts were without good cause (see Section 112.80 for good cause criteria).
- f) A sanction under this Section shall not affect receipt of Medical Assistance. Likewise, a sanction for child support enforcement or the school attendance initiative does not affect any instances of non-cooperation under this Section.
- g) Individuals who are sanctioned will be contacted at least one time per month to attempt to re-engage the client back into the program. Supportive services (see Section 112.82) will be paid while in sanction status if the individual is participating. If the family is also sanctioned for failure to cooperate with child support enforcement or school attendance initiative requirements, the sanctions are served simultaneously.
- h) A person must cooperate to end the sanction. When the person cooperates, benefits are restored as of the date of cooperation or, for second or third instances

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of sanction, at the end of the three month period, whichever is later.

(Source: Amended at 28 Ill. Reg. 5655, effective March 22, 2004)

**Section 112.80 Good Cause for Failure to Comply with TANF Participation Requirements**

- a) If a participant has good cause for not complying with a TANF participation requirement, financial assistance shall not be discontinued. Examples of good cause include but are not limited to:
- 1) temporary illness for its duration;
  - 2) court required appearance or temporary incarceration;
  - 3) death in the family;
  - 4) extreme inclement weather;
  - 5) lack of any supportive service (see Section 112.82), even though the necessary service is not specifically provided under TANF, to the extent the lack of the needed service presents a significant barrier to TANF participation;
  - 6) if an individual is engaged in employment and/or training that is consistent with the employment related goals of the program, if such employment and training is later approved by TANF staff (e.g., a participant is unable to attend an orientation session because she is already attending GED classes);
  - 7) failure of Department staff or Contractor to correctly forward the information to TANF staff;
  - 8) failure of the participant to cooperate because of attendance at a test or a mandatory class or function at an educational program (including college), when an education/training program is officially approved by TANF. When TANF workers know in advance of such tests and mandatory classes or functions, they shall schedule TANF activities around them if possible;
  - 9) failure of the participant due to his or her illiteracy;

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- 10) failure of the participant because it is determined that he or she should be in a different TANF activity;
- 11) non-receipt by the participant of a notice advising him or her of a participation requirement, ~~if documented by the participant. Documentation can include, but is not limited to: a written statement from the post office or other informed individual; the notice not sent to the participant's last known address in Department records; return of the notice by the post office; other returned mail; proof of previous mail theft problems. When determining whether or not the participant has demonstrated non-receipt, the Department shall take into consideration a participant's history of cooperation or non-cooperation in the past.~~ If the ~~documented~~ non-receipt of mail occurs frequently, the Department shall explore an alternative means of providing notices of participation requests to participants;
- 12) non-comprehension of written and/or oral English;
- 13) child care (or day care for an incapacitated individual living in the same home as a child) is necessary for the participation or employment and such care is not available for a child under age 13;
- 14) failure to participate in a TANF activity due to a verified scheduled job interview, medical appointment for the participant or a household member, or a school appointment for the participant or his or her children;
- 15) the individual is homeless. Homeless individuals (including the family) have no current residence and no expectation of acquiring one in the next 30 days. This includes individuals residing in overnight and transitional (temporary) shelters. This does not include individuals who are sharing a residence with friends or relatives on a continuing basis;
- 16) documented circumstances beyond the control of the participant which prevent the participant from completing program requirements; or
- 17) failure to participate in a TANF work activity because of violations of workplace rights due TANF recipients as determined by the U.S. Department of Labor.

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- b) The TANF worker may require a participant to document good cause for noncooperation with TANF requirements.
- c) No participant shall be denied good cause solely on the basis that he or she failed to notify the Department in advance of a participation requirement. Nevertheless, failure to notify is material and is an important factor if the participant could have notified the Department.

(Source: Amended at 28 Ill. Reg. 5655, effective March 22, 2004)

## SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

**Section 112.127 Lump-Sum Payments**

- a) Income received either in the form of a one-time only payment that does not continue on a regular basis or in the form of a retroactive payment for income that continues on a regular basis is considered non-recurring lump-sum income ( a lump-sum payment). Examples of non-recurring lump-sum income are retroactive social security payments, retroactive unemployment insurance benefits, personal injury settlements, workers compensation injury settlements, lottery winnings, inheritances and insurance settlements.
- b) Any portion of the lump-sum payment used to pay for expenses incurred as a result of the lump-sum payment shall be exempt from consideration as non-recurring lump-sum income as follows:
  - 1) Personal Injury Settlement – That portion of a personal injury payment is exempt which is used to pay for:
    - A) necessary costs of litigation or settlement, including attorney's fees;
    - B) the Department's charge (see 89 Ill. Adm. Code Section 102.260);
    - C) medical costs resulting from the injury and paid by the client;
    - D) expenses to repair or replace personal property which was damaged as a result of the injury.
  - 2) Workers' Compensation Payment – That portion of a Workers'

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Compensation payment is exempt which is used to pay for:

- A) necessary costs of litigation or settlement, including attorney's fees;
- B) medical costs resulting from the injury and paid by the client.

3) Insurance Payments

- A) Insurance Payments – That portion of an insurance payment received due to loss is exempt when used to:
  - i) Repair or replace a lost or damaged resource including but not limited to repair or replacement of home, furniture, or clothing lost or damaged in a fire or flood and repair or replacement of a car as a result of an accident or fire;
  - ii) Pay the funeral, burial or medical expenses of an insured where the client is the beneficiary of the insured's life insurance policy.
- B) Any insurance proceeds not spent or contracted to be spent as specified in subsection (b)(3)(A) of this Section within 60 days after receipt shall be budgeted as non-recurring lump-sum income. A payment receipt shall be required as verification of any insurance-related expenses claimed as exempt under subsection (b)(3)(A) of this Section.

c) Lump-sum payments are considered nonexempt unearned income for the month of receipt. Any amount remaining is considered an asset for the following month that bring a family's countable resources up to the asset disregard level for that family's size are not counted in determining eligibility.

d) ~~That portion of a lump-sum payment that exceeds the amount that brings the family's countable resources up to the asset disregard level for that family's size are considered as follows:~~

- 1) ~~If the amount is less than the assistance payment level, the assistance payment for the month following the receipt of the lump-sum payment will be reduced by that amount.~~
- 2) ~~If the amount is greater than the assistance payment level, the following action will be taken based on the specific amount of the lump-sum~~

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~~payment:~~

- ~~A) If the amount is \$1000 or less, the family will be ineligible for one month.~~
  - ~~B) If the amount is more than \$1000, but less than or equal to \$2000, the family will be ineligible for two months.~~
  - ~~C) One additional month of ineligibility will be added for each \$1000 increment.~~
- e) ~~The assistance unit may apply to have the ineligibility period caused by receipt of non-recurring lump-sum income shortened. The ineligibility period shall be shortened in the following situations:~~
- ~~1) When the non-recurring lump-sum payment or a portion of the payment becomes unavailable to the family because the family incurs a loss due to fire, flood or natural disaster which occurred during the ineligibility period. That amount of the lump-sum payment the client spends or contracts to spend within 60 days after the fire, flood or natural disaster to repair or replace the lost or damaged property shall be deducted from the lump-sum income when recalculating the period of ineligibility.~~
  - ~~2) When the non-recurring lump-sum payment or a portion of the lump-sum payment becomes unavailable to the client due to payment of medical expenses which were incurred by a family member and paid in a month during the period of ineligibility caused by receipt of a lump-sum payment. Only those expenses which the Department allows toward meeting spenddown (see 89 Ill. Adm. Code 140.3) shall be considered allowable medical deductions when recalculating the period of ineligibility. The allowable medical expenses must have been incurred and paid during the ineligibility period. A payment receipt shall be required as verification.~~

(Source: Amended at 28 Ill. Reg. 5655, effective March 22, 2004)

## SUBPART H: PAYMENT AMOUNTS

**Section 112.251 Payment Levels**

- a) The Payment Levels are flat, monthly standard amounts. The amount for an assistance unit is based on three variables:
  - 1) the number in the assistance unit except as specified in subsection (b) of this Section;

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- 2) the presence or absence of an adult in the assistance unit; and
  - 3) the grouping of the county in which the assistance unit lives.
- b) Effective January 1, 1996 cash assistance will not increase solely because of the birth of a child to any member of the assistance unit. The cash assistance shall be capped at the pre-birth payment level. Medicaid coverage, food stamps and child care are not included in the cap.
- 1) Cash assistance will not increase due to the birth of a child to any member of the assistance unit if an assistance unit fails to comply with the eligibility requirements or an assistance unit voluntarily requests termination of cash assistance and subsequently becomes eligible for cash assistance within nine months.
  - 2) An increase in the payment level due to the birth of a child to any member of the assistance unit is allowed if:
    - A) the birth is to a pregnant woman who became eligible for cash assistance during the pregnancy;
    - B) for cases active as of January 1, 1996 the birth occurs within ten months after the date of implementation (by October 31, 1996);
    - C) the child is conceived after the family became ineligible for cash assistance due to income or marriage and at least three payment months of ineligibility have passed before any reapplication;
    - D) the child was born while the parent or caretaker relative was on cash assistance, the assistance unit did not receive an increase in assistance due to the birth of this child and the parent or other caretaker relative has been off cash assistance for nine payment months;
    - E) the child was born as a result of incest or forcible rape based on the statement of the woman which is corroborated by a third party; or
    - F) the child (including all children in the case of multiple births) was born to a minor included in the grant who became a first-time minor parent.

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- 3e) The assistance unit may receive a general increase in the amount of aid that is provided to all recipients.
- c) Subsection (b) shall not apply to affect the payment level of any assistance unit as a result of the birth of a child on or after January 1, 2004. The payment level cap will be eliminated for all affected assistance units by July 1, 2007.

(Source: Amended at 28 Ill. Reg. 5655, effective March 22, 2004)

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- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Number: 114.223                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].
- 5) Effective date of amendment: March 22, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this adopted rulemaking contain any 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 Proposed Amendment was published in the Illinois Register: October 3, 2003; 27 Ill. Reg. 15253
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: No changes were made in the text of the proposed amendments.
- 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 this amendment replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendment: This amendment revises the treatment of lump-sum payments for the General Assistance Program. As a result of this rulemaking, lump-sum payments will be treated as nonexempt unearned income for the month of receipt and as an asset for the following month. This change is a result of negotiations with client advocates over proposed rule changes.

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

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762  
217/785-9772

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

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TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 114  
GENERAL ASSISTANCE

## SUBPART A: GENERAL PROVISIONS

## Section

- 114.1 Description of the Assistance Program
- 114.2 Determination of Not Employable
- 114.3 Advocacy Program for Persons Receiving State Transitional Assistance
- 114.5 Incorporation By Reference

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

## Section

- 114.9 Client Cooperation
- 114.10 Citizenship
- 114.20 Residence
- 114.30 Age
- 114.40 Relationship
- 114.50 Living Arrangement
- 114.52 Social Security Numbers
- 114.60 Work Registration Requirements (Outside City of Chicago only)
- 114.61 Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)
- 114.62 Job Service Registration (Outside City of Chicago only)
- 114.63 Failure to Maintain Current Job Service Registration (Outside City of Chicago only)
- 114.64 Responsibility to Seek Employment (Outside City of Chicago only)
- 114.70 Initial Employment Expenses (Outside City of Chicago only)
- 114.80 Downstate General Assistance Work and Training Programs
- 114.85 Downstate General Assistance – Food Stamps Employment and Training Pilot Project
- 114.90 Work and Training Programs
- 114.100 General Assistance Jobs Program (Repealed)
- 114.101 Persons Ineligible for TANF Due to Time Limits

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## SUBPART C: PROJECT ADVANCE

## Section

- 114.108 Project Advance (Repealed)
- 114.109 Project Advance Participation Requirements of Adjudicated Fathers (Repealed)
- 114.110 Project Advance Cooperation Requirements of Adjudicated Fathers (Repealed)
- 114.111 Project Advance Sanctions (Repealed)
- 114.113 Project Advance Good Cause for Failure to Comply (Repealed)
- 114.115 Individuals Exempt From Project Advance (Repealed)
- 114.117 Project Advance Supportive Services (Repealed)

## SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

## Section

- 114.120 Employment and Training Requirements
- 114.121 Persons Required to Participate in Project Chance (Repealed)
- 114.122 Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
- 114.123 Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
- 114.124 Employment and Training Participation/Cooperation Requirements (Repealed)
- 114.125 Employment and Training Program Orientation (Repealed)
- 114.126 Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
- 114.127 Employment and Training Program Components (Repealed)
- 114.128 Employment and Training Sanctions (Repealed)
- 114.129 Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
- 114.130 Employment and Training Supportive Services (Repealed)
- 114.135 Conciliation and Fair Hearings (Repealed)
- 114.140 Employment Child Care (Repealed)

## SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

## Section

- 114.200 Unearned Income
- 114.201 Budgeting Unearned Income
- 114.202 Budgeting Unearned Income of Applicants
- 114.203 Initial Receipt of Unearned Income
- 114.204 Termination of Unearned Income

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

114.210	Exempt Unearned Income
114.220	Education Benefits (Repealed)
114.221	Unearned Income In-Kind
114.222	Earmarked Income
114.223	Lump-Sum Payments
114.224	Protected Income
114.225	Earned Income
114.226	Budgeting Earned Income
114.227	Budgeting Earned Income of Applicants
114.228	Initial Employment
114.229	Termination of Employment
114.230	Exempt Earned Income
114.235	Recognized Employment Expenses
114.240	Income From Work/Study/Training Program (Repealed)
114.241	Earned Income From Self-Employment
114.242	Earned Income From Roomer and Boarder
114.243	Earned Income From Rental Property
114.244	Earned Income In-Kind
114.245	Payments from the Illinois Department of Children and Family Services
114.246	Budgeting Earned Income for Contractual Employees
114.247	Budgeting Earned Income for Non-contractual School Employees
114.250	Assets
114.251	Exempt Assets
114.252	Asset Disregards
114.260	Deferral of Consideration of Assets (Repealed)
114.270	Property Transfers (Repealed)
114.280	Supplemental Payments

## SUBPART F: PAYMENT AMOUNTS

Section	
114.350	Payment Levels
114.351	Payment Levels in Group I Counties
114.352	Payment Levels in Group II Counties
114.353	Payment Levels in Group III Counties

## SUBPART G: OTHER PROVISIONS

Section	
114.400	Persons Who May Be Included In the Assistance Unit

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 114.401 Eligibility of Strikers
- 114.402 Special Needs Authorizations (Repealed)
- 114.403 Institutional Status
- 114.404 Budgeting
- 114.405 Budgeting Schedule
- 114.406 Limitation on Amount of General Assistance to Recipients from Other States (Repealed)
- 114.408 Responsibility of Sponsors of Non-citizens Entering the Country On or After 8/22/96
- 114.420 Redetermination of Eligibility
- 114.430 Extension of Medical Assistance Due to Increased Income from Employment
- 114.440 Attorney's Fees for VA Appellants
- 114.442 Attorney's Fees for SSI Applicants

## SUBPART H: CHILD CARE

## Section

- 114.450 Child Care (Repealed)
- 114.452 Child Care Eligibility (Repealed)
- 114.454 Qualified Provider (Repealed)
- 114.456 Notification of Available Services (Repealed)
- 114.458 Participant Rights and Responsibilities (Repealed)
- 114.462 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
- 114.464 Rates of Payment for Child Care (Repealed)
- 114.466 Method of Providing Child Care (Repealed)

## SUBPART I: TRANSITIONAL CHILD CARE

## Section

- 114.500 Transitional Child Care Eligibility (Repealed)
- 114.504 Duration of Eligibility for Transitional Child Care (Repealed)
- 114.506 Loss of Eligibility for Transitional Child Care (Repealed)
- 114.508 Qualified Provider (Repealed)
- 114.510 Notification of Available Services (Repealed)
- 114.512 Participant Rights and Responsibilities (Repealed)
- 114.514 Child Care Overpayments and Recoveries (Repealed)
- 114.516 Fees for Service for Transitional Child Care (Repealed)
- 114.518 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public

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Aid Code [305 ILCS 5/Art. VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory 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; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory 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; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory 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; peremptory 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; peremptory 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; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory 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; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory 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; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory 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.

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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; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 7, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9909, effective August 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 16107; amended at 7 Ill. Reg. 16408, effective November 30, 1983; amended at 7 Ill. Reg. 16652, effective December 1, 1983; amended at 8 Ill. Reg. 243, effective December 27, 1983; amended at 8 Ill. Reg. 5233, effective April 9, 1984; amended at 8 Ill. Reg. 6764, effective April 27, 1984; amended at 8 Ill. Reg. 11435, effective June 27, 1984; amended at 8 Ill. Reg. 13319, effective July 16, 1984; amended at 8 Ill. Reg. 16237, effective August 24, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17896; amended at 9 Ill. Reg. 314, effective January 1, 1985; emergency amendment at 9 Ill. Reg. 823, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9557, effective June 5, 1985; amended at 9 Ill. Reg. 10764, effective July 5, 1985; amended at 9 Ill. Reg. 15800, effective October 16, 1985; amended at 10 Ill. Reg. 1924, effective January 17, 1986; amended at 10 Ill. Reg. 3660, effective January 30, 1986; emergency amendment at 10 Ill. Reg. 4646, effective February 3, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 4896, effective March 7, 1986; amended at 10 Ill. Reg. 10681, effective June 3, 1986; amended at 10 Ill. Reg. 11041, effective June 5, 1986; amended at 10 Ill. Reg. 12662, effective July 14, 1986; amended at 10 Ill. Reg. 15118, effective September 5, 1986; amended at 10 Ill. Reg. 15640, effective September 19, 1986; amended at 10 Ill. Reg. 19079, effective October 24, 1986; amended at 11 Ill. Reg. 2307, effective January 16, 1987; amended at 11 Ill. Reg. 5297, effective March 11, 1987; amended at 11 Ill. Reg. 6238, effective March 20, 1987; emergency amendment at 11 Ill. Reg. 12449, effective July 10, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 12948, effective August 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 18311, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 18689, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18791, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20129, effective December 4, 1987; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 889, effective January 1, 1988; SUBPARTS C, D and E recodified to SUBPARTS E, F and G at 12 Ill. Reg. 2147; Section 114.110 recodified to Section 114.52 at 12 Ill. Reg. 2984; amended at 12 Ill. Reg. 3505, effective January 22, 1988; amended at 12 Ill. Reg. 6170, effective March 18, 1988; amended at 12 Ill. Reg. 6719, effective March 22, 1988; amended at 12 Ill. Reg. 9108, effective May 20, 1988; amended at 12 Ill. Reg. 9699, effective May 24, 1988; amended at 12 Ill. Reg. 9940, effective May 31, 1988; amended at 12 Ill. Reg. 11474, effective June 30, 1988; amended at 12 Ill. Reg. 14255, effective August 30, 1988; emergency amendment at 12 Ill. Reg. 14364, effective September 1, 1988, for a maximum of 150 days; amendment at 12 Ill. Reg. 16729, effective September 30, 1988; amended at 12 Ill.

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Reg. 20171, effective November 28, 1988; amended at 13 Ill. Reg. 89, effective January 1, 1989; amended at 13 Ill. Reg. 1546, effective January 20, 1989; amended at 13 Ill. Reg. 3900, effective March 10, 1989; amended at 13 Ill. Reg. 8580, effective May 20, 1989; emergency amendment at 13 Ill. Reg. 16169, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 16015, effective October 6, 1989; amended at 14 Ill. Reg. 746, effective January 1, 1990; amended at 14 Ill. Reg. 3640, effective February 23, 1990; amended at 14 Ill. Reg. 6360, effective April 16, 1990; amended at 14 Ill. Reg. 10929, effective June 20, 1990; amended at 14 Ill. Reg. 13215, effective August 6, 1990; amended at 14 Ill. Reg. 13777, effective August 10, 1990; amended at 14 Ill. Reg. 14162, effective August 17, 1990; amended at 14 Ill. Reg. 17111, effective September 30, 1990; amended at 15 Ill. Reg. 288, effective January 1, 1991; amended at 15 Ill. Reg. 5710, effective April 10, 1991; amended at 15 Ill. Reg. 11164, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 15144, effective October 7, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3512, effective February 20, 1992; emergency amendment at 16 Ill. Reg. 4540, effective March 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 11662, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13297, effective August 15, 1992; emergency amendment at 16 Ill. Reg. 13651, effective September 1, 1992, for a maximum 150 days; emergency amendment at 16 Ill. Reg. 14769, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 16276, effective October 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17772, effective November 13, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18815, effective November 24, 1992; amended at 17 Ill. Reg. 1091, effective January 15, 1993; amended at 17 Ill. Reg. 2277, effective February 15, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 3639, effective February 26, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 6814, effective April 21, 1993; emergency amendment at 17 Ill. Reg. 19728, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3436, effective February 28, 1994; amended at 18 Ill. Reg. 7390, effective April 29, 1994; amended at 18 Ill. Reg. 12839, effective August 5, 1994; emergency amendment at 19 Ill. Reg. 8434, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15058, effective October 17, 1995; emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9970, effective July 10, 1996; emergency amendment at 21 Ill. Reg. 682, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7413, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8652, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15545, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 16356, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19820, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 588, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1619, effective January 20, 1999; amended at 23 Ill. Reg. 6067, effective May 4, 1999; amended at 23 Ill. Reg. 6434, effective May 15, 1999; amended at 23 Ill. Reg. 6948, effective

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May 30, 1999; emergency amendment at 23 Ill. Reg. 8661, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13863, effective November 19, 1999; amended at 24 Ill. Reg. 2338, effective February 1, 2000; amended at 24 Ill. Reg. 5688, effective March 20, 2000; amended at 25 Ill. Reg. 10325, effective August 3, 2001; amended at 26 Ill. Reg. 164, effective January 1, 2002; amended at 26 Ill. Reg. 9821, effective June 24, 2002; emergency amendment at 26 Ill. Reg. 11009, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17198, effective November 15, 2002; amended at 27 Ill. Reg. 7263, effective April 7, 2003; amended at 27 Ill. Reg. 18433, effective November 20, 2003; amended at 28 Ill. Reg. 5682, effective March 22, 2004.

## SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

**Section 114.223 Lump-Sum Payments**

- a) Income received either in the form of a one-time only, payment that does not continue on a regular basis or in the form of a retroactive payment for income that continues on a regular basis is considered nonrecurring lump-sum income (a lump-sum payment). Examples of nonrecurring lump-sum income are retroactive social security payments, retroactive unemployment insurance benefits, personal injury settlements, Workers' Compensation injury settlements, lottery winnings, inheritances and insurance settlements.
- b) Any portion of the lump-sum payment used to pay for expenses incurred as a result of the lump-sum payment shall be exempt from consideration as nonrecurring lump-sum income as follows:
  - 1) Personal Injury Settlement – That portion of a personal injury payments is exempt which is used to pay for:
    - A) necessary costs of litigation or settlement, including attorney's fees;
    - B) the Department's charge (see 89 Ill. Adm. Code 102.260);
    - C) medical costs resulting from the injury and paid by the client;
    - D) expenses to repair or replace personal property which was damaged as a result of the injury.
  - 2) Workers' Compensation Payment – That portion of a Workers'

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## NOTICE OF ADOPTED AMENDMENT

Compensation payment is exempt which is used to pay for:

- A) necessary costs of litigation or settlement, including attorney's fees;
  - B) medical costs resulting from the injury and paid by the client.
- 3) Insurance Payments
- A) Insurance Payments – That portion of an insurance payment received due to loss is exempt when used to:
    - i) repair or replace a lost or damaged resource including but not limited to repair or replacement of home, furniture, or clothing lost or damaged in a fire or flood and repair or replacement of a car as a result of an accident or fire;
    - ii) pay the funeral/burial or medical expenses of an insured where the client is the beneficiary of the insured's life insurance policy.
  - B) Any insurance proceeds not spent or contracted to be spent as specified in subsection (b)(3)(A) of this Section within 60 days after receipt shall be budgeted as nonrecurring lump-sum income. A payment receipt shall be required as verification of any insurance-related expense claimed as exempt under subsection (b)(3)(A) of this Section.
- c) A SSI lump-sum payment made on behalf of a child that is paid directly into a dedicated account is disregarded.
- d) Lump-sum payments are considered nonexempt unearned income for the month of receipt. Any amount remaining is considered an asset for the following month that bring a family's countable resources up to the asset disregard for that family shall also be disregarded. ~~e) That portion of a lump-sum payment that exceeds the amount that brings the family's countable resources up to the asset disregard is considered as follows: 1) If the amount is less than the assistance payment level, the assistance payment for the month following the receipt of the lump-sum payment will be reduced by that amount. 2) If the amount is greater than the assistance payment level, the following action will be taken based on the specific~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

~~amount of the lump-sum payment: A) If the amount exceeds the assistance payment level by \$1,000 or less, the family will be ineligible for one month. B) If the amount exceeds the assistance payment level by \$1,000 but less than or equal to \$2,000, the family will be ineligible for two months. C) One additional month of ineligibility will be added for each \$1,000 increment. f) The assistance unit may apply to have the ineligibility period caused by receipt of nonrecurring lump-sum income shortened. The ineligibility period shall be shortened in the following situations: 1) When the nonrecurring lump-sum payment or a portion of the payment becomes unavailable to the family because the family incurs a loss due to fire, flood or natural disaster which occurred during the ineligibility period. That amount of the lump-sum payment the client spends or contracts to spend within 60 days after the fire, flood or natural disaster to repair or replace the lost or damaged property shall be deducted from the lump-sum income when the period of eligibility is recalculated. 2) When the nonrecurring lump-sum payment or a portion of the lump-sum payment becomes unavailable to the client due to payment of medical expenses which were incurred by a family member and paid in a month during the period of ineligibility caused by receipt of a lump-sum payment. Only those expenses which the Department allows toward meeting spenddown (see 89 Ill. Adm. Code 140.3) shall be considered allowable medical deductions when the period of ineligibility is recalculated. The allowable medical expenses must have been incurred and paid during the ineligibility period. A payment receipt shall be required as verification.~~

(Source: Amended at 28 Ill. Reg. 5682, effective March 22, 2004)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers:      Adopted Action:  
     100.5040                  Amendment  
     100.5050                  New Section
- 4) Statutory Authority: 35 ILCS 5/502(c)(4); 5/1401(a) and 35 ILCS 5/1006
- 5) Effective Date of Amendments: March 17, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A statement that 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) Notices of Proposal Published in Illinois Register: 27 Ill. Reg. 17970, December 1, 2003  
 27 Ill. Reg. 15050, September 26, 2003
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made. This is a consolidated rulemaking with 2 sections from 2 different proposed rulemakings being combined for this one adopted rulemaking.
- 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 any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
100.7040	Amendment	28 Ill. Reg. 1725, 01/30/04
100.2190	New Section	28 Ill. Reg. 3739, 02/27/04

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100.9030	New Section	28 Ill. Reg. 4091, 03/05/04
100.9040	New Section	28 Ill. Reg. 4091, 03/05/04
100.9050	New Section	28 Ill. Reg. 4091, 03/05/04
100.9060	New Section	28 Ill. Reg. 4091, 03/05/04
100.9700	Amendment	28 Ill. Reg. 4509, 03/12/04

- 15) Summary and Purpose of Amendments: Section 100.5040 – This rulemaking amends the innocent spouse provisions to address issues that have arisen since the rule was originally adopted.

Section 100.5050 -This rulemaking implements the "frivolous return" penalty in IITA Section 1006 by describing legal positions that have been determined to be frivolous by federal courts.

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

Paul Caselton  
Deputy General Counsel – Income Tax  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-7055

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

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

Section	
100.2000	Introduction
100.2050	Net Income (IITA Section 202)

## SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone (IITA 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))
100.2198	Economic Development for a Growing Economy Credit (IITA 211)
100.2199	Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

Section	
100.2200	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope

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## NOTICE OF ADOPTED AMENDMENTS

- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES  
OCCURRING ON OR AFTER DECEMBER 31, 1986

## Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF  
INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

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## NOTICE OF ADOPTED AMENDMENTS

Section	
100.2410	Net Operating Loss Carryovers for Individuals, and Capital Losses and Other Carryovers for All Taxpayers (IITA Section 203)
100.2470	Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480	Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490	Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

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100.2580	Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590	Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

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100.2680	Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

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100.3100	Compensation (IITA Section 302)
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- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other than Residents (IITA Section 304) – In General
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- 100.3350 Property Factor (IITA Section 304)
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- 100.3380 Special Rules (IITA Section 304)
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- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
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100.9100 Notice and Demand (IITA Section 902)

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100.9300 Deficiencies and Overpayments (IITA Section 904)

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100.9320 Limitations on Notices of Deficiency (IITA Section 905)

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## SUBPART Y: CREDITS AND REFUNDS

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100.9400 Credits and Refunds (IITA Section 909)

100.9410 Limitations on Claims for Refund (IITA Section 911)

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100.9700	Unitary Business Group Defined. (IITA Section 1501)
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100.9800 Letter Ruling Procedures

100.APPENDIX A	Business Income Of Persons Other Than Residents
100.TABLE A	Example of Unitary Business Apportionment
100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency

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amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004.

## SUBPART N: TIME AND PLACE FOR FILING RETURNS

**Section 100.5040 Innocent Spouses**

- a) Spouses who file a joint return for a taxable year are each liable for the entire tax liability of the couple, regardless of which spouse earned the income reportable on the return. (See IITA Section 502(c).) However, spouses may be entitled to relief from some or all of a joint return liability under the Innocent Spouse provision in IITA Section 502(c)(4). An election under this Section to obtain such relief applies to every year for which a joint return was filed involving the

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same two individuals listed in the election.

- b) For tax liabilities arising and paid prior to August 13, 1999, a spouse shall, with respect to any taxable year to which the election applies, be relieved from liability for any Illinois tax, penalties, additions to tax, interest, or other amounts, to the same extent as the relief provided by the Internal Revenue Service under a Section 6013(e) determination. If there is no federal income tax liability at issue, a spouse shall be relieved from liability for any Illinois tax, penalties, additions to tax, interest, or other amounts, if:
- 1) a joint return was filed for such taxable year;
  - 2) the amount of understatement of tax exceeds \$500 and is attributable to an omission by such person's spouse;
  - 3) the spouse did not know of, and had no reason to know of, such omission at the time of signing the return; and
  - 4) it is unfair to hold the spouse liable for the deficiency in tax for such omission.
- c) *For tax liabilities arising after August 13, 1999, or which arose prior to but remain unpaid as of August 13, 1999, any individual who makes an election under this Section shall be liable only for the amount of Illinois income tax that does not exceed the individual's separate return amount for that taxable year and the individual's liability for any deficiency assessed for that taxable year shall not exceed the portion of the deficiency properly allocable to the individual. (IITA Section 502(c)(4)(B)) If any portion of a liability for a tax year (including any portion of any interest or penalty) arising prior to August 13, 1999 remains unpaid as of that date, innocent spouse relief for that entire liability shall be determined pursuant to this subsection (c). (See Flores v. United States, 88 A.F.T.R.2d 2001-7020 (Ct. Fed. Cl. 2001).)*
- d) Making the Election. There are two ways that an individual may elect the protection of the innocent spouse provision according to IITA Section 502(c)(4):
- 1) An individual who submits proof of an election made pursuant to Section 6015 of the Internal Revenue Code (by sending a copy of Form 8857 to the Department) automatically elects the innocent spouse provision (i.e., IITA 502(c)(4)). Any determination made under Section 6015 with

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respect to the validity of the innocent spouse election and/or the individual's separate return amount or portion of any deficiency attributable to the individual is conclusively presumed to be correct.

- 2) If no election has been made under Internal Revenue Code Section 6015, an innocent spouse must file Form IL-8857 and meet the following conditions:
  - A) ~~a the joint return was filed for the taxable year has an understatement of tax due to erroneous items of the spouse not seeking relief under this Section~~; and
  - B) the spouse seeking relief under this Section either has been assessed an amount of Illinois income tax for the taxable year in excess of his or her separate return amount or has had a deficiency asserted against him or her (whether or not assessed) that is properly allocable to the other spouse ~~had no actual knowledge of, and had no reason to know of, such understatement of tax at the time of signing the joint return~~; and
  - C) no assets have been transferred between the spouses as part of a scheme by such individuals to avoid payment of Illinois income tax.
- e) Limitations on the Innocent Spouses Election. An innocent spouse election shall qualify as a claim for refund of any overpayment that results from the granting of innocent spouse relief. There is no limitations period for making an innocent spouse election. However, ~~no any claim for~~ refund of taxes paid by a spouse making the election will be made unless the election is ~~must be~~ filed within the applicable period for filing a claim for refund of income taxes.
- f) Burden of Proof. The individual seeking relief has the burden of proof with respect to all matters, except that the Department has the burden of proof with respect to disputes regarding a spouse's knowledge of an erroneous item ~~under subsection (d)(2)(B) of this Section~~ or the existence of a scheme to avoid payment of tax under subsection (d)(2)(C) of this Section.
- g) Collection Action. Receipt by the Department of proof of an election under the Internal Revenue Code Section 6015 or the filing of Form IL-8857 will only terminate Department collection activity against the spouse seeking relief;

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assessments will continue against both spouses. Collection activity will cease until a notice is sent to the electing spouse:

- 1) stating that the election is invalid; or
  - 2) identifying the portion of tax liability or deficiency that has been allocated to the electing spouse.
- h) **Written Protests.** An electing spouse who receives a notice stating either that the election is invalid or that the relief granted is less than the relief the electing spouse believes is warranted may file a written protest to the notice within 60 days (or 150 days if outside the United States) from the date of the notice. If a written protest is filed, the electing spouse will be granted a hearing according to IITA Section 908. Further administrative review shall be allowed in accordance with IITA Section 1201. Once the Department is in receipt of a written protest that is properly filed, no collection action shall be taken by the Department until the decision regarding the protest becomes final under Section 908(d), or if administrative review of the Department's decision is requested under Section 1201, until the decision of the court becomes final. Assessment is not affected by the filing of a written protest.
- i) **Claims in Addition to the Innocent Spouse Provision.** Alternative grounds for the individual's claim of reduced liability or no liability shall be consolidated, if possible, with the election of the innocent spouse provision and any outstanding Notice of Deficiencies in order to enhance administrative efficiency.
- j) **Definitions.**
- 1) "Separate return amount" means an amount equal to the excess (if any) of:
    - A) the tax liability of the individual based on the items shown on the joint return for the taxable year if the individual had filed a separate return, over
    - B) the aggregate payments of such tax properly allocable to such individual, net of any refund or credit allowed for any overpayment of tax for the taxable year.

In determining the tax liability that the individual would have incurred had he or she filed a separate return, any item of income, deduction, exemption

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credit, or payment that is not clearly allocable to either spouse shall be divided equally between the spouses. In determining the payments of tax allocable to an individual for a taxable year, any payment of estimated tax made on behalf of both spouses, any credit allowed on a return for an overpayment reported on the preceding taxable year's joint return by the same spouses, and any refund or credit allowed for an overpayment shown on the return for the taxable year will be allocated in proportion to the separate return amount of each spouse for the taxable year, as determined without regard to such estimated tax payment, credit or overpayment refunded or credited.

Example 1. Interest ~~For example, interest~~ earned on a joint bank account, the exemptions allowed for dependent children, the credit for property taxes paid with respect to the spouses' principal residence, and any payment of estimated tax made from a joint bank account will be divided equally between the spouses in the absence of evidence that such amounts should be allocated in a different manner.

Example 2. Husband and Wife file a 1999 Illinois income tax return, reporting an overpayment of \$500 which they elect to have credited against their joint estimated tax liability for 2000. They make joint estimated tax payments of \$200 in 2000 and file a joint return for 2000, and Wife subsequently requests innocent spouse relief. For 2000, Husband's separate return amount, as determined without regard to the \$500 credit or the \$200 in estimated tax payments, is \$2,000. The tax on Wife's separate return items is less than the amount of Illinois income tax withheld from her wages by her employer. Accordingly, the entire \$700 in credit and estimated tax payments are allocable to Husband. If Wife's separate return amount, determined without regard to the credit or the estimated tax payments, were \$1,000, one-third of the \$700 would be allocable to her and two-thirds would be allocable to Husband.

- 2) For purposes of this Section, "deficiency" means the difference between the total amount of tax that should have been shown on the return and the amount of tax that was actually shown on the return. The portion of a deficiency properly allocable to an individual will be determined by allocating the erroneous items of income, deduction or credit whose correction generates the deficiency between the spouses in the same manner as would be used to allocate such items between the spouses for purposes of determining the separate return amounts for the spouses;

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provided that the amount of any deficiency resulting from an erroneous item shall be allocated to each spouse who had actual knowledge of the erroneous item.

Example 3. Husband and Wife file a joint return for 2000 which omits \$5,000 in compensation earned by Husband from a temporary job. Wife knew that the \$5,000 was improperly omitted at the time she signed the return. In determining the deficiency allocable to Husband, the \$5,000 will be allocated to him because it is his income. However, in determining the deficiency allocable to Wife, the \$5,000 will be allocated to her because it is an erroneous item of which she had actual knowledge. Note that the Department has the burden of proof to show that Wife had actual knowledge of the erroneous item.

- 3) "Erroneous items" means any unreported income and any ~~incorrect~~ deductions, or ~~incorrect~~ credits reported incorrectly shown on a return.

(Source: Amended at 28 Ill. Reg. 5694, effective March 17, 2004)

**Section 100.5050 Frivolous Returns**

- a) In addition to any other penalty provided by the IITA, there is imposed a penalty of \$500 upon any individual who files a purported return that does not contain information from which the substantial correctness of the stated tax liability can be determined or contains information indicating that the stated tax liability is substantially incorrect and such conduct is due to a desire to delay or impede the administration of the IITA or is due to a position that is frivolous. (IITA Section 1006)
- b) The penalty imposed by IITA Section 1006 applies only to individual return filers. It does not apply to an individual acting as a return preparer for another taxpayer or to an individual filing or signing a return of any taxpayer other than that individual.
- c) The penalty imposed by IITA Section 1006 applies to *purported returns*. Accordingly, the penalty may be imposed even though the filing is not a processable return within the meaning of UPIA Section 3-2(d), is not filed on the form prescribed by the Department under IITA Section 1401(a), or is insufficient to avoid imposition of the penalty for failure to file a return under IITA Section 1001.

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- d) A purported return does not contain information from which the substantial correctness of the stated tax liability can be determined if it does not contain or is not verified by a signed, written declaration that it is made under penalties of perjury, as required by IITA Section 504, and such purported return is due to a desire to delay or impede the administration of the IITA and is therefore subject to penalty if:
- 1) the declaration on the form prescribed by the Department is altered or qualified in any way, or the filing is not made on the form prescribed by the Department and its verification is not identical to the verification contained in the form prescribed by the Department; or
  - 2) it indicates on its face in any manner that the filer has intentionally failed to sign the verification. For example, a statement on or attached to a form, saying that the filer has not signed the verification because signing the verification would violate his or her rights under the United States Constitution or the Constitution of the State of Illinois against self-incrimination, against unreasonable searches and seizures or to due process, or because signing the verification would constitute perjury or would violate religious principles of the filer, would cause the filing to be frivolous and subject to penalty.
- e) A purported return contains information indicating that the stated tax liability is incorrect due to a frivolous position if it contains an assertion that no federal or Illinois income tax liability is due because of one or more of the following positions, or because of a position substantially similar to any of the following:
- 1) an income tax is prohibited or not allowed by the United States Constitution or the Illinois Constitution;
  - 2) individuals in general are not subject to income taxation by the United States or this State;
  - 3) no provision of the Internal Revenue Code or of the IITA requires filing of a return or payment of tax by individuals having net income;
  - 4) filing of income tax returns or payment of income taxes is voluntary;

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- 5) income taxes are or may be imposed only on certain business activities or the exercise of a privilege (other than the privilege of earning or receiving income in or as a resident of Illinois), and the filer has not engaged in any such business or privileged activity;
- 6) wages, salary and other forms of compensation for personal services are not income or otherwise are not subject to income tax;
- 7) only government employees, nonresident aliens, citizens or residents of the District of Columbia or other federal areas, or persons other than residents or citizens of the United States are or may be made subject to an income tax imposed by the United States or this State;
- 8) income tax may be imposed only by contractual arrangement or under a contractual or other consensual relationship between the filer and either the United States or this State;
- 9) regulations necessary to implement the Internal Revenue Code or the IITA in general, or to implement the provisions in those statutes requiring filing of returns or payment of taxes, have not been promulgated;
- 10) the filer has not received a specific notice of his or her obligation to maintain records, file returns or pay taxes;
- 11) the filer has not received income from any source of income expressly identified in the Internal Revenue Code or the IITA as being from United States sources or subject to income tax;
- 12) the filer has no income because the federal reserve notes, checks or other medium in which the filer is paid do not constitute "money", "currency" or any other taxable medium;
- 13) the filer has no liability or no obligation to file a return because no liability has been properly assessed;
- 14) payments received in federal reserve notes or obligations of the federal government are exempt from State income taxation;
- 15) a pure trust, contractual trust or statutory trust has no return filing or tax payment obligations; or

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- 16) any position that the United States Supreme Court or a federal circuit court of appeals has held to be frivolous for purposes of imposing a frivolous return penalty under IRC Section 6702.
- f) The penalty imposed under IITA Section 1006 shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as the Illinois income tax.

(Source: Added at 28 Ill. Reg. 5694, effective March 17, 2004)

## ILLINOIS RACING BOARD

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: General Licensee Rules
- 2) Code Citation: 11 Ill. Adm. Code 1313
- 3) Section Number: 1313.70                      Emergency Action: Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Amendment: March 24, 2004
- 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: March 22, 2004
- 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) Reason for Emergency: Section 1313.70(b) currently requires all horses to report to the racetracks paddock by 4:00 p.m. of the day of the race. The 4:00 p.m. deadline is inequitable because it penalizes horses that are scheduled to race in later races and favors horses scheduled to race in the first few races. The harness horsemen voiced opposition to this requirement and insisted that it be repealed as soon as possible and replaced with a more equitable rule. The Board agreed and a potential work stoppage was averted. A work stoppage would have cancelled live racing resulting in a loss of State revenue.
- 10) A complete Description of the Subjects and Issues Involved: This rulemaking would repeal the current 4:00 p.m. deadline for harness horses shipping to the racetrack from off-site facilities on the day of the race. The 4:00 p.m. deadline will be replaced by a 4 to 6 hour deadline. The 4:00 p.m. deadline was inequitable because it penalized horses that were scheduled to race in later races and favored horses scheduled to race in the first few races. The proposed rulemaking will require that prior to their scheduled post time, as determined by the Board, harness horses must report to the paddock 4 to 6 hours in advance of their particular race.
- 11) Are there any proposed amendments pending in this Part? No
- 12) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

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

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph  
Suite 11-100  
Chicago, Illinois 60601  
(312) 814-5017

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

## ILLINOIS RACING BOARD

## NOTICE OF EMERGENCY AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1313  
GENERAL LICENSEE RULES

Section	
1313.10	Worker's Compensation (Repealed)
1313.20	Health Regulations
1313.30	Observe Sanitary, Safety, Humane Rules
1313.40	Halters
1313.48	Safety Helmets
1313.50	Equipment Change and Records
1313.60	Sulky Performance Standards
1313.70	Horses in Paddock <del>and Receiving Barn</del>
1313.80	Body Alcohol Testing
1313.90	Deceased and Sick Horses
1313.100	Firearms
1313.110	Private Practice Prohibited
1313.120	Veterinarian Reports
1313.130	Clean Equipment

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); passed July 11, 1972; amended April 13, 1973; amended June 11, 1973; amended October 25, 1973, filed December 17, 1973 codified at 5 Ill. Reg. 10937; amended at 11 Ill. Reg. 14816, effective August 24, 1987; amended at 11 20205, effective December 31, 1987; amended at 18 Ill. Reg. 15442, effective September 30, 1994; emergency amendment at 28 Ill. Reg. 5713, effective March 22, 2004, for a maximum of 150 days.

**Section 1313.70 Horses in Paddock ~~and Receiving Barn~~**

- a) All horses ~~Horses~~ must be in the paddock, in their assigned stalls, between 4 hours and 6 hours before post time of the race in which a horse is entered, as determined by the Board. Failure to have a horse in the assigned stall at the designated deadline shall result in the horse being scratched, and the trainer of

## ILLINOIS RACING BOARD

## NOTICE OF EMERGENCY AMENDMENT

~~record may be fined, at the time prescribed by the presiding judge, but at least one hour prior to post time of the race in which the horse is to compete.~~ Except for warm-up scores, no horse shall leave the paddock until called to post.

~~b) Horses shipped in from approved outside stabling areas must be in the designated receiving barn by 4 p.m. of the day they are to race.~~

~~b)e)~~ Persons entitled to admission to the paddock are:

- 1) Owners of horses competing on the date of the race.
- 2) Trainers of horses competing on the date of the race.
- 3) Drivers of horses competing on the date of the race.
- 4) Grooms and caretakers of horses competing on the date of the race.
- 5) Officials whose duties require their presence in the paddock or receiving barn.

~~c)d)~~ No driver, trainer, groom, or caretaker, once admitted to the paddock or receiving barn, shall leave the same other than to warm up said horse until such race or races for which he was admitted is contested.

~~d)e)~~ No person except an owner, who has another horse racing in a later race, or an official shall return to the paddock until all races of that program shall have been completed.

~~e)f)~~ No more than two members of a registered stable, other than the driver, shall be entitled to admission to the paddock on any racing day.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 5713, effective May 22, 2004, 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 March 16, 2004 through March 22, 2004 and have been scheduled for review by the Committee at its April 20, 2004 meeting in Springfield. 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>
4/28/04	<u>Secretary of State</u> , Literacy Grant Program (23 Ill. Adm. Code 3040)	1/23/04 28 Ill. Reg. 1356	4/20/04
5/2/04	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	1/30/04 28 Ill. Reg. 1725	4/20/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF REVENUE

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Register citation of proposed rulemaking and other pertinent action: 28 Ill. Reg. 4091; March 5, 2004
- 4) Explanation: The Notice Page published for this proposed amendment in the *Illinois Register* was incorrect for the rulemaking text that followed it. The correct Notice Page follows this Notice.

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## NOTICE OF PUBLICATION ERROR

## DEPARTMENT OF REVENUE

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
100.9030	New Section
100.9040	New Section
100.9050	New Section
100.9060	New Section
- 4) Statutory Authority: 30 ILCS 210, P.A. 93-0570
- 5) A Complete Description of the Subjects and Issues Involved: The Department of Revenue is to serve as primary debt collecting entity for the State.
- 6) Will these proposed amendments replace any emergency rulemaking currently in effect?  
Yes
- 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>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
100.5050	New Section	27 Ill. Reg. 15050, 09/26/03
100.5040	Amendment	27 Ill. Reg. 17970, 12/01/03
100.7040	Amendment	28 Ill. Reg. 1725, 01/30/04

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Paul Caselton  
Deputy General Counsel, Income Tax

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF REVENUE

Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-7055

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: All entities owing delinquent debt to the State should be affected.
  - B) Reporting, bookkeeping or other procedures required for compliance: State agencies required to report delinquent debt to IDOR.
  - C) Types of professional skills necessary for compliance: Professional skills are not necessary for compliance.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

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

## PROCLAMATIONS

**2004-44****Celebration of Temple Judea Mizpah's Golden Jubilee 50th Anniversary**

WHEREAS, during the month of May 2004, Temple Judea Mizpah – Skokie, Illinois' original Reform Jewish congregation – will celebrate fifty years of serving the community; and

WHEREAS, Temple Judea Mizpah is dedicated to its congregants, providing them with educational programs, community leadership, and a strong faith community; and

WHEREAS, Temple Judea Mizpah has enjoyed much success throughout the years, initiating religious school classes, conducting the first Reform Jewish High Holy Day Services in Niles Township, even constructing their own temple; and

WHEREAS, Temple Judea Mizpah's original Rabbi Karl Weiner, provided inspiration, leadership, education, a strong sense of social justice, and compassion that radiated throughout the congregation, the community, and the state of Illinois; and

WHEREAS, Temple Judea Mizpah congregants have marched in Selma, Alabama for voting rights, provided settlement services to new Russian immigrants, adopted Vietnamese boat families, fed the poor and hungry at the Good News Soup Kitchen, and planted trees in Israel:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 1-8, 2004 as CELEBRATION OF TEMPLE JUDEA MIZPAH'S GOLDEN JUBILEE 50TH ANNIVERSARY in Illinois.

Issued by the Governor March 17,2004

Filed by the Secretary of State March 18, 2004

**2004-45****Licensed Practical Nurse Week**

WHEREAS, citizens in Illinois, and across the country, deserve to have a comfortable and low-stress experience when they visit a doctors' office or hospital; and

WHEREAS, licensed practical nurses (LPN), ensure quality care for patients by attending to their needs, and by aiding doctors in routine procedures; and

WHEREAS, over the years, the LPN's role in caring for people's health needs has advanced in responsibility and complexity due to multiple advances in medical science; and

WHEREAS, the Licensed Practical Nurse Association of Illinois is the voice for LPNs in the health care field, working to maintain their welfare; and

WHEREAS, the Licensed Practical Nurse Association of Illinois encourages the continuance of education to ensure competency among its members; and

WHEREAS, the Licensed Practical Nurse Association of Illinois is a member of the National Federation of Licensed Practical Nurses:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 11-18, 2004 as LICENSED PRACTICAL NURSE WEEK in Illinois, and encourage all citizens to recognize the integral part that these men and women play in our nation's health care system.

Issued by the Governor March 17,2004

## PROCLAMATIONS

Filed by the Secretary of State March 18, 2004

**2004-46****Chicago Business Opportunity Days**

WHEREAS, the 37th Annual Chicago Business Opportunity Fair assists in advancing the year-round efforts of its sponsor, the Chicago Minority Business Development Council, Incorporated; and

WHEREAS, the Chicago Minority Business Development Council is devoted to stimulating minority purchasing in Chicago; and

WHEREAS, this year's fair will provide minority suppliers and purchasing personnel from major buying organizations the opportunity to meet and exchange information about mutual buying and selling needs; and

WHEREAS, in 2003, the Illinois General Assembly passed legislation that will provide all workers with equal pay, and raise the minimum wage in the state in an attempt to build, and stabilize the Illinois economy. Similarly, by promoting opportunities in business, the Chicago Business Opportunity Fair is playing a major role in revitalizing Illinois' economy; and

WHEREAS, the 37th Annual Chicago Business Opportunity Fair will be held April 6-8, 2004; and

WHEREAS, the Minority Business Committee of the Chicago Minority Business Development Council will hold its 26th Annual Awards Program on April 8, 2004 to honor public and private sector representatives, for their contributions to minority suppliers' growth and development:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 6-8, 2004 as CHICAGO BUSINESS OPPORTUNITY DAYS in Illinois.

Issued by the Governor March 17, 2004

Filed by the Secretary of State March 18, 2004

**2004-47****MDA Disability Awareness Month**

WHEREAS, it is estimated that one million Americans are affected by a form of physically disabling neuromuscular disease; and

WHEREAS, these diseases severely impede citizens' abilities to accomplish simple everyday tasks such as walking; and

WHEREAS, the Muscular Dystrophy Association (MDA) assists thousands of individuals in Illinois with neuromuscular disease through eight MDA chapters; and

WHEREAS, it is the responsibility of all citizens in Illinois to assist in meeting the physical and emotional needs of individuals with disabilities; and

WHEREAS, as citizens of Illinois, we must value both the victims of these debilitating diseases, and the hard working individuals that work to improve their lives:

## PROCLAMATIONS

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2004 as MDA DISABILITY AWARENESS MONTH in Illinois.

Issued by the Governor March 19, 2004

Filed by the Secretary of State March 22, 2004

**2004-48****National Fraud Awareness Week**

WHEREAS, identity theft is the Number One consumer complaint of American consumers and the fastest growing crime in the United States; and

WHEREAS, the residents of Illinois lodged 10,681 fraud complaints and 9,792 identity theft complaints with the Federal Trade Commission in the Year 2003; and

WHEREAS, Illinois bankers feel strongly about their responsibility to the consumers of this state, by adhering to numerous state and federal laws and regulations, and striving toward knowing their customers to help protect them from becoming victims of identity theft; and

WHEREAS, the bankers of Illinois and the Illinois Bankers Association embrace efforts to curb identity theft; and are marking the 5th Annual observance of National Fraud Awareness Week in Illinois, July 11-17, 2004; and

WHEREAS, Illinois bankers and the Illinois Bankers Association are partnering with the Association of Certified Fraud Examiners and other leading public and private sector organizations to spearhead efforts to educate businesses and consumers about how to detect, report and deter fraud; and

WHEREAS, July 11th marks the one-year anniversary of the introduction of FRAUD-NET in the state of Illinois and a collaborative effort to share information on fraudulent bank activity between banks and law enforcement agencies on a real-time online network; and

WHEREAS, the Illinois Bankers Association, along with Illinois banks have developed an Identity Theft campaign to aid consumers throughout the state:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim the week of July 11-17, 2004 as NATIONAL FRAUD AWARENESS WEEK in Illinois, and encourage all citizens to take due note of the observance.

Issued by the Governor March 19, 2004

Filed by the Secretary of State March 22, 2004

**2004-49****National Volunteer Week**

WHEREAS, "Volunteers Inspire By Example" is the theme for the 31st Annual Volunteer Week; and

WHEREAS, a volunteer is someone that performs charitable or helpful tasks without pay; and

WHEREAS, from the earliest days of our nation's history, the spirit of volunteerism has been reflected in neighbors helping neighbors to overcome obstacles; and

## PROCLAMATIONS

WHEREAS, the basis for a safe and productive America is the people's willingness to work together, without prejudice, to find solutions to our human and social problems; and

WHEREAS, the talents and energies of American volunteers continue to be one of the our greatest resources; and

WHEREAS, volunteering renews our connections to our community, and builds self worth, character, and social responsibility in our children; and

WHEREAS, it is fitting that Illinois' citizens honor those that donate their time, energy, and strength to make our communities, and our nation, a safer and more productive place to live and work:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 18 – 24, 2004 as NATIONAL VOLUNTEER WEEK in Illinois, and encourage all citizens to recognize those that serve as volunteers in our communities, and to find time in their own lives for volunteer work.

Issued by the Governor March 19, 2004

Filed by the Secretary of State March 22, 2004

**2004-50**  
**Delta Day**

WHEREAS, the Illinois Chapters of Delta Sigma Theta Sorority, Incorporated are sponsoring their annual legislative visit to the State Capitol; and

WHEREAS, Delta Sigma Theta Sorority, Incorporated was founded on January 13, 1913 by twenty-two collegiate women at Howard University; and

WHEREAS, Delta Sigma Theta Sorority, Incorporated is an organization with a commitment to promoting education, scholarship, physical and mental health, economic development, and political and international awareness; and

WHEREAS, Delta Sigma Theta Sorority, Incorporated has twenty-five chapters located in the state of Illinois; and

WHEREAS, Delta Sigma Theta Sorority, Incorporated is comprised of over 200,000 college-educated women around the world, of which nearly 4,000 are active in the state of Illinois; and

WHEREAS, these successful sorors are a valuable asset to Illinois as they hold key leadership positions, and display great dedication to public service in their communities:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 31, 2004 as DELTA DAY at the Illinois State Capitol.

Issued by the Governor March 19, 2004

Filed by the Secretary of State March 22, 2004

# ILLINOIS ADMINISTRATIVE CODE

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